IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NORDSTROM FSB & AFFILIATE	)	
	)	
Petitioner,	)	
	)	No. 16 TT 114
v.	)	
	)	
THE ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Respondent.	)	

RECEIVED
AUG 2 6 2016
BY:

NOTICE OF MOTION

TO: *See Certificate of Service*

PLEASE TAKE NOTICE that on **August 30, 2016** at the hour of **10:30 p.m.**, or as soon thereafter as counsel may be heard, we shall appear before Administrative Law Judge Barov, or any judge sitting in his place and stead, on the telephonic status conference set for that time, for **Petitioner's Motion for Summary Judgment and Petitioner's Memorandum in Support of Its Motion for Summary Judgment**, a copy of which is attached hereto.

Respectfully Submitted,
NORDSTROM FSB & AFFILIATE

By: _____
One of Its Attorneys

Fred O. Marcus
Christopher T. Lutz
HORWOOD MARCUS & BERK CHARTERED
500 W. Madison St., Ste. 3700
Chicago, IL 60661

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NORDSTROM FSB & AFFILIATE	)	
	)	
Petitioner,	)	
	)	No. 16 TT 114
v.	)	
	)	
THE ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Respondent.	)	

RECEIVED
AUG 26 2016
BY:

PETITIONER'S MOTION FOR SUMMARY JUDGMENT

The Petitioner, Nordstrom fsb ("Petitioner"), by and through its attorneys, Horwood Marcus & Berk Chartered, hereby respectfully moves this Court pursuant to 735 ILCS 5/2-1005(a) for summary judgment in its favor against the Defendants on Petitioner's Petition ("Petition"). In support of this Motion for Summary Judgment, Petitioner States as follows:

Summary Judgment

1. Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

2. On June 1, 2016, Petitioner filed its Petition against the Illinois Department of Revenue.

3. A true and accurate copy of the Petition is attached hereto and incorporated herein as Exhibit A.

4. On August 15, 2016, the Respondent filed its Answer to the Petitioner ("Answer").

5. A true and accurate copy of Respondent's Answer is attached hereto and incorporated herein as Exhibit B.

6. The Petition includes four (IV) Counts against the Respondent, with each Count related to two Notices of Claim Denial for the tax years ending January 30, 2010 and January 29, 2011 ("Years in Issue").

7. The Instant Motion for Summary Judgment relates to Counts I through IV.

8. There are no material facts in dispute with respect to this Motion.

9. The primary issue in this case is whether the adjustments the Illinois Department of Revenue made to Petitioner's amended returns for the Years in Issue comported with the sourcing provisions for financial institutions contained in 35 ILCS 5/304(c)(3).

10. For the Years at Issue, Petitioner sourced its receipts earned on interest income, commissions, and fees that were not secured by real or tangible property to Illinois based on whether its customer was a resident of Illinois.

11. Petitioner is entitled to judgment as a matter of law because for the Years in Issue, Petitioner's amended returns reflect the proper sourcing methodology required under 35 ILCS 5/304(c)(3), both with respect to the calculation of the numerator and denominator by sourcing receipts to Illinois based on the location of Petitioner's customers whereas the Department's Notices of Claim Denial incorrectly utilize different methodologies for calculating the numerator and denominator, and erroneously include Petitioner's credit card receivables in the numerator of its Illinois apportionment factor numerator notwithstanding the fact that such receivables should be excluded from the factor entirely.

WHEREFORE, Petitioner respectfully requests that this Tribunal grant its Motion for Summary Judgment in whole, enter an Order reversing the Respondent's adjustments to Petitioner's taxable income, Order the Respondent to grant Petitioner's refund claim, and grant such further relief as this Tribunal deems just and proper. Petitioner requests a briefing schedule

to be set that permits Petitioner to file an opening brief in support of its Motion for Summary Judgment as well as a reply brief to any response that the Department of Revenue may file.

