

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

EXXON MOBIL CORP. &
AFFILIATED COMPANIES

Petitioner,

v.

THE ILLINOIS DEPARTMENT OF REVENUE,

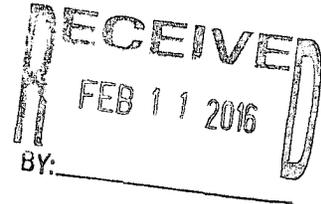
Defendant.



No.: 16TT29

NOTICE OF FILING

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



PLEASE TAKE NOTICE that on the 11th day of February, 2016, we filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, IL 60601, Exxon Mobil Corporation & Affiliated Companies' **Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

**EXXON MOBIL CORPORATION &
AFFILIATED COMPANIES
Petitioner**

By: Breen M. Schiller
One of Its Attorneys

Marilyn A. Wethekam
Breen M. Schiller
HORWOOD MARCUS & BERK CHARTERED
500 W. Madison, Suite 3700
Chicago, IL 60661
Phone: (312) 606-3200

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

EXXON MOBIL CORP. &)	
AFFILIATED COMPANIES)	
)	
Petitioner,)	
)	
v.)	No.:
)	
THE ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant.)	

PETITION

Petitioner, Exxon Mobil Corporation and Affiliated Companies (“Petitioner”), by and through its attorneys, Horwood Marcus & Berk Chartered, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

PARTIES

1. Petitioner is a New Jersey corporation located at 22777 Springwoods Village Parkway, N3.3B.347, Spring, Texas, 77389; and can be reached at 832-624-4570 or sterling.d.jones@exxonmobil.com.

2. Petitioner is represented by Horwood Marcus & Berk Chartered attorneys Marilyn A. Wethekam and Breen M. Schiller located at 500 West Madison St., Suite 3700, Chicago, Illinois 60661, and can be reached at 312-606-3240 or mwetheka@hmblaw.com; and 312-606-3220 or bschiller@hmblaw.com, respectively.

3. Petitioner’s FEIN is 13-5409005.

4. Petitioner’s Illinois Account Number is 13593-35104.

5. 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. 20 ILCS 5/5-15.

NOTICES.

6. On October 28, 2015, Petitioner received an Erroneous Refund Letter (“Refund Letter”) alerting Petitioner to the fact that Department applied another taxpayer’s payment to Petitioner’s account, a copy of which is attached as Exhibit A.

7. On December 17, 2015, Petitioner received a Notice of Deficiency (“Notice”), a copy of which is attached as Exhibit B, concerning the refund issued in the amount of \$14,553,575.98; comprised of \$14,347,216.38 of refunded tax and \$206,359.60 of interest (the “Issued Refund”), and that a portion thereof, \$126,797.91 (the “Erroneous Refund”), was issued in error.

JURISDICTION

8. 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.

9. This Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this petition within 60 days of the Notice.

BACKGROUND

10. The tax involved herein is the Illinois corporate income and replacement tax imposed under the Illinois Income Tax Act (the “Act”), 35 ILCS §5/201, et seq.

11. On or before October 15, 2013, Petitioner filed its Illinois corporation income and replacement tax return (“Original Return”) for the 2012 Year, the tax year at issue.

12. On or before February 3, 2014, Petitioner filed an amended return correcting errors in its Sch-UB, which resulted in no change to its apportionable Illinois tax (“the Amended Return”).

13. In the Amended Return, Petitioner requested a \$15,000,000 refund (the “Original Refund”) and carried forward \$37,010,346 to Petitioner’s 2013 tax year.

14. On June 27, 2014, Petitioner received the Issued Refund of \$14,553,575.98.

15. In October and December of 2015, Petitioner received the Refund Letter and the Notice, respectively, from the Department alerting Petitioner that the Department had misapplied another taxpayer’s payment to its account in the amount of \$125,000 and that Petitioner should file a petition or pay the erroneous refund.

CONTROVERSY

16. On June 27, 2014, the Department issued to Petitioner the Issued Refund.

17. To date, Petitioner has requested and the Department has been unable to explain the discrepancy between the requested Original Refund and the Issued Refund.

18. To date, Petitioner has requested additional basis and authority for the Refund Letter and Notice, which the Department has been unable to provide.

19. On December 17, 2015, the Department issued Petitioner the Notice concerning the Erroneous Refund.

20. The Notice alerted Petitioner that it had issued a portion of the refund, \$125,000 plus \$1,791.91 of interest, for a total of \$126,791.91, in error.

21. The Refund Letter states that the Department misapplied another taxpayer’s payment to its account.

22. The Notice states the Erroneous Refund was the result of a processing error and that the Erroneous Refund was not due to Petitioner.

