



## NOTICES

4. On October 2, 2015, the Department issued a Notice of Tax Liability resulting from an audit of Petitioner's account for the reporting periods of January 1, 2009 through June 30, 2009, assessing tax of \$12,571.00, penalties of \$2,765.00 and interest of \$2,355.39, for a total amount of \$17,691.39 ("Notice #1"). A true and correct copy of Notice #1 is attached hereto as Exhibit 1.

5. On October 2, 2015, the Department issued a Notice of Tax Liability resulting from an audit of Petitioner's account for the reporting periods of July 1, 2009 through September 30, 2012, assessing tax of \$61,663.00, penalties of \$13,740 and interest of \$7,647.43, for a total amount of \$83,050.43 ("Notice #2"). A true and correct copy of Notice #2 is attached hereto as Exhibit 2. (Notice #1 and Notice #2 collectively referred to as "Notices").

## JURISDICTION

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

7. The Tribunal has jurisdiction over this matter pursuant to Section 1-45 of the Tribunal Act providing it with original jurisdiction over all determinations of the Department reflected on a Notice of Tax Liability or multiple Notices of Tax Liability where the amount at issues exceeds \$15,000.00.

## BACKGROUND

8. Petitioner is a national distributor of a broad line of medical disposables from various manufacturers within the healthcare industry.

9. Products distributed by Petitioner include equipment transport bags, oncology supplies, respiratory products, surgical supplies, blood collection, solutions, wound care, sharps containers, pharmacy supplies, personal protection, enteral feeding supplies, empty containers, dispensing pins, cleanroom supplies, IV administration, chemotherapy supplies, urological items, skin care, patient care items, batteries, and prefilled syringes.

10. Petitioner distributes products that are subject to the general merchandise rate of 6.25% (“high rate”), as well as products that are subject to the lower rate of 1% (“low rate”) imposed on medical appliances under Section 2-10 of the Illinois Retailers’ Occupation Tax Act, 35 ILCS 120/2-10 (the “Retailers’ Tax Act”).

11. On November 5, 2012, the Department initiated an audit of Petitioner for the period of September, 2011 through September, 2012, which culminated in a Summary Analysis dated June 5, 2014, imposing additional tax liability on Petitioner of \$52,091.16 (“Initial Proposed Liability”). See Exhibit 3 attached hereto.

12. The audit concerned primarily sales to 25 customers of Petitioner for which Petitioner did not have a Certificate of Resale, or the certificates contemplated by ST 09-0144-GIL 10/30/2009 MEDICAL APPLIANCES or ST 10-0054-GIL 06/11/2010 MEDICAL APPLIANCES, where the customer would identify, based on historical use, the percentage of medical appliances being purchased that qualify as low rate items. The resulting tax asserted on these customers comprised all but \$810.02 of the \$108,836.47 proposed in an interim Summary Analysis dated 7/7/2014. See Exhibit 5 attached hereto.

13. The Department calculated the Initial Proposed Liability based on a prior audit of Petitioner for the period of January, 2002 through June, 2008 (“2008 Audit”), which resulted in the total liability to Petitioner of \$36,483.00, and which Petitioner paid without protest.

14. The 2008 Audit was based on 100% of the actual transactions of Petitioner for the period under audit and the Department concluded that approximately 26% of the mix of products sold by Petitioner were high rate products and approximately 74% were low rate products.

15. On July 11, 2014, after receiving a response from Petitioner, the Department notified Petitioner through a Notice of Proposed Liability which covered the period of January, 2009 through September, 2012, that it assessed an additional liability on Petitioner of \$139,959.00 ("Final Proposed Liability"). See Exhibit 4 attached hereto.

16. To arrive at the Final Proposed Liability, the Department reevaluated Petitioner's mix of high rate and low rate products and determined, according to Petitioner's calculations, that the high rate products constituted 75.04% of the total and the low rate products constituted 24.96% of the total. See Exhibit 5 attached hereto.

17. On August 13, 2014, Petitioner met with the Department representatives ("Representatives"), who notified Petitioner that there were few, if any, pronouncements by the Department on the subject of what qualifies as low rate products and high rate products, and the Representatives therefore reviewed "de novo" which products sold to the 25 customers qualified as low rate products and which did not, by reviewing product descriptions on the internet and in product catalogues.

18. During the August 13, 2014, meeting, the Representatives also informed Petitioner that penalties for the period through June, 2009, were calculated at double the applicable penalty rate because Petitioner did not take advantage of the Department's tax amnesty program. After inquiry by taxpayer's representative, the Representatives confirmed that, unlike many other businesses in Illinois, IMS in fact was never issued the letter advising of the availability of the amnesty.