DATED: August 26, 2016

Respectfully Submitted,

NORDSTROM FSB & AFFILIATE

By: _____
One of Its Attorneys

Fred O. Marcus
Christopher T. Lutz
HORWOOD MARCUS & BERK CHARTERED
500 W. Madison St., Ste. 3700
Chicago, IL 60661

CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that she caused a copy of the foregoing **PETITIONER'S MOTION FOR SUMMARY JUDGMENT** to be served on other counsel of record by electronic mail and also by enclosing the same in an envelope, properly addressed and delivered by FedEx before the hour of 5:00 p.m. on the 26th day of August, 2016, addressed as follows:

Richard A. Walton
100 W. Randolph St., 7th Floor
Chicago, IL 60601
Rick.Walton@Illinois.gov

EXHIBIT A

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NORDSTROM fsb & AFFILIATE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No.
	)	
THE ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Defendant.	)	

RECEIVED
JUN 01 2016
BY:

16TT114

VERIFIED PETITION

Nordstrom fsb and affiliate ("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. For the tax years ending January 30, 2010 and January 29, 2011 ("Years in Issue"), Petitioner was and currently is a federal savings bank whose principal business address was and currently is 8502 East Princess Drive, Suite 150, Scottsdale, Arizona 85255.

2. Petitioner is represented by Fred O. Marcus and Christopher T. Lutz of Horwood Marcus & Berk Chartered, 500 West Madison St., Suite 3700, Chicago, Illinois 60661. Mr. Marcus can be reached by phone at 312-606-3210 or by e-mail at fmarcus@hmblaw.com. Mr. Lutz can be reached by phone at 312-405-3459 or by e-mail at clutz@hmblaw.com.

3. Nordstrom fsb ("Bank") FEIN is 84-1175406.

4. Bank is a wholly-owned subsidiary of Nordstrom, Inc., a Washington corporation ("Nordstrom"), a retail company headquartered in the State of Washington.

5. Bank is a member of and the designated agent for a unitary group of corporations that file Illinois corporate income and replacement tax returns on a combined basis as financial institutions.

6. Nordstrom Credit, Inc. ("NCI"), a Colorado corporation, a wholly owned subsidiary of Nordstrom with principle offices located at 13531 E. Caley Avenue, Centennial, Colorado 80111, is a member of Petitioner's unitary business group. NCI's FEIN is 91-1181301.

7. 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

8. On April 14, 2016, the Department issued two Notices of Claim Denial ("Notices") totaling $514,030 for the Years in Issue. True and accurate copies of the Notices are attached hereto as Exhibits A and B, respectively. Unless otherwise stated, the following paragraphs relate to the Years in Issue.

JURISDICTION

9. 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 and the Illinois Income Tax Act ("Income Tax Act"), 35 ILCS 5/101 et. seq.

10. This Tribunal has jurisdiction over this matter pursuant to Sections 1-15, 1-45 and 1-50 of the Tribunal Act and Section 909(e) of the Income Tax Act because the Department Petitioner timely filed this petition within 60 days of the Notices.

BACKGROUND

11. Petitioner, timely filed original Illinois combined corporate income and replacement tax returns for the Years in Issue.

12. During the Years at Issue, Bank was a federal savings bank chartered in Arizona with operations also in Colorado and California.

13. During the Years at Issue, Bank issued private label credit cards that could be used at Nordstrom stores across the country, some of which were located in Illinois.

14. During the Years at Issue, Bank also issued co-branded VISA credit cards that could be used at Nordstrom stores across the country, some of which were located in Illinois.

15. Bank received interest and fee income from its credit card customers during the Years at Issue.

16. Bank serviced all of the receivables that were outstanding and was responsible for collecting all balances due pursuant to a Transfer and Servicing Agreement.

17. Bank securitized 90% of its VISA credit card receivables and 100% of its private label credit card receivables by selling those portions of its receivables to NCI pursuant to a Participation Agreement.

18. NCI, in turn, sold 90% of its VISA credit card receivables and 100% of the private label credit card receivables to a second bankruptcy remote entity, NCCRII, LLC, a disregarded single-member LLC.

19. On its original Illinois combined corporate income and replacement tax return for each of the Years in Issue, Bank, under the "lock box" method, included in its sales factor numerator all payments (outstanding balances, including finance charges and other fees) received on VISA and private label accounts at Nordstrom stores located in Illinois. Petitioner's combined

sales factor denominator included all payments (outstanding balances, including finance charges and other fees) received on VISA and private label accounts at Bank's lockbox in Phoenix, Arizona and Nordstrom stores located throughout the country.

