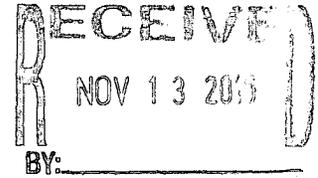


IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NAJI A. AND SHONAH A. ALQUHAITI, )  
)  
Petitioners, )  
)  
)  
)  
v. )  
)  
ILLINOIS DEPARTMENT OF REVENUE, )  
)  
Defendant. )

No.



(JTT 2)2

**PETITION**

Petitioners, Naji A. and Shonah A. Alquhaiti (“Petitioners”), by and through their attorneys, Dale & Gensburg, P.C., for their Petition before the Illinois Independent Tax Tribunal (the “Tribunal”) hereby complains of the Defendant, the Illinois Department of Revenue (the “Department”), and alleges as follows:

**PARTIES**

1. Petitioners are individuals located at 3848 Broadway in Rockford, Illinois, and can be reached at 815-229-1146.

2. Petitioners are represented by attorneys Lane M. Gensburg and Anne J. Kim of Dale & Gensburg, P.C., located at 200 West Adams Street, Suite 2425, Chicago, Illinois 60606. Lane M. Gensburg can be reached at 312-263-2200 or [lgensburg@dandgpc.com](mailto:lgensburg@dandgpc.com). Anne J. Kim can be reached at 312-263-2200 or [akim@dandgpc.com](mailto:akim@dandgpc.com).

3. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. See 20 ILCS 5/5-15.

## NOTICES

### Retailers Occupation/Use Tax

4. On September 25, 2015, the Department issued two (2) Notices of Deficiency (the “Notices”) to the Petitioners asserting income tax deficiencies including late payment penalties and interest of \$12,828.88 for the tax year ending December 2011 and \$7,057.67 for the tax year ending December 2012, for a total liability of \$19,886.55 for 2011 and 2012 (the “period at issue”). The total liability consists of \$15,721 in tax due, \$3,136.60 in late payment penalties and \$1,028.95 in interest. Copies of the Notices are attached hereto as **Exhibit A**.

## JURISDICTION

5. Petitioners bring this action pursuant to the Illinois Independent Tax Tribunal Act (the “Tribunal Act”), 35 ILCS 1010/1-1 *et seq.*

6. The Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because Petitioners timely filed this petition within 60 days of the issuance of the Notices.

## BACKGROUND

7. Petitioners Naji A. (“Naji”) and Shonah A. Alquhaiti (“Shonah”) are husband and wife. Naji is a partial owner of North 2<sup>nd</sup> Discount Store Inc. (“North 2<sup>nd</sup> Discount”), an Illinois S Corporation and a retailer of tobacco products and other general merchandise. The Department conducted a Retailer’s Occupation Tax/Use Tax (“ROT”) audit of North 2<sup>nd</sup> Discount for the period July 9, 2010 through December 31, 2012, and on December 16, 2014 issued a Notice of Tax Liability asserting a total ROT liability of \$109,909.78. North 2<sup>nd</sup> Discount timely filed a Petition before the Tribunal contesting the ROT liability on February 6, 2015, Case No. 15 TT 28, which proceeding is currently pending. The income tax deficiencies

proposed in the Notices at issue herein are the result of the Department's adjustment to the Petitioners' gross income due to the ROT audit of North 2<sup>nd</sup> Discount.

**COUNT I**

**The Proposed Income Tax Deficiencies are Premature in View of Pending Tax Tribunal Case No. 15 TT 28**

8. Petitioners reallege and incorporate by reference the allegations made in paragraphs 1 through 7 above as and for this paragraph 8.

9. The proposed income tax deficiencies contained in the Notices are in error because they are based on the Department's proposed adjustments to North 2<sup>nd</sup> Discount's sales tax returns for the period at issue, which adjustments North 2<sup>nd</sup> Discount is currently contesting before the Tribunal. It is therefore premature to adjust the Petitioners' gross income for 2011 and 2012 until North 2<sup>nd</sup> Discount's related Tribunal proceeding is concluded and a Final Assessment is issued in connection with same.

