

IN THE ILLINOIS INDEPENDENT
TAX TRIBUNAL

TWIN MED, LLC,

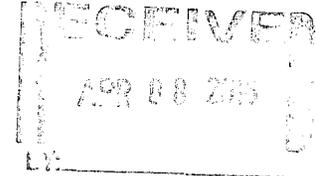
Petitioner,

v.

ILLINOIS DEPARTMENT
OF REVENUE,

Respondent,

No.



16 TIG 9

PETITION

The Petitioner, Twin Med LLC, (hereinafter "Petitioner"), a limited liability company, by its attorneys of record, Jesse W. McClellan of McClellan Davis, LLC and David Kupiec of Kupiec & Martin, LLC, hereby petitions the Illinois Independent Tax Tribunal to review, and withdraw and/or modify the Notices of Tax Deficiency (hereinafter "Notice" or "Notices") issued by the Illinois Department of Revenue (hereinafter "Department") on February 11, 2016, for the reasons set forth below.

INTRODUCTION

1. Petitioner is a limited liability company formed under the laws of the State of Delaware.
2. Its principal place of business is 11333 Greenstone Ave, Santa Fe Springs, California, 90670, (877) 894-6633. Its Illinois Department of Revenue number is 3519-3441.
3. The first Notice under dispute was issued by the Department on February 11, 2016, for reporting periods January 1, 2009 through June 30, 2009, assessing the amount of

\$171,290.00 in tax, \$69,631.00 in penalties and \$66,728.00 in interest. A copy of the Notice is attached to this Petition.

4. The Second Notice under dispute was issued by the Department on February 11, 2016, for reporting periods July 1, 2009 through June 30, 2012, assessing the amount of \$694,989.00 in tax, \$138,937.00 in penalties and \$95,428.44 in interest. A copy of the Notice is attached to this Petition.

JURISDICTION

5. The Tax Tribunal has jurisdiction pursuant to 35 ILCS 1010/1-45(a) because the alleged tax liability in question from the Illinois Retailers' Occupation Tax Act in the aggregate exceeds, \$15,000, exclusive of penalties and interest, and because Petitioner has remitted the \$500 filing fee and filed this Petition within 60 days of the Notice of Deficiency.

BACKGROUND AND RELEVANT FACTS

6. Petitioner is a distributor of a full-line of medical products which it sells to medical supply distributors, nursing homes and hospitals throughout the United States. Petitioner has warehouses and offices in multiple states. During the audit period, covering periods January 1, 2009 through June 30, 2012 (hereinafter "Audit Period"), Petitioner had office locations in Niles and Kankakee, Illinois. The Kankakee office was Petitioner's first office in Illinois, opening on or around October 1, 2004 and closing on or around June 30, 2010. The warehouse in Niles, Illinois opened in November 2007 and is currently active as of the date of this Petition. Petitioner's headquarters office is located in Santa Fe Springs, California.

7. The location in Kankakee was established as an office for the purpose of reviewing and accepting new orders primarily for Illinois customers. Kankakee was the only location used by Petitioner to accept orders for Illinois customers during the period of October 1, 2004 through June 30, 2010.

8. Petitioner entered into a commercial lease, commencing October 1, 2004, with MTC Consulting, LLC (hereinafter “MTC”) for office space at 555 S. Schuyler, Suite 280, Kankakee, IL, 60901.

9. Effective October 1, 2004, Petitioner entered into an Agency Agreement (hereinafter “Agreement”) with MTC Consulting, LLC, for MTC to carry out Petitioner’s order review and acceptance functions at its Kankakee location. Pursuant to the agency agreement, among other duties and obligations, MTC was:

“to perform, in the name of and on behalf of Principal, the sales data review routing established by Agent. Agent shall conditionally reject all orders placed by customers that fail the established guidelines of the sales data review program. Agent shall, within twenty-four (24) hours of placing an order on conditional rejection status, perform further order review and credit irregularity detection procedures and shall make a final determination regarding the acceptance or rejection of all orders conditionally rejected. Agent will provide Principal with prompt notice of its findings and the approval status of all orders submitted for review.” (Agreement, pg. 3, § 2.3(g).)