19. Subsequent to Petitioner's meeting with the Representatives, the Department issued an updated Notice of Proposed Liability which increased Petitioner's taxable sales by \$3,323.70. See Exhibit 6 attached hereto.

20. Petitioner requested a review of the liability issued by the Department by the Informal Conference Board ("ICB"), and, in connection with the review, Petitioner submitted to the ICB various documents supporting its position, including a list of 15 medical devices sold to the 25 customers that the Department proposed to tax at the high rate. See Exhibit 7 attached hereto.

21. Petitioner also requested from the ICB an abatement of the doubling of any applicable penalties because Petitioner received no mailings from the Department regarding the amnesty program, as confirmed by the Representatives.

22. The ICB conference took place on February 10, 2015, and the ICB issued its decision on May 20, 2015, concluding that one item should be taxed at the low rate and that penalties and interest are to be imposed at the non-amnesty tax rates. See Exhibit 8 attached hereto.

23. Petitioner received the Notices from the Department and Petitioner is now filing this Petition in accordance with the Tribunal Act to request the relief indicated below.

#### APPLICABLE LAW

24. Section 2-10 of the Retailers' Tax Act imposes a tax at the rate of 6.25% of gross receipts from sales of tangible personal property made in the course of business.

25. Section 2-10 of the Retailers' Tax Act also provides that with respect to "... prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor

vehicle for the purpose of rendering it usable by a person with a disability, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%.”

26. Section 130.311 of Title 86 of the Illinois Department of Revenue Regulations, 86 Ill. Adm. Code 130.311, provides in relevant part that a “medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body” and that “an item that becomes part of the human body by substituting for any part of the body that is lost or diminished because of congenital defects, trauma, infection, tumors or disease is considered a medical appliance.”

27. Examples of medical appliances under Section 130.311 that qualify for the low rate of tax include: breast implants that restore breasts after loss due to cancer; heart pacemakers; artificial limbs; dental prosthetics; crutches and orthopedic braces; dialysis machines (including the dialyzer); wheelchairs; and mastectomy forms and bras.

28. In addition, Section 130.311 provides that “corrective medical appliances such as hearing aids, eyeglasses, contact lens and orthodontic braces qualify as medical appliances subject to the low rate of tax” as well as “sterile band-aids, dressings, bandages and gauze ... because they serve as a substitute for skin.”

29. Under Section 130.311, diagnostic equipment is not deemed to be a medical appliance, except that insulin, urine testing materials, syringes and needles used in treating diabetes in human beings qualify for the reduced rate of tax. However, other medical tools, devices and equipment such as x-ray machines, laboratory equipment and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as medical appliances.

30. The Department has ruled in a Private Letter Ruling that some catheters that directly substitute for a malfunctioning part of the body, that is, catheters that introduce fluids into the body (for instance, catheters used to pump blood back into the circulatory system in open heart surgery or in hemodialysis, or enteral catheters) or remove fluids from the body (urological or drainage catheters, or neurological catheters relieving intracranial pressure in hydrocephalics) are subject to the low rate of tax; catheters that are used diagnostically (e.g., interventional angioplastic catheters) or as medical tools (e.g., as part of a drug delivery system) do not qualify for the low rate and are fully taxable. Ill. PLR No. 93-0526 (“1993 PLR”).

31. The Department has also stated that “infusion pumps do not substitute for a malfunctioning part of the human body or act as a corrective appliance, such as hearing aids or eyeglasses. Rather, infusion pumps are medical tools used in the treatment of patients. We understand that they are normally used to administer drugs. Drug administration systems do not qualify as medical appliances that are subject to the low State rate of tax.” ST 10-0045-GIL 05/20/2010 MEDICAL APPLIANCES (“2010 GIL”).

## COUNT I

### The Department Should Apply The Percentages Of High And Low Rate Items Determined During The 2008 Audit To Determine Petitioner’s Liability, If Any, In The Current Audit

32. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 31, inclusive, hereinabove.

33. During Petitioner’s meeting with the Department Representatives, the Representatives told Petitioner that they reviewed “de novo” which products sold by Petitioner qualify as low rate items, however, the review process was subjective and uninformed because

the Representatives relied on looking up product descriptions on the internet and in catalogues, not on any actual descriptions of usage of the product by Petitioner's customers.