23. Petitioner did not reflect the \$125,000 amount on any of its subsequent returns or filings with the Department.

COUNT I

The Department's issuance of the Notice was in error because Petitioner never received any money, other than the Issued Refund, from the Department.

24. Petitioner re-alleges and incorporates by this reference the allegations made in paragraphs 1 through 21.

25. Petitioner never received any amount in error.

26. Petitioner requested its Original Refund and received the Issued Refund instead with no explanation as to the discrepancy.

27. Petitioner does not contest the amount of interest received on the Issued Refund.

28. Petitioner never received nor reflected the \$125,000 payment on its returns or filings with the Department.

29. Petitioner contends this error is solely present on the Department's books and records.

WHEREFORE, Petitioners pray that this Tribunal enter an Order that:

- a. finds and declares that the Department's issue of the Notice was in error;
- b. finds and declares that Petitioner is entitled to the refunds reported on its Second Amended Returns; and
- c. grants such further relief as this Tribunal deems appropriate under the circumstances.

COUNT II

The Department's payment of the Issued Refund was in error because Petitioner is entitled to the full Original Refund.

30. Petitioner re-alleges and incorporates by this reference the allegations made in paragraphs 1 through 21.

31. Petitioner requested the Original Refund of \$15,000,000 and the Department paid to Petitioner the Issued Refund of \$14,553,575.98.

32. Petitioner seeks the remainder of the requested refund, or \$652,783.62, plus interest.

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

- a. finds and declares that the Petitioner is entitled to its Original Refund;
- b. finds and declares that an additional refund plus interest is due and owing to Petitioner; and
- c. grants such relief as this Tribunal deems appropriate under the circumstances.

COUNT III

**The Department's Notice is without effect because the Department
did not supply a basis for the deficiency**

33. Plaintiff realleges and incorporates by this reference the allegations made in paragraphs 1 through 21, inclusive, hereinabove.

34. The Illinois Taxpayer Bill of Rights requires the Department to furnish taxpayers with an explanation of the tax liabilities and penalties associated with a tax notice. 20 ILCS 2520/4(b).

35. The Illinois Income Tax Act requires that the Department not only explain what adjustments are made on a Notice of Deficiency, it is required to provide the reasons therefor. 35 ILCS 5/904(c).

36. Petitioner has requested and the Department has been unable to explain the discrepancy between the requested Original Refund and the Issued Refund.

37. The Department has not provided Petitioner with basis or authority for the Refund Letter or Notice.

38. The Department did not comply with the Taxpayer Bill of Rights.

39. The Department did not comply with 35 ILCS 5/904(c).

40. Without providing an explanation as to its adjustments, the Department has deprived the Plaintiff of a meaningful opportunity to protest the adjustments.

41. Because the Notice does not comply with the Taxpayer Bill of Rights and 35 ILCS 5/904(c), depriving Plaintiff of a meaningful opportunity to challenge the assessment, the Notice is invalid.

42. Taxpayers have the right to recover damages in a suit if the Department intentionally or recklessly disregards the tax laws or regulations, or rights of taxpayers, in collecting taxes. 20 ILCS 2520/5.

WHEREFORE, Plaintiff prays that the Court enter an Order that:

- a. finds and declares that the Notice does not comply with the Taxpayer Bill of Rights;
- b. finds and declares that the Notice did not comply with 35 ILCS 5/904(c)
- c. finds and declare the Notice invalid;
- d. finds and declares that Petitioner is entitled to its Original Refund; and

e. grants such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,
**EXXON MOBIL CORPORATION &
AFFILIATED COMPANIES**
Petitioners

By: Breen M. Schiller
One of its Attorneys

Marilyn A. Wethekam
Breen M. Schiller
HORWOOD MARCUS & BERK CHARTERED
500 West Madison Street, Suite 3700
Chicago, Illinois 60661
(312) 606-3200

Erroneous Refund Letter

for Form IL-1120, Corporation Income and Replacement Tax Return



October 28, 2015



Letter ID: CNXXX5X42276XX1

Account ID: 13539-35104

FEIN: 13-5409005

Reporting Period: December 2012

#BWNKMGV
#CNXX XX5X 4227 6XX1#
EXXON MOBIL CORP & AFFILIATED COMPANIES
EXXON MOBIL CORPORATION AND AFFILIATED
COMPAN

ATTN: OSCAR E JONES
PO BOX 392
HOUSTON TX 77001-0392



We issued you an Illinois tax refund on June 27, 2014 in the amount of \$14,553,575.98. A recent review of our records revealed that a portion of this refund was not due to you and was the result of the following processing error.