10. MTC fulfilled the aforementioned obligations under the Agreement. In particular, MTC fulfilled its obligation to accept, or reject, all orders placed for Petitioner’s Illinois customers between the periods of October 1, 2004 through June 30, 2010.

11. The process of accepting, or rejecting orders was carried out as follows: 1) daily orders received primarily from Illinois customers, if any, would be sent to Petitioner’s location in Kankakee via email, 2) Petitioner’s agent in Kankakee would perform an order verification process, including a review to determine if the purchaser(s) had filed bankruptcy in order to reduce bad debts, 3) upon completion of the order review process, Petitioner’s agent would send an email to Petitioner confirming the results of its review, and acceptance or rejection of the orders so reviewed, 4) upon receipt of the order acceptance, the order would be routed to Petitioner’s nearest fulfillment facility where delivery logistics would be carried out. No additional confirmation of the order was required by Petitioner.

12. Petitioner did not receive any consideration in any form for maintaining an office in Kankakee, from the City or County of Kankakee, or from any other source.

13. As Petitioner’s sales were reviewed and accepted in Kankakee, Petitioner applied the Retailers’ Occupation Tax (ROT) rate that was applicable to Kankakee.¹

¹ The Kankakee rate during the timeframe at issue was 6.25% and the low rate, which was applicable to exempt medical supplies, was 1%. The corresponding high rates in Niles and/or Skokie ranged from 10% to 8.25%, and the

14. Petitioner applied 86 Ill. Adm Code Sec. 220.115 for the above mentioned analysis and application of the ROT rate pursuant to the Department's long standing policy reflected in published Department letter rulings.

15. Petitioner was selected for audit by the Department for periods January 1, 2009 through June 30, 2012, ultimately asserting liability for the following audit items: 1) Differences between the amount of recorded tax collected vs. amount of reported tax, 2) Disallowed claimed exempt sales of medical products, 3) Disallowed claimed exempt sales for resale to other distributors, and 4) Improperly applying the ROT rate that was applicable to Kankakee, IL for periods through June 30, 2010.

16. Petitioner, disputes item numbers two (2), disallowed claimed exempt sales of medical products, and four (4), improper application of the Kankakee rate for periods through June 30, 2010. Petitioner also disputes the application of penalties and accompanying interest.

17. The disputed items were addressed with the auditor and Petitioner offered to provide additional supporting information during the audit, but no changes were recommended by the audit staff.

18. Petitioner filed a protest and an Informal Conference was held on September 3, 2015 with Department Conferees.

19. On October 14, 2015, the ICB issued an Action Decision in which it found that no adjustments to the audit were warranted, stating:

“Sufficient documentation has not been provided to support a Kankakee sales acceptance location or a low tax rate on items classified as high rate by the Audit Bureau”

20. The Department subsequently issued the Notices referenced above to the Petitioner on February 11, 2016. The proposed liability, including tax, interest and penalty, totaled \$1,104,474.31.

low rate was 2%. Effective June 25, 2015, IAC sections 220.115, 270.115 and 320.115 were amended to reflect the findings of the Supreme Court that were made in *Hartney Fuel Oil Co. v. Hamer*, 998 N.E.2d 1227, 376 Ill. Dec. 294 (November 21, 2013). The Regulations now contain a multifaceted inquiry to determine the situs of tax.

APPLICABLE LAW AND CASES

21. Petitioner relies upon the following authority to dispute the Department's claim regarding the proper situs of tax and denial of low tax rate medicine and medical appliance classifications, including but not limited to: 86 Illinois Administrative Code Sections 220.115, 270.115, 320.115 and 130.311, the Illinois Supreme Court decision in *Hartney Fuel Oil Co. v. Hamer*, 998 N.E.2d 1227, 376 Ill. Dec. 294 (2013), and The Taxpayers' Bill of Rights Act.²

22. Case Law Relied Upon

Hartney Fuel Oil Co. v. Hamer, 998 N.E.2d 1227, 376 Ill. Dec. 294 (2013) – The Illinois Supreme Court affirmed the Appellate Court's finding that the Tax Situs Regulations contained a bright-line test for the situs of ROT liability: "where purchase orders are accepted, tax liability is incurred." (*Id.* p. 1233, 1244.) Although the Court found that the Tax Situs Regulations did not accurately interpret the underlying law and the legislature's intent, it ruled that the Taxpayers' Bill of Rights Act imposes upon the Department a duty to "abate taxes and penalties assessed based upon erroneous written information or advice given by the Department." (*Id.* p. 1246; 20 ILCS 2520/4 (b).)