34. As the majority of the 15 items sold to the 25 customers of the Petitioner are IV infusion systems, the Representatives referred to the 2010 GIL which concluded that infusion pumps did not qualify as low rate items because they are drug administration systems.

35. Petitioner asserts that the conclusion in the 2010 GIL and the decision made by the Department is flawed because, as described in more detail below, the majority of the infusion systems sold to Petitioner's clients are used in such a manner that they actually substitute for a malfunctioning part of a patient's body without which the patient's body could not process the medicine, fluid or nutrition in order for the body to continue to function.

36. Petitioner's IV infusion systems are comparable to prefilled syringes used by diabetics, which do qualify for the low rate of tax.

37. The infusion systems used by Petitioner serve as a temporary extension of a patient's body that is necessary for the body to absorb the necessary fluids, nutrition or medication.

38. In addition, the Department's "de novo" inquiry into what items constitute low rate items is unnecessary, as the Department has already made this determination in the 2008 audit of Petitioner and all of the components of the IV infusion systems sold by Petitioner should qualify as low rate items on the basis of *stare decisis*.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) Finds that the mix of products sold by Petitioner is comprised of low rate items and high rate items as determined in the 2008 Audit;

- (b) Enters judgment in favor of Petitioner and against the Department and requires the Department to recalculate Petitioner's liability, if any, based on the 2008 Audit; and
- (c) Grants such further relief as the Tribunal deems appropriate.

## COUNT II

### All Of The Fifteen Products Listed By Petitioner Qualify As Low Rate Items

39. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 38, inclusive, hereinabove.

40. The Department incorrectly classified all of the items listed below as high rate items and, as explained in more detail below, Petitioner believes that all of items should be classified as low rate items because, based on their use, they meet the definition of "medical appliances" under Section 130.311 of the Illinois Department of Revenue Regulations.

41. **Needles-Sterile.** Needles serve as an extension of the body when they are used to deliver medicine not susceptible to oral delivery. They become incorporated into the body at the time of the injection. Needles serve the same function as the patient's mouth serves for delivery of oral medication.

42. **Syringes – Sterile, either empty or prefilled.** In the same manner as needles, syringes function as part of the body when they are used to deliver medicine not susceptible to oral delivery. Together with the needle, a syringe becomes an extension of the body that is necessary to intake the medicine into the patient's body.

43. **Vacutainer Blood Transfer Device - Sterile.** This device becomes part of the body to fulfill the function of delivering blood back to the body because the body is not able to

perform this function by itself. This may be analogized to catheters that introduce fluids into the body and which the Department has previously approved as low rate items in the 1993 PLR.

44. **Catheters.** These types of catheters are threaded through a vein to administer life sustaining medications, fluids or nutrition which can only be administered intravenously and which the body could not process without this device. When these catheters are inserted into the vein, they directly substitute for a malfunctioning part of the patient's body and become incorporated into the body. The Department has previously approved catheters that introduce fluids into the body or remove fluids from the body as low rate items.

45. **Needles for Access Ports – Sterile, part of delivery system for medication.** As discussed above, needles become an extension of the body once injected and functions as a passage mechanism that allows the body to receive the medicine it needs to function.

46. **Huber needles.** These needles are used to access ports implanted under the skin of chronically ill patients for repeated access to veins for the withdrawal of blood and infusion of medication, nutritional solutions, blood products, and imaging solutions. The needles become a part of and an extension of the body when they are inserted into the ports implanted under the skin.

47. **IV Administration Sets, infusion related tubing, bandages and/or devices to hold tubing in place, and clamps.** All IV administration sets are sterile and deliver fluids, medication or Total Parenteral Nutrition (TPN), which is used for patients who cannot get their nutrition through eating. These devices directly substitute for the part of the body that is malfunctioning due to disease and treatment is necessary to sustain life. The IV sets function as a passage way in a manner similar to the patient's mouth for delivery of food and/or medication.

48. **ChloroPrep 3 ml applicator.** Only sales to one customer were marked as high rate items, thirteen others were marked as low rate items by the Department. Petitioner submits that this is arbitrary and capricious treatment by the Department and, consistent with the others, the sale of this item to the particular customer should be treated as subject to the low rate of tax.

49. **ICU products – Sterile.** Sterilization is necessary for avoidance of complications to the body that may otherwise be introduced when procedures are performed.

50. **Eclipse Home Pump.** Disposable ambulatory infusion system to deliver prescribed medications. Becomes part of the body when it is used to deliver medication to the parts of the body diminished by disease so the body can sustain itself.

