

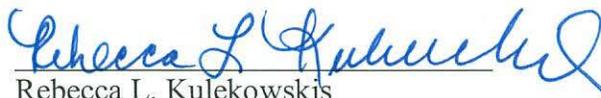
ILLINOIS INDEPENDENT TAX TRIBUNAL

JOHN E. ROGERS and FRANCES L. ROGERS)	
)	
Petitioner,)	
v.)	No. 14 TT 153
)	
ILLINOIS DEPARTMENT OF REVENUE)	Judge Brian F. Barov
)	
Respondent.)	

CERTIFICATE OF SERVICE

Rebecca L. Kulekowskis certifies that she is a Special Assistant Attorney General of the State of Illinois duly appointed by Lisa Madigan, Attorney General of the State of Illinois; that she is authorized to make this certificate; that on **September 4, 2014**, before the hour of 5:00 p.m. (C.S.T) she served a true and exact copy of the foregoing instrument entitled **ANSWER** on the above Taxpayers/Petitioners by sending same to the address as indicated below:

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ANSWER

Department objects to Taxpayer’s Petition on the grounds that the form of the Petition does not conform to Independent Tax Tribunal Rule 5000.300(a)(F) (86 Ill. Admin. Code Section 5000.310). To the extent the Department has been ordered to Answer, the Department Answers as follows:

ANSWER: Department asserts that to the extent the Petition contains legal conclusions, not material allegations of fact, the Department is not required to Answer. Rule 310(b)(2). To the extent an Answer is required, the Department states as follows:

The Department issued a Notice of Deficiency to Petitioners/Taxpayer on June 9, 2014, for the tax year ending December 31, 2002 (hereinafter referred to as “the 2002 Notice”). The 2002 Notice asserted an underpayment of tax in the amount of \$32,417, plus interest of \$37,153.86 for tax year ending December 31, 2002.

By letter dated May 27, 2011, the IRS informed Taxpayer of an adjustment to Taxpayer’s federal Adjusted Gross Income for the tax year ending December 31, 2002. The IRS adjusted Taxpayer’s 2002 federal Adjusted Gross Income to \$1,184,185; the adjustment is dated May 25, 2011 (hereinafter referred to as “the 2002 Adjustment”).

On October 10, 2003, Taxpayer reported federal Adjusted Gross Income of -\$25,505.00 (negative) on Taxpayer’s original Form IL-1040 for tax year ending December 31, 2002.

Taxpayer failed to report the 2002 Adjustment to the Department by filing an amended return. Section 506(b) of the Illinois Income Tax Act requires a taxpayer to notify the Department (in the form of an amended return) of an alteration to federal taxable income within 120 days of the date that alteration is agreed to or finally determined. 35 ILCS 5/506(b).

The Department denies that the Taxpayer has a Collection Due Process hearing pending before the IRS. The Department states further that even if a Collection Due Process Hearing is pending, such a hearing is only for protesting Notices of Tax Lien or Notices of Tax Levy - collection actions - and not for protesting the underlying IRS assessment/adjustment. See IRS Form 12153.

The Department denies that the 2002 Adjustment is not final. The Department denies that Taxpayer has an open protest of the 2002 Adjustment pending before the IRS that would prevent the 2002 Adjustment from being final. The Department denies all other material facts alleged in the Petition and demands strict proof thereof.

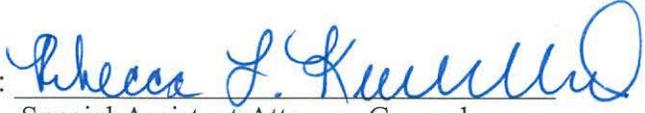
WHEREFORE, the Department requests this Tribunal

- a) find that the IRS adjustment to Taxpayer's Federal Adjusted Gross Income in the amount of \$1,184,185, for the tax year ending December 31, 2002, was agreed to or finally determined on May 25, 2011;
- b) find that Department timely issued the Notice of Deficiency dated June 9, 2014;
- c) hold that the Notice of Deficiency dated June 9, 2014 is correct;
- d) Order judgment in favor of the Department and against Petitioner/Taxpayer; and
- e) Any further relief this Tribunal deems just.

Respectfully submitted,

Illinois Department of Revenue

By: LISA MADIGAN, Attorney General, State of Illinois

By: 
Special Assistant Attorney General

Date: August 20, 2014

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