23. Laws and Regulations Relied Upon

55 ILCS 5/5-1006 Home Rule County Retailers' Occupation Tax Act

65 ILCS 5/8-11-1 Home Rule Municipal Retailers' Occupation Tax Act

70 ILCS 3615/4.03 Regional Transportation Authority Act

35 ILCS 120/2 Retailers' Occupation Tax

² The Illinois Compiled Statutes (hereinafter "ILCS") underlying the cited IAC sections are found under the Home Rule County Retailers' Occupation Tax Law (55 ILCS 5/5-1006), the Home Rule Municipal Retailers' Occupation Tax Act (65 ILCS 5/8-11-1), and the Regional Transportation Authority Act (70 ILCS 3615/4.03.). The statutes, however, do not provide any meaningful guidance regarding the situs of tax. Therefore, this petition focuses on the relevant IAC sections, 220.115 (home rule counties), 270.115 (home rule municipalities) and 320.115 (RTA) (2000). The IAC sections are identical for all intents and purposes, so only section 220.115 is examined in detail here.

Sec. 2. Tax imposed. A tax is imposed upon persons engaged in the business of selling at retail tangible personal property, including computer software, and including photographs, negatives, and positives that are the product of photoprocessing, but not including products of photoprocessing produced for use in motion pictures for public commercial exhibition.

Beginning January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under this Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. Sales of (1) electricity delivered to customers by wire; (2) natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and (3) water that is delivered to customers through pipes, pipelines, or mains are not subject to tax under this Act. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this Act.

35 ILCS 735-3/8 Uniform Penalty and Interest Act

Sec. 3-8. No penalties if reasonable cause exists. The penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department. A taxpayer may protest the imposition of a penalty under Section 3-3, 3-4, 3-5, or 3-7.5 on the basis of reasonable cause without protesting the underlying tax liability.

86 Ill. Adm. Code Section 220.115: Seller's Acceptance of Order

Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that **the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling.** If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of that place of business and who

does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the home rule county or by someone working out of that place of business, the seller incurs Home Rule County Retailers' Occupation Tax liability in that home rule county if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the purchase order from the purchaser in the absence of clear proof to the contrary." (86 Ill. Adm. Code Section 220.115, subd. (c)(1); **bolding added.**)³

86 Ill. Adm. Code Section 130.311 *Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products*, provides in relevant part:

"General. With respect to prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person and insulin, urine testing utensils, syringes and needles used by diabetics, for human use, the tax is imposed at the rate of 1% [low rate]. Grooming and hygiene products do not qualify for the 1% rate, regardless of whether the products make medicinal claims. Grooming and hygiene products are taxed at the general merchandise rate of 6.25% [high rate]..." (IAC § 130.311, subd. (a).)

"Medicines and Drugs. Except for grooming and hygiene products described in subsection (c), a medicine or drug is any pill, powder, potion, salve or other preparation for human use that purports on the label to have medicinal qualities. Medicines prescribed by veterinarians for animals are subject to the high rate of tax. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim." (IAC § 130.311, subd. (b).)

³ 86 Ill. Adm. Code Sections 270.115 and 320.115 contain identical provisions.

“Examples of medicinal claims that will qualify the product for the low rate of tax include, but are not limited to: “medicated”; “heals (a medical condition)”; “cures (a medical condition)”; “for relief (of a medical condition)”; “fights infection”; “stops pain”; “relief from poison ivy or poison oak”; “relieves itching, cracking, burning”; “a soaking aid for sprains and bruises”; “relieves muscular aches and pains”; “cures athlete’s foot”; “relieves skin irritation, chafing, heat rash and diaper rash”; “relief from the pain of sunburn”; “soothes pain”. (IAC § 130.311, subd. (b)(1), A-N.)