51. **Foley Tray, Catheter.** This kit was marked as a high rate item while two others were marked as low rate items. Petitioner submits that this is arbitrary and capricious treatment by the Department and this items should be treated consistent with the others as a low rate item.

52. **Huber Pro Safety Huber Set.** Part of delivery mechanism for prescribed medication. Becomes part of the body when it is used to deliver medication to the parts of the body diminished by disease so the body can sustain itself.

53. **IV Start Kits - Sterile, used for infusions.** Becomes part of the body when it is used to deliver medication to the parts of the body diminished by disease so the body can sustain itself.

54. **Port Access Set.** A port is a small medical appliance installed beneath the skin. A catheter connects the port to a vein, used mostly to treat hematology and oncology patients. This device is directly incorporated into the body and substitutes for the malfunctioning part of the body that allows fluids to enter the body.

55. **Sterile IV Wings.** Only one of these items is marked as high rate by the Department. Thirteen others are marked as low rate items. Petitioner submits that this is arbitrary and capricious treatment by the Department and that this item should be treated consistent with the others as a low rate item.

56. Another example of disagreement between Petitioner and the Department is medical, sterile gloves sold by Petitioner to health care personnel delivering IV infusions.

57. The Department incorrectly analyzed that the product does not replace a malfunctioning body part of the patient.

58. Petitioner believes that the Department is looking at the wrong person benefiting from the use of the product as the gloves are used to protect the health care worker and replace the worker's bare skin, which left unprotected would expose the worker to known health risks.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) Finds that all of the products listed by Petitioner should be characterized as low rate items because they directly substitute for a malfunctioning part of the human body or are incorporated into the body based on their use;
- (b) Enters judgment in favor of Petitioner and against the Department and requires the Department to recalculate Petitioner's liability treating all of the items listed by Petitioner as low rate items; and
- (c) Grants such further relief as the Tribunal deems appropriate.

Count III

Any Applicable Penalties Should Be Calculated Based On The Amnesty Program Rates

59. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 58, inclusive, hereinabove.

60. During the meeting with the Department Representatives, the Representatives informed Petitioner that Petitioner was being charged double the applicable rate for penalties through June, 2009, because Petitioner didn't take advantage of the Department's amnesty program.

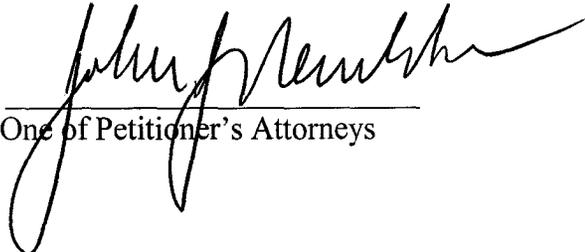
61. After inquiry by Petitioner, one of the Representatives confirmed that, unlike many other businesses in Illinois, Petitioner in fact was never issued the letter advising of the availability of the amnesty.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) Abates the doubling of any applicable penalties because Petitioner received no mailing regarding the amnesty program;
- (b) Enters judgment in favor of Petitioner and against the Department; and
- (c) Grants such further relief as the Tribunal deems appropriate.

Respectfully submitted,

INTEGRATED MEDICAL  
SYSTEMS, INC.,  
Petitioner.

By:   
One of Petitioner's Attorneys

John J. Pembroke, Esq.  
John J. Pembroke & Associates, LLC  
422 N. Northwest Highway, Suite 150  
Park Ridge, Illinois 60068  
Tel: 847-696-0060

**Notice of Tax Liability**  
for Form EDA-105-R, ROT Audit Report



October 2, 2015



Letter ID: CNXXXX11X9724328

Account ID: 3861-2267

#BWNKMGV  
 #CNXX XX11 X972 4328#  
 INTEGRATED MEDICAL SYSTEMS INC  
 ATTN: POA JOHN J. PEMBROKE  
 422 N NORTHWEST HWY STE 150  
 PARK RIDGE IL 60068-3297

We have audited your account for the reporting periods January 01, 2009, through June 30, 2009. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	12,571.00	0.00	12,571.00
Late Payment Penalty Increase	2,514.00	0.00	2,514.00
Late Filing Penalty Increase	251.00	0.00	251.00
Interest	2,355.39	0.00	2,355.39
<b>Assessment Total</b>	<b>\$17,691.39</b>	<b>\$0.00</b>	<b>\$17,691.39</b>

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

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

- If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is December 01, 2015. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at tax.illinois.gov). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. 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. A protest of this notice does not preserve your rights under any other notice.
- Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, 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), 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 to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS  
 TECHNICAL REVIEW SECTION  
 ILLINOIS DEPARTMENT OF REVENUE  
 PO BOX 19012  
 SPRINGFIELD IL 62794-9012

217 785-6579

## Penalties and Fees

For detailed information on penalties and rates in effect for specific periods on or after January 1, 1994, see Publication 103.