**COUNT II**

**The Department Erred in Failing to Adjust Petitioners' Income for Additional Cost of Goods Sold Pursuant to the ROT Audit of North 2<sup>nd</sup> Discount**

10. Petitioners reallege and incorporate by reference the allegations made in paragraphs 1 through 9 above as and for this paragraph 10.

11. Petitioners contend that the Department erred in failing to make an adjustment to Petitioners' income for additional cost of goods sold pursuant to the ROT audit of North 2<sup>nd</sup> Discount.

**COUNT III**

**All Late Payment Penalties should be Abated for Reasonable Cause**

12. Petitioners reallege and incorporate by reference the allegations made in paragraphs 1 through 11 above as and for this paragraph 12.

13. Petitioners further contend that the late payment penalties for the period at issue should be waived because any late payment was attributable to reasonable cause.

14. Petitioners reserve the right to raise additional arguments as may be supported by the applicable facts and law.

WHEREFORE, Petitioners pray that the Tribunal:

(a) Enters judgment in favor of Petitioners and against the Department and cancels the Notices;

(b) Enjoins the Department from taking any action to assess, lien, levy, offset, or in any other way prosecute and collect the amount due stated in the Notices; and

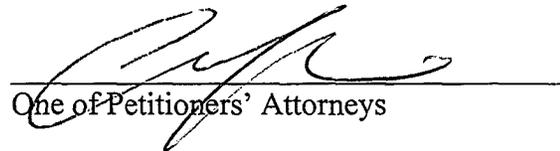
(c) Grants Petitioners such other and further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,

NAJI A. AND SHONAH A. ALQUHAITI,  
Petitioners

Lane M. Gensburg  
[lgensburg@dandgpc.com](mailto:lgensburg@dandgpc.com)  
Anne J. Kim  
[akim@dandgpc.com](mailto:akim@dandgpc.com)  
Dale & Gensburg, P.C.  
200 West Adams Street, Suite 2425  
Chicago, Illinois 60606  
T – 312-263-2200  
F – 312-263-2242

By:

  
One of Petitioners' Attorneys

P:\Clients\North 2nd Discount Store\Petition Naji Alquhaiti re Income Tax..doc

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NAJI A. AND SHONAH A. ALQUHAITI, )  
 )  
 Petitioners, )  
 )  
 ) No.  
 v. )  
 )  
 )  
 ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

TO: Illinois Department of Revenue  
Office of Legal Services  
100 W. Randolph Street, 7-900  
Chicago, IL 60601

I, Anne J. Kim, an attorney, certify that I caused a copy of the attached Petition before the Illinois Independent Tax Tribunal to be served upon the Illinois Department of Revenue at the address set forth above, by hand delivery before the hour of 5 p.m. on November 13, 2015.

  
\_\_\_\_\_  
Anne J. Kim

Lane M. Gensburg  
[lgensburg@dandgpc.com](mailto:lgensburg@dandgpc.com)  
Anne J. Kim  
[akim@dandgpc.com](mailto:akim@dandgpc.com)  
Dale & Gensburg, P.C.  
200 West Adams Street, Suite 2425  
Chicago, Illinois 60606  
T – 312-263-2200  
F – 312-263-2242

# Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



September 25, 2015



Letter ID: CNXXX197211X3X43

#BWNKMGV  
#CNXX X197 211X 3X43#  
NAJI A. and SHONAH A. ALQUHAITI  
3848 BROADWAY  
ROCKFORD IL 61108-6221

Taxpayer ID: XXX-XX-7573  
Audit ID: A1090566144  
Reporting period: December 2011  
Total Deficiency: \$12,790.88  
Balance due: \$12,828.88

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to the "Illinois Department of Revenue", write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed, but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases, file a protest with us, the Illinois Department of Revenue, within 60 days of the date of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due which, may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

(217) 558-4960



# Statement

Date: September 25, 2015  
Name: NAJI ALQUHAITI  
Taxpayer ID: XXX-XX-7573  
Letter ID: CNXXX197211X3X43

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

## Computation of deficiency

Reporting period: 31-Dec-2011

Adjusted gross income	\$243,416.00
Base income	\$243,416.00
Minus exemptions	-\$8,000.00
Net income	\$235,416.00
Tax amount	\$11,771.00
Total Tax (After Recapture of Investment Credits)	\$11,771.00
Credits	
IL property tax credit	-\$641.00
Tax Due	\$11,130.00
Minus tax previously assessed	-\$1,084.00
UPIA-5 late-payment penalty (Audit)	\$2,009.20
Plus interest on tax through September 25, 2015	\$735.68

Total deficiency \* \$12,790.88

If you intend to pay under protest, you must pay this total deficiency amount.