20. Due to a change in Illinois law regarding how financial institutions should apportion their income to Illinois beginning for taxable years on or after December 31, 2008, Petitioner timely filed amended Illinois combined corporate income and replacement tax returns for each of the Years in Issue ("Amended Returns"). In calculating the combined sales factor on each of its amended returns, Petitioner, utilizing market based sourcing, included in the numerator of its combined sales factor finance charges and other fees received by Bank on VISA and private label accounts from Illinois customers and in the denominator of its combined sales factor, finance charges and other fees received by Bank on VISA and private label accounts received from all customers.

21. The Department audited Petitioner's Amended Returns and issued its Notices on April 14, 2016.

22. In each of its Notices, the Department, citing to 86 Il Adm. Code Sec. 100.3380(c)(4), explains that it excluded from Petitioner's sales factor receipts that could not be attributed to an income-producing activity in any state.

23. The Notices indicate that this adjustment resulted in a reduction in Petitioner's receipts of $2,620,057,911 and $2,625,491,867, respectively for the Years at Issue, having a tax impact of $224,471 and $289,559, respectively for the Years at Issue.

24. In each of its Notices, the Department, citing to 5 ILCS 304(a)(3)(C-5), states that it "adjusted the Illinois sales factor to include in the numerator receipts (other than receipts from

sales of tangible personal property) which are allocable to Illinois" (received from an Illinois resident customer).

25. The Notices indicate that this adjustment resulted in an increase in Petitioner's Illinois sales factor numerator by $40,524,664 and $44,057,864, respectively for the Years at Issue, having a tax impact of $0 for the Years at Issue.

COUNT I

The Department's Notices are Erroneous Because They Fail to Explain the Basis for The Department's Denial of Petitioner's Refund Claims

26. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 25, inclusive, herein above.

27. 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).

28. The primary issue in this case is the manner in which a financial institution should source its receipts earned from credit card operations to Illinois.

29. On its Amended Returns, Petitioner switched from utilizing the "Lock Box" method to the market based sourcing method required by 35 ILCS 5/304(c)(3); and 86 Ill. Admin. Code 100.3405.

30. This change in treatment resulted in Petitioner significantly revising its Illinois apportionment factor numerator and denominator in each of the Years in Issue.

31. The Department's adjustments nonsensically explain that Petitioner's Illinois apportionment factor denominator should be significantly reduced because the receipts could not be attributed to an income producing activity in any state.

32. The Department's adjustments nonsensically explain that Petitioner's Illinois apportionment factor numerator should be significantly increased because those receipts are allocable to Illinois as services for Illinois customers pursuant to 5 ILCS 304(a)(3)(C-5).

33. The Department provides no basis for concluding, nor was the issue ever raised at audit, that Petitioner's denominator should be reduced because the receipts could not be attributed to any state.

34. The Department's adjustment to Petitioner's Illinois apportionment factor numerator is also nonsensical, as these receipts come from the same sources that the Department claims cannot be attributed to any income-producing activity in any state.

35. Assuming the Department's citation to 5 ILCS 304(a)(3)(C-5) was intended to mean 35 ILCS 5/304(a)(3)(C-5), these provisions are inapplicable to Petitioner, because Petitioner is a financial institution subject to the provisions of 35 ILCS 5/304(c).

36. The Department's adjustments make no indication as to whether the receipts are being treated as Petitioner's receipts or NCI's receipts.

37. The Department's Notices provide no meaningful explanation as to why the Department denied Petitioner's refund claims.

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

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

40. Because the Notices do not comply with the Taxpayer Bill of Rights, the Notices deprived Plaintiff of a meaningful opportunity to challenge the assessment.

41. 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 Notices do not comply with the Taxpayer Bill of Rights;

b) finds and declare the Notices invalid;

c) enters judgment in favor of Petitioner and orders Defendants to issue Petitioner a refund;

d) grants Plaintiff damages to the extent allowed by the Taxpayer Bill of Rights, including attorney fees up to $100,000; and

e) grants such further relief as the Court deems appropriate under the circumstances.

