

**ILLINOIS INDEPENDENT TAX TRIBUNAL**

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

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**DEPARTMENT’S MOTION FOR SUMMARY JUDGMENT**

Now comes the Respondent, the Illinois Department of Revenue (“Department”), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and moves this Tribunal for entry of summary judgment pursuant to 735 ILCS 5/2-1005. In support of said motion, Department states as follows:

1. A motion for summary judgment is appropriate where the pleadings, affidavits, and other documents on file show that there is no genuine issue as to any material fact on a particular issue and that the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c); People ex rel. Dep’t of Revenue v. National Liquors Empire, Inc., 157 Ill. App. 3d 434 (4th Dist. 1987).
2. The issue in this case is whether Petitioner’s 2002 Federal Adjusted Gross Income was “agreed to or finally determined” by the IRS prior to the Department’s issuance of the Notice of Deficiency on June 9, 2014, for the Tax year ending December 31, 2002. 35 ILCS 5/506(b).
3. As a matter of law, the Petitioner’s 2002 Federal Adjusted Gross Income was “agreed to” on June 19, 2008, when John E. Rogers executed the Form 870-LT on behalf of Abingdon Trading, LLC, and finally determined by the IRS on May 25, 2011, when Taxpayer’s account transcript was adjusted.

4. Department incorporates its Memorandum of Law in Support of its Motion for Summary Judgment as if fully set forth in this paragraph.

5. Since there is no genuine issue of material fact to be decided by the Tribunal, summary judgment should be granted in favor of the Department.

WHEREFORE, the Department requests this Tribunal enter an Order

- a) Granting Department's Motion for Summary Judgment;
- b) Holding that the Department's Notice of Deficiency correctly determined Taxpayer's tax, interest, and penalty for the tax year ending December 31, 2002;  
and
- c) Any further relief this Tribunal deems just.

Respectfully submitted,

Illinois Department of Revenue  
By: LISA MADIGAN, Attorney General, State of  
Illinois

By: \_\_\_\_\_  
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