“The following products are not grooming and hygiene products and may qualify for the 1% rate if they meet the requirements of subsection (b):” hydrocortisone creams or ointments; anti-itch creams or ointments; vaginal creams or ointments; nasal sprays; eye drops; topical pain relievers; ice/heat creams; rubbing alcohol; denture creams or adhesives; and styptic pencils. (IAC § 130.311, subd. (c)(3), A-J.)

“Medical Appliances: A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body.

For purposes of this Section, 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. Examples of medical appliances that will qualify the product for the low rate of tax include, but are not limited to:” 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. (IAC § 130.311, subd. (d)(1), A-H.)

“Corrective medical appliances such as hearing aids, eyeglasses, contact lens and orthodontic braces qualify as medical appliances subject to the low rate of tax.” (IAC § 130.311, subd. (d)(2).)

“Sterile band-aids, dressings, bandages and gauze qualify for the low rate because they serve as a substitute for skin.” (IAC § 130.311, subd. (d)(3).)

“Medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients or purchased directly by individuals. Purchases of medical appliances by lessors that will be leased to others for human use also qualify for the reduced rate of tax.” (IAC § 130.311, subd. (d)(7).)

“Insulin, urine testing materials, syringes and needles used in treating diabetes in human beings qualify for the reduced rate of tax.” (IAC § 130.311, subd. (e); italics in original.)

86 Ill. Adm. Code Section 700.400

a) *The penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of the Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with this Section.* (Section 3-8 of the Act)

b) The determination of whether a taxpayer acted with reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine his proper tax liability and to file and pay his proper liability in a timely fashion.

c) A taxpayer will be considered to have made a good faith effort to determine and file and pay his proper tax liability if he exercised ordinary business care and prudence in doing so. A determination of whether a taxpayer exercised ordinary business care and prudence is dependent upon the clarity of the law or its interpretation and the taxpayer's experience, knowledge, and education. Accordingly, reliance on the advice of a professional does not necessarily establish that a taxpayer exercised ordinary business care and prudence, nor does reliance on incorrect facts such as an erroneous information return.

d) The Department will also consider a taxpayer's filing history in determining whether the taxpayer acted in good faith in determining and paying his tax liability. Isolated computational or transcriptional errors will not generally indicate a lack of good faith in the preparation of a taxpayer's return.

**ERROR I – THE SITUS OF TAX WAS IMPROPERLY SOURCED BY THE
DEPARTMENT FOR PERIODS THROUGH JUNE 30, 2010 AS THE PROPER SITUS
OF TAX IS KANKAKEE.**

24. Petitioner realleges and reincorporates paragraphs 1-23 of the Petition herein.

25. The holding of the Court in *Hartney Fuel Oil Co. v. Hamer*, 998 N.E.2d 1227, 376 Ill. Dec. 294 (2013), established a binding precedent for the Department and this Tribunal, and compels that this Tribunal rule in favor of Petitioner and find that the sales at issue were properly sourced to Kankakee. The relevant facts in *Hartney* are directly in-line with the facts present in this case. Specifically, Hartney Fuel Oil Co. (hereinafter “Hartney”) maintained its home office in Forest View, Illinois. Hartney maintained a separate office in the Village of Mark, Illinois that served as its order acceptance facility. Moreover, Hartney did not have a direct employee that accepted the orders from its location in Mark. They hired a clerk that worked at a local commercial painting business and paid \$1,000 per month for a nonexclusive lease of 200 square feet and the services of a clerk. Fuel orders were directed to Harney’s location in Mark, and upon acceptance of the telephone fuel orders, the orders were routed to Hartney’s distribution center for fulfillment. Here, Petitioner established an office in Kankakee, Illinois in October 2004 for the purpose of reviewing and accepting orders from Illinois customers. It entered into a commercial lease for office space located in Kankakee, and it entered into an agency agreement with MTC under which MTC was required to review and accept orders. Accepted orders were routed to Petitioner for fulfillment. The relevant facts in *Hartney* are present in this case.

26. Petitioner did not receive any consideration from Kankakee or any other person for maintaining an administrative center in Kankakee.