## Computation of balance due

Reporting period: 31-Dec-2011

Deficiency (this notice)	\$12,790.88
Plus previously assessed tax	\$1,084.00
Minus IL income tax withheld	-\$1,200.00
Refunds	\$154.00
Balance due	* \$12,828.88

# Explanation of Audit Adjustments

## Income Tax



September 25, 2015

#BWNKMGV  
#CNXX XX36 1497 5681#  
NAJI A. and SHONAH A. ALQUHAITI  
3848 BROADWAY  
ROCKFORD IL 61108-6221



Letter ID: CNXXXX3614975681

Taxpayer ID: XXX-XX-7573  
Account ID: P14644516  
Audit ID: A1090566144  
Reporting period: December 2011

### Explanation of adjustments for tax period ending 12/31/2011

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit.  
[35 ILCS 5/203(a)]

Interest on tax has been computed as allowed by Illinois law.  
[35 ILCS 735/3-2]

We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, Waiver of Restrictions, will result in this penalty increasing to 20 percent.

[LCS 735/3-3(b-20)(2)]

<u>Income change</u>	<u>Tax impact</u>
----------------------	-------------------

\$112,730.00	\$10,046.00
--------------	-------------

# Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



September 25, 2015



Letter ID: CNXXXX13661672X3

#BWNKMGV  
#CNXX XX13 6616 72X3#  
NAJI A. and SHONAH A. ALQUHAITI  
3848 BROADWAY  
ROCKFORD IL 61108-6221

Taxpayer ID: XXX-XX-7573  
Audit ID: A1090566144  
Reporting period: December 2012  
Total Deficiency: \$7,057.67  
Balance due: \$7,057.67

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to the "Illinois Department of Revenue", write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed, but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases, file a protest with us, the Illinois Department of Revenue, within 60 days of the date of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due which, may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

(217) 558-4960

# Statement

Date: September 25, 2015  
Name: NAJI ALQUHAITI  
Taxpayer ID: XXX-XX-7573  
Letter ID: CNXXXX13661672X3

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

## Computation of deficiency

Reporting period: 31-Dec-2012

Adjusted gross income	\$177,931.00
Base income	\$177,931.00
Minus exemptions	-\$8,200.00
Net income	\$169,731.00
Tax amount	\$8,487.00
Total Tax (After Recapture of Investment Credits)	\$8,487.00
Credits	
IL property tax credit	-\$671.00
Tax Due	\$7,816.00
Minus tax previously assessed	-\$2,179.00
UPIA-5 late-payment penalty (Audit)	\$1,127.40
Plus interest on tax through September 25, 2015	\$293.27

Total deficiency \* \$7,057.67

If you intend to pay under protest, you must pay this total deficiency amount.

## Computation of balance due

Reporting period: 31-Dec-2012

Deficiency (this notice)	\$7,057.67
Plus previously assessed tax	\$2,179.00
Minus IL income tax withheld	-\$1,500.00
Minus payments	-\$679.00

Balance due \* \$7,057.67

# Explanation of Audit Adjustments

## Income Tax



September 25, 2015



Letter ID: CNXXX1X325862X85

Taxpayer ID: XXX-XX-7573  
Account ID: P14644516  
Audit ID: A1090566144  
Reporting period: December 2012

\_\_\_\_\_  
#BWNKMGV  
\_\_\_\_\_  
#CNXX X1X3 2586 2X85#  
NAJI A. and SHONAH A. ALQUHAITI  
3848 BROADWAY  
ROCKFORD IL 61108-6221

### Explanation of adjustments for tax period ending 12/31/2012

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit.  
[35 ILCS 5/203(a)]

### Income change

\$112,730.00

### Tax impact

\$5,637.00

Interest on tax has been computed as allowed by Illinois law.  
[35 ILCS 735/3-2]

We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, Waiver of Restrictions, will result in this penalty increasing to 20 percent.

[LCS 735/3-3(b-20)(2)]