COUNT II

The Department's Notices are Erroneous Because They Treat Petitioner's Receipts Earned in Illinois Differently than Petitioner's Receipts Earned Everywhere

42. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 41, inclusive, herein above.

43. For the Tax Year Ending January 30, 2010, Petitioner included on the Schedule UB of its Original Return its receipts and NCI's receipts. For its Illinois apportionment factor, using the "Lock Box" method, Petitioner included receipts in the amount of $2,987,836,861 in the denominator and $41,666,329 in the numerator for an Illinois apportionment factor of .013945.

44. On its Amended Return for the Tax Year Ending January 30, 2010, Petitioner revised, pursuant to the market based sourcing requirements, its Illinois apportionment factor to

include the amount of $367,778,950 in the denominator and $1,141,665 in the numerator for an Illinois apportionment factor of .003104.

45. For the Tax Year Ending January 29, 2011, Petitioner included on the Schedule UB of its Original Return its receipts and NCI's receipts. For its Illinois apportionment factor, using the "Lock Box" method, Petitioner included receipts in the amount of $3,012,175,004 in the denominator and $45,203,305 in the numerator for an Illinois apportionment factor of .015007.

46. On its Amended Return for the Tax Year Ending January 29, 2011, Petitioner revised, pursuant to the market based sourcing requirements, its Illinois apportionment factor to include the amount of $386,683,137 in the denominator and $1,145,441 in the numerator for an Illinois apportionment factor of .002962.

47. Although the Notices do not adequately explain this, the Department effectively allowed Petitioner's reduction of the denominator of its Illinois apportionment factor denominator, but disallowed Petitioner's corresponding reduction of its Illinois apportionment factor numerator.

48. For the Tax Year Ending January 30, 2010, the Notice explains that the everywhere sales were reduced by $2,620,057,911, which is the exact reduction Petitioner made to its Illinois apportionment factor denominator on its Amended Return.

49. For the Tax Year Ending January 29, 2011, the Notice explains that the everywhere sales were reduced by $2,625,491,867, which is the exact reduction Petitioner made to its Illinois apportionment factor dominator on its Amended Return.

50. For the Tax Year Ending January 30, 2010, the Notice explains that the Illinois sales were increased by $40,524,664, which is the exact reduction that Petitioner made to its Illinois apportionment factor numerator on its Amended Return.

51. For the Tax Year Ending January 29, 2011, the Notice explains that the Illinois sales were increased by $44,057,864, which is the exact reduction that Petitioner made to its Illinois apportionment factor numerator on its Amended Return.

52. Notwithstanding its entirely incorrect citations and nonsensical explanations, the Department has purported to exclude the very same receipts from the denominator that it included from the numerator.

53. Because the Department agrees that the receipts should be excluded from the denominator of the Illinois apportionment factor, those same receipts should be excluded from the numerator of the Illinois apportionment factor.

54. Petitioner's Amended Returns were calculated based on the amendments to 35 ILCS 50/304(c)(3), which require that receipts from a financial organization be apportioned to Illinois by multiplying the organization's income by a faction, the numerator of which is its gross receipts from sources in Illinois and the denominator of which is its gross receipts everywhere during the taxable year.

55. Petitioner's Amended Returns reflect the interest and fee income Petitioner earned on the receivables as they were earned from Illinois sources as compared to everywhere.

56. The Notices, however, reflect an entirely inconsistent treatment of the receipts whereby the denominator of Petitioner's adjusted apportionment factor continues to reflect the interest and fee receipts earned everywhere, but the numerator reflects the "Lock Box" method, which includes all receivables, interest, and fee income received at an Illinois location.

57. Petitioner's Amended Returns correctly treated interest and fee income earned from Illinois customers consistently, and should have been accepted, entitling Petitioner to refunds of $224,471 and $289,559, respectively for the Years at Issue.

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

a) finds and declares that the Notices erroneously treat Petitioner's numerator and denominator calculations disparately;

b) finds and declare the Notices invalid;

c) enters judgment in favor of Petitioner and orders Defendants to issue Petitioner a refund; and

d) grants such further relief as the Court deems appropriate under the circumstances.