27. Petitioner reasonably relied upon the Department’s long standing policy and Tax Situs Regulations to apply the local Kankakee rate to its transactions during the periods at issue. In accordance with the Taxpayers’ Bill of Rights, the assessed tax, interest and penalties must be abated.

28. The Illinois Supreme Court in *Hartney* held that the Department’s Regulations relied upon by the Petitioner in *Hartney* were invalid.

29. The Illinois Supreme Court also stated in its Opinion:

“Because of the Department’s erroneous Regulations, the Department has a duty under the Taxpayer’s Bill of Rights Act to abate [taxpayer’s] penalties and Retail Occupation Tax Liability.” (*Id.* pg. 1247.)

30. Based on the Petitioner’s facts presented above and the express language of the Illinois Supreme Court, the Petitioner properly sourced the sales at issue and the proposed tax assessment regarding sourcing should be withdrawn in total.

ERROR II – NUMEROUS ITEMS CLASSIFIED BY THE DEPARTMENT AS BEING SUBJECT TO THE HIGH RATE, ARE ACTUALLY SUBJECT TO THE LOW RATE

31. Petitioner realleges and reincorporates paragraphs 1-23 of the Petition herein.

32. Several items assessed in the audit as being subject to the high rate, are clearly subject to the low rate based on the provisions provided under 86 Ill. Adm. Code Section 130.311.

33. For example, the audit applies the high rate to sterile bandages sold by Petitioner. Section 130.311, subdivision (d)(3), however, states that “[s]terile band-aids, dressings, bandages and gauze qualify for the low rate because they serve as a substitute for skin.” As an additional example, the audit applies the high rate to insulin and insulin syringes. Section 130.311, subdivision (d)(3), however, states that “[i]nsulin, urine testing materials, syringes and needles used in treating diabetes in human beings qualify for the reduced rate of tax.” (Italics in original.)

34. Accordingly, Petitioner contends that the regulatory provisions of Section 130.311 expressly provide that the Petitioner correctly classified and properly taxed certain medicines and medical appliances and the Department’s proposed high tax rate assessments on these items should be withdrawn.

ERROR III – ABATEMENT OF PENALTIES

35. Petitioner realleges and reincorporates paragraphs 1- 23 of the Petition herein.

36. For the period covering January 1, 2009 through June 30, 2009, Petitioner contends that the Department erred in assessing Petitioner \$68,515.00 in audit late payment penalty, \$1,116.00 in audit late filing penalty and \$66,728.23 in interest.

37. For the period covering July 1, 2009 through June 30, 2012, Petitioner contends that the Department erred in assessing Petitioner \$138,937.00 in audit late payment penalty, and \$95,428.44 in interest.

38. The Kankakee rate applies to Petitioner's sales for periods through June 30, 2010. The taxpayer exercised reasonable cause and made a good faith effort to apply the correct tax rate following the Department's regulation and long-standing policy. It also followed numerous letter rulings the Department issued regarding the sourcing issue.

39. The low rate applies to qualified medicines and medical products as defined under 130.311. Notwithstanding, even if the Department properly assessed the tax, any penalties assessed on such tax should be abated for reasonable cause. (35 ILCS 735-3/8.) The taxpayer exercised reasonable cause and made a good faith effort to apply the correct tax rate following the Department's regulations regarding high rate and low rate classifications. It also followed letter rulings the Department issued regarding these issues.

40. With respect to the uncontested items, the penalties should also be abated. Petitioner operates in numerous states and each state applies different rules to the sale of medical supplies. Most states do not apply any tax to the sale of items considered to be exempt medicines. The taxpayer's uncertainty as to what tax rate applies is reasonable under the circumstances. The taxpayer exercised reasonable care and good faith in reviewing the sales and applying the correct rates.