- 1 **Late-filing or Nonfiling penalty** - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.
- 2 **Late-payment penalty for underpayment of estimated or quarter-monthly tax** - You owe this penalty if you were required to make estimated or quarter-monthly tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.
- 3 **Late-payment penalty for regular tax payments** - You owe this penalty if you did not pay the tax you owed by the original due date of the return.
- 4 **Negligence penalty** - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.
- 5 **Fraud penalty** - You owe this penalty if any part of a deficiency is due to fraud.
- 6 **Cost of collection fee** - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.
- 7 **Bad check penalty** - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.
- 8 **Failure to disclose participation in a reportable transaction penalty** - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.
- 9 **Reportable transaction understatement penalty** - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

**10 100 percent interest penalty** - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of the tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

**11 Audit penalty** - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

**12 Nonfiling penalty for transaction return** - You owe this penalty if you are a retailer required to file a transaction return (ST-556, Sales Tax Transaction Return) by the due date, even if no tax is due on the return.

### Are penalties ever abated?

If you were unable to either timely pay the required amount of estimated or quarter-monthly payments, pay the tax you owed by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations.

### How is interest figured?

Interest is calculated on your tax from the day after the original due date of your return through the date you pay the tax (for certain tax periods interest may also accrue on penalties). Interest accrues at simple rates established by the Internal Revenue Service. See Publication 103 for more information.

## Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

## Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.

**Notice of Tax Liability**  
for Form EDA-105-R, ROT Audit Report



#BWNKMGV  
#CNXX X153 3499 4X81#  
INTEGRATED MEDICAL SYSTEMS INC  
ATTN: POA JOHN J. PEMBROKE  
422 N NORTHWEST HWY STE 150  
PARK RIDGE IL 60068-3297

October 2, 2015



Letter ID: CNXXX15334994X81

Account ID: 3861-2267

We have audited your account for the reporting periods July 01, 2009, through September 30, 2012. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	75,317.00	(13,654.00)	61,663.00
Late Payment Penalty Increase	12,626.00	0.00	12,626.00
Late Filing Penalty Increase	1,114.00	0.00	1,114.00
Interest	7,647.43	0.00	7,647.43
<b>Assessment Total</b>	<b>\$96,704.43</b>	<b>(\$13,654.00)</b>	<b>\$83,050.43</b>

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

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

- If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is December 01, 2015. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at tax.illinois.gov). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. 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. A protest of this notice does not preserve your rights under any other notice.
- Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, 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), 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 to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS  
TECHNICAL REVIEW SECTION  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

217 785-6579

## Penalties and Fees

For detailed information on penalties and rates in effect for specific periods on or after January 1, 1994, see Publication 103.

- 1 **Late-filing or Nonfiling penalty** - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.
- 2 **Late-payment penalty for underpayment of estimated or quarter-monthly tax** - You owe this penalty if you were required to make estimated or quarter-monthly tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.
- 3 **Late-payment penalty for regular tax payments** - You owe this penalty if you did not pay the tax you owed by the original due date of the return.
- 4 **Negligence penalty** - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.
- 5 **Fraud penalty** - You owe this penalty if any part of a deficiency is due to fraud.
- 6 **Cost of collection fee** - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.
- 7 **Bad check penalty** - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.
- 8 **Failure to disclose participation in a reportable transaction penalty** - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.
- 9 **Reportable transaction understatement penalty** - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

**10 100 percent interest penalty** - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of the tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

**11 Audit penalty** - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

**12 Nonfiling penalty for transaction return** - You owe this penalty if you are a retailer required to file a transaction return (ST-556, Sales Tax Transaction Return) by the due date, even if no tax is due on the return.

### Are penalties ever abated?

If you were unable to either timely pay the required amount of estimated or quarter-monthly payments, pay the tax you owed by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations.

### How is interest figured?

Interest is calculated on your tax from the day after the original due date of your return through the date you pay the tax (for certain tax periods interest may also accrue on penalties). Interest accrues at simple rates established by the Internal Revenue Service. See Publication 103 for more information.

## Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

## Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.