We applied another taxpayer's payment to your account.

Our records show this refund has been cashed. If you would like a copy of this cancelled check, please call the Comptroller's office at 1 800 877-8078. If you agree that this refund amount was issued to you in error, please repay the amount \$126,797.91. This includes \$1,797.91 in interest. Make your check or money order payable to the "Illinois Department of Revenue."

If we do not receive your payment within 30 days from the date of this letter, we will issue you a Notice of Deficiency requesting your payment. If you do not agree that this amount was refunded to you in error, you may file a written protest against the Notice of Deficiency and, if you desire, request a hearing.

If you are currently under the protection of the Federal Bankruptcy Court, please contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligation to file tax returns.

Please send us a copy of this letter with your payment to the address below.

If you have any questions, please write us or call our Springfield office weekdays between 7:00 a.m. and 3:00 p.m. Our address and telephone number are below.

Lisa Smith
Revenue Tax Specialist II

BUSINESS PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004

(217) 782-2134
(217) 785-8202 fax

Taxpayer Statement



October 28, 2015

TDD 1 800 644-6304



Letter ID: CNXXXX592668X480

#BWNKMGV
#CNXX XX59 2668 X480#
EXXON MOBIL CORP & AFFILIATED COMPANIES
EXXON MOBIL CORPORATION AND AFFILIATED
COMPAN
ATTN: OSCAR E JONES
PO BOX 392
HOUSTON TX 77001-0392

Account ID: 13539-35104

FEIN: 13-5409005

Total amount due: \$126,797.91



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

IL Business Income Tax		You have available credits of \$184,301.81			Account ID: 13539-35104	
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2005	34,027,887.00	-	697,348.19	-	(34,726,232.00)	(996.81)
31-Dec-2008	3,789,415.00	-	-	-	(3,802,450.00)	(13,035.00)
31-Dec-2009	2,495,066.00	-	-	-	(2,665,336.00)	(170,270.00)
31-Dec-2012	16,687,160.00	-	(51,658.73)	-	(16,508,703.36)	126,797.91

SOA

Retain this portion for your records.

P-000359

Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)



Letter ID: CNXXXX592668X480
EXXON MOBIL CORP & AFFILIATED COMPANIE

Total amount due: \$126,797.91

Write the amount you are paying below.

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19006
SPRINGFIELD IL 62794-9006

\$ _____

Write your Account ID on your check.



Illinois Department of Revenue
 101 West Jefferson Street
 P.O. Box 19015
 Springfield, Illinois 62794-9015

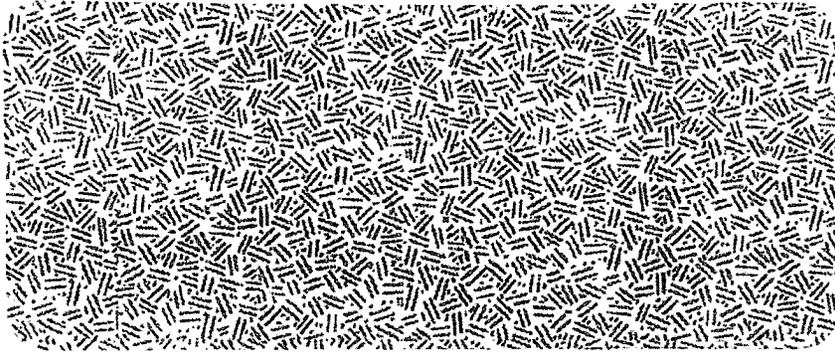
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PRESORTED
 FIRST CLASS



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ENV-138-CSR (R-9/05)

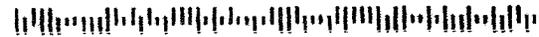


142 1MB4N3B 77001

RECEIVED

NOV 04 2015

ExxonMobil Tax
 TRAC - SHARED ADMIN TEAM



Notice of Deficiency

for Erroneous Refund



December 17, 2015



Letter ID: 71806347274515658214

EXXON MOBIL CORP & AFFILIATED COMPANIES
EXXON MOBIL CORPORATION AND AFFILIATED
COMPAN
ATTN: OSCAR E JONES
PO BOX 392
HOUSTON TX 77001-0392

Account ID:	13539-35104
Tax due:	\$125,000.00
Penalty due:	\$0.00
Interest due:	\$1,797.91
Balance due:	\$126,797.91



We have determined that you owe the amounts listed above. The attached statement explains the computation of your deficiency and the balance due. This notice is an amendment to the notice we previously issued to you on October 28, 2015. **Illinois law requires that we notify you of this deficiency and your rights.**

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

If you do not agree, you may wish to 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 this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to 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). 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 deficiency 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 balance due 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, contact us at the telephone number shown below.