COUNT III

The Department's Notices are Erroneous Because They Incorrectly Source Petitioner's Credit Card Receivables to Illinois

58. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 57, inclusive, herein above.

59. Illinois law requires that interest income, fees, gains on disposition, service charges, merchant discount income, and other receipts from credit card receivables are from sources in Illinois if the card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(3)(v).

60. While the receipts earned on receivables are to be sourced to Illinois in the manner described, the receivables themselves do not form the base of the gross receipts, and are not included in the Illinois apportionment factor. *See* 35 ILCS 5/304(c)(3)(i)-(viii); 86 Ill. Admin. Code 100.3405.

61. On its Notices, the Department excluded the receivables from the Illinois apportionment factor denominator, but included the receivables in the Illinois apportionment factor numerator.

62. Because the receivables themselves should have been excluded from both the Illinois apportionment factor numerator and denominator, Petitioner is entitled to the refund reflected on its Amended Returns.

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

a) finds and declares that the Notices erroneously utilized the "lock box" method to calculate the numerator of Petitioner's Illinois apportionment factor;

b) finds and declare the Notices invalid;

c) enters judgment in favor of Petitioner and orders Defendants to issue Petitioner a refund; and

d) grants such further relief as the Court deems appropriate under the circumstances.

COUNT IV

Alternatively, if Receivables Should be Included in Petitioner's Apportionment Factor, they Must be Sourced According to the Market Based Sourcing Method

63. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 62, inclusive, herein above.

64. Although the credit card receivables themselves should be excluded from the Illinois apportionment factor entirely, if they should be included, they should be sourced according to the provision in 35 ILCS 5/304(c)(3)(v).

65. In its Notices, however, the Department merely utilized the Illinois receipts that was calculated based on the "Lock Box" method, thus sourcing the receivables to Illinois based on whether they were received at an Illinois location rather than based on the location of the customer that made the payment.

66. Because Illinois law requires financial organizations to source their receivables according to where the charges are regularly billed to the customer, the Department's Notices are erroneous, and Petitioner is entitled to the refund reflected on its Amended Returns.

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

a) finds and declares that the Notices are erroneous because the Department must utilize the market based sourcing method for sourcing Petitioner's receipts earned in Illinois;

b) finds and declare the Notices invalid;

c) enters judgment in favor of Petitioner and orders Defendants to issue Petitioner a refund; and

d) grants such further relief as the Court deems appropriate under the circumstances.

Respectfully submitted,

NORDSTROM fsb & AFFILIATE, Petitioner

By: _____
One of Petitioner's Attorneys

Fred O. Marcus (fmarcus@hmblaw.com)
Christopher T. Lutz (clutz@hmblaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in the foregoing **Petition** are true, accurate and correct.

By: Andrew C Vickers

Name: Andrew Vickers
Its: Vice President - Corporate Tax

Subscribed and Sworn to before me
this 24th day of May, 2016.

Notary Public
State of Washington
ALAN TAM
My Appointment Expires Nov 21, 2019

Notary Public

3118991/2/16854.000

EXHIBIT A

Notice of Claim Denial

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

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

April 14, 2016

#BWNKMGV
#CNXX X171 98X8 X8X6#
NORDSTROM FSB & AFFILIATE
PO BOX 2229
SEATTLE WA 98111-2229

Letter ID: CNXXX17198X8X8X6

Taxpayer ID:	84-1175406
Account ID:	14558-79168
Audit ID:	A562715648
Reporting period:	January 2011

We have audited your account for the claim for refund filed for the reporting period listed above. The proposed adjustment and net claim allowed are shown on the back page of this notice. Also, attached is the EDA-27-BI, Explanation of Adjustments, which details the reason. (35 ILCS 5/909(e)).

If you agree and your account is in balance, no action is required. You will receive a full refund if your account is overpaid and no other liabilities exist. If your account has a balance due, you will receive a bill.