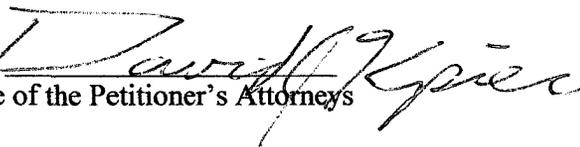
41. The Department's regulation on reasonable cause looks to whether the taxpayer "made a good faith effort" and exercised "ordinary business care in prudence". 86 Illinois Admin. Code Section 700.400. (35 ILCS 735-3/8.) Here, Petitioner made every effort to comply with the complicated tax rules that apply to medicines and medical products. Further, Petitioner reasonably relied upon the Tax Situs Regulations in applying the local Kankakee rate for periods through June 30, 2010.

CONCLUSION AND RELIEF REQUESTED

THEREFORE, the Department is required to apply the local Kankakee tax rate for transactions occurring through June 30, 2010. Further, the Department must make adjustments to the audit for the high rate incorrectly applied to products qualifying as exempt medicines and medical appliances under IAC section 130.311. Further, the applied penalties and interest as set forth in the aforementioned Notices of Tax Deficiency should be abated, as Petitioner acted in good faith and with reason under the circumstances. We respectfully request that the Tax Tribunal Rule in favor of Petitioner.

Respectfully Submitted,

TWIN MED, LLC

By: 
One of the Petitioner's Attorneys

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By: 
One of the Petitioner's Attorneys

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Cal. Lic # 288541
IL ADRS *Pro Hac Vice* # 6322253

April 7, 2016

As an attorney authorized to practice law in California, I certify that I have complied with the Illinois Supreme Court procedures for admission to practice *pro hac vice* in Illinois for this matter and a copy of my court order on this is attached.

Jesse W. McClellan

Print name

Signature



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



#BWNKMGV
#CNXX X194 X984 4644#
TWIN MED LLC
11333 GREENSTONE AVE
SANTA FE SPRINGS CA 90670-4618

February 11, 2016



Letter ID: CNXXX194X9844644

Account ID: 3519-3441



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

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	694,686.00	(58,161.00)	636,525.00
Late Payment Penalty Increase	138,937.00	(11,632.00)	127,305.00
Interest	95,428.44	(9,707.00)	85,721.44
Assessment Total	\$929,051.44	(\$79,500.00)	\$849,551.44

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 April 11, 2016. 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

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



February 11, 2016



Letter ID: CNXXX5986X71842

#BWNKMGV
#CNXX XX59 88X7 1842#
TWIN MED LLC
11333 GREENSTONE AVE
SANTA FE SPRINGS CA 90670-4618

Account ID: 3519-3441



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	171,280.00	(29,380.00)	141,910.00
Late Payment Penalty Increase	68,515.00	(11,752.00)	56,763.00
Late Filing Penalty Increase	1,116.00	(394.00)	722.00
Interest	66,728.23	(11,276.00)	55,452.23
Assessment Total	\$307,649.23	(\$52,802.00)	\$254,847.23

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 April 11, 2016. 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

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

TWIN MED, LLC)	Doc.
Petitioner)	
Vs.)	
THE ILLINOIS DEPARTMENT OF)	
REVENUE)	
Defendant)	

NOTICE OF FILING

TO:

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

Please take note that on April 8, 2016, the undersigned representative for Twin Med, LLC, filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle St. Room 506, Chicago, IL 60601 a Petition, a copy of which is attached and served on you.

Date: April 8, 2016

Respectfully Submitted,
TWIN MED LLC

By:

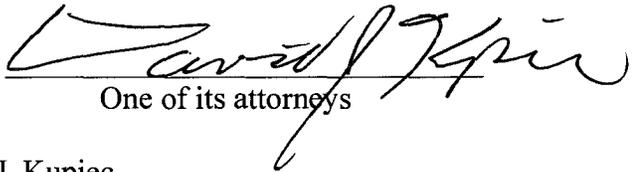

One of its attorneys

David J. Kupiec
Kupiec & Martin, LLC
600 West Van Buren Street, Ste 202
Chicago, Illinois 60607

CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that he caused a copy of the foregoing **Petition** to be served upon other counsel of record herein by causing the same to be delivered in person before the hour of 5:00p.m. on the 8th day of April, 2016.

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

By: 
One of its attorneys

David J. Kupiec
Kupiec & Martin, LLC
600 West Van Buren Street, Ste 202
Chicago, Illinois 60607