Sincerely,

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
PO BOX 62720
SPRINGFIELD, IL 62794-9720
217 782-3336

EMBL

Statement

Date: 17-Dec-2015

Name: EXXON MOBIL CORP & AFFILIATED COMPANIES

Account ID: 13539-35104

Reasons for deficiency

On June 27, 2014 we issued to you an income tax refund in the amount of \$14,553,575.98, warrant number TD7195632. This refund was for the December 2012 reporting period, and consisted of \$14,347,216.38 tax and \$206,359.60 interest. A portion of this refund, \$126,797.91, was the result of a processing error and was not due you. Therefore, please pay the amount of \$125,000.00 tax and \$1,797.91 interest. Additional interest accrues on the total refund from the date of the refund until the liability is paid.
[35 ILCS 5/912]

Computation of deficiency

	Reported or adjusted amount	Reporting Period: December 2012 Increase (Decrease)	Corrected amount
Tax due	\$0.00	\$0.00	\$0.00
Minus tax previously assessed	\$0.00	\$0.00	\$0.00
Additional tax due	\$0.00	\$0.00	\$0.00
Plus late-payment penalty	\$0.00	\$0.00	\$0.00
Plus late-filing or nonfiling penalty	\$0.00	\$0.00	\$0.00
Total deficiency for December 2012			\$0.00

Computation of balance due

	Reporting Period: December 2012
Deficiency (this notice)	\$0.00
Plus refund issued in error	\$126,797.91
Total balance due for December 2012	\$126,797.91
Balance due (this notice)	\$126,797.91*

*The "balance due" is for this Notice of Deficiency and is in addition to any previous liabilities.

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DEC 28 2015

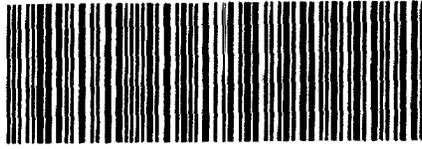
ExxonMobil Tax
TRAC - SHARED ACQUISITION TEAM

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.



7180 6347 2745 1565 8214

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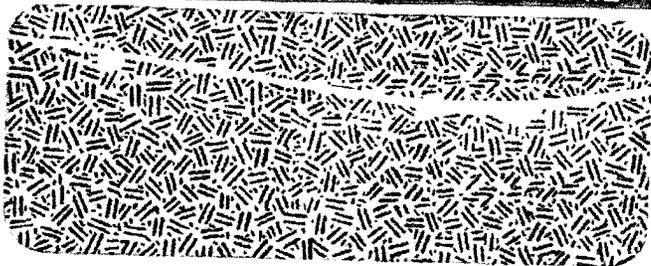
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ExxonMobil Tax
TRAC - SHARED ADMIN TEAM

EXXON MOBIL CORP & AFFILIATED COMPANIES
EXXON MOBIL CORPORATION AND AFFILIATED
COMPAN
ATTN: OSCAR E JONES
PO BOX 392
HOUSTON TX 77001-0392

CERTIFIED MAIL

Illinois Department of Revenue
PO Box 19015
Springfield IL 62794-9015

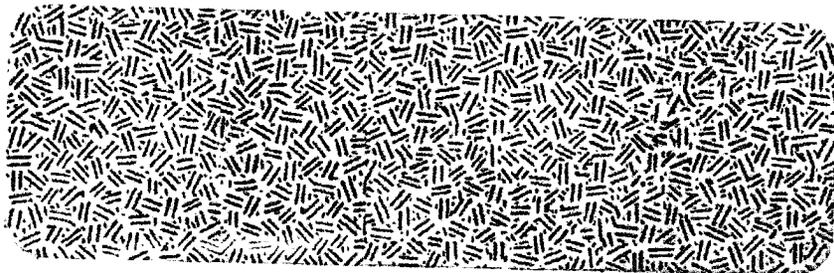


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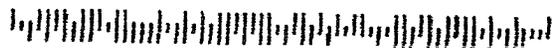
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DEC 23 2015

Ex
TRAC -



7700130392 8005



ENV-337 (R-9/00) ♻

CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that she caused a copy of the foregoing **Petition** to be served upon other counsel of record herein by causing the same to be placed in an envelope, properly addressed and deposited in the U.S. Mail at 500 W. Madison, Chicago, IL 60661 before the hour of 5:00 p.m. on the 11th day of February, 2016.

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