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

- **If the amount of tax at issue, exclusive of penalty and interest is more than $15,000, or if you are not claiming an overpayment of tax but the total penalties and interest are 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 within 60 days** of this notice. If you file a protest on time, we must reconsider our denial of claim (35 ILCS 5/910(a)), and if requested, grant you or your authorized representative an administrative hearing (35 ILCS 5/914). An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative hearing 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 denial will become final. A protest of this notice does not preserve your rights under any other notice.

If you do not protest this notice, the denial of your claim shall become final.

If a balance due is created on a subsequent tax year because of this denial, that amount will be shown on a Notice of Deficiency.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 524-4279

Statement

Date: April 14, 2016
Letter ID: CNXXX17198X8X8X6
Name: NORDSTROM FSB & AFFILIATE
Taxpayer ID: 84-1175406
Account ID: 14558-79168
Audit ID: A562715648
Reporting period: January 2011

Computation of claim denial

Reporting period ending:	01/31/2011
Claim receive date:	04/09/2013
Amount of original claim:	$289,559.00
Amount of proposed adjustment:	($289,559.00)
Net claim allowed:	$0.00

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 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.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Explanation of Audit Adjustments

Income Tax

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

April 14, 2016

#BWNKMGV
#CNXX XX52 6322 8320#
NORDSTROM FSB & AFFILIATE
PO BOX 2229
SEATTLE WA 98111-2229

Letter ID: CNXXXX5263228320

Taxpayer ID:	84-1175406
Account ID:	14558-79168
Audit ID:	A562715648
Reporting period:	January 2011

Explanation of adjustments for tax period ending 01/31/2011	Income change	Tax impact
We excluded from your sales factor receipts (other than receipts from sales of tangible personal property) that could not be attributed to an income-producing activity in any state. [86 IL Adm. Code 100.3380(c)(4)]	-$2,625,491,867.00	$289,559.00
We have adjusted the Illinois sales factor to include in the numerator receipts (other than receipts from sales of tangible personal property) which are allocable to Illinois. [5 ILCS 304(a)(3)(C-5)]	$44,057,864.00	$0.00

Taxpayer Statement

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov
1 800 732-8866
217 782-3336
TDD 1 800 544-5304

April 14, 2016

#BWNKMGV
#CNXX X151 XX93 2XX8#
NORDSTROM FSB & AFFILIATE
PO BOX 2229
SEATTLE WA 98111-2229

Letter ID: CNXXX151XX932XX8

Account ID: 14558-79168
FEIN: 84-1175406

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

IL Business Income Tax — You have available credits of $20.00 — **Account ID: 14558-79168**

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Jan-2012	109,808.00	-	-	-	(109,828.00)	(20.00)

SOA

P-000008

If necessary, respond to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004

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

CHANGE SERVICE REQUESTED

PRESORTED
FIRST CLASS

U.S. POSTAGE PITNEY BOWES
ZIP 62702 $ 000.3
02 1W
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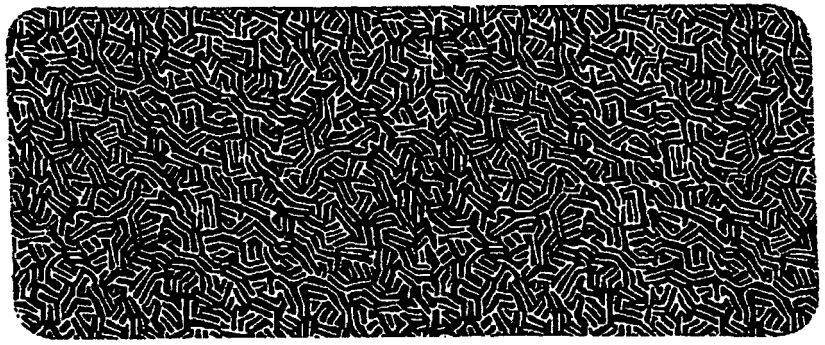


ENV-138-CSR (R-6/05)

157 CMGUN3B 98111

EXHIBIT B

Notice of Claim Denial

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

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

April 14, 2016

#BWNKMGV
#CNXX X12X 1166 9920#
NORDSTROM FSB & AFFILIATE
PO BOX 2229
SEATTLE WA 98111-2229

Letter ID: CNXXX12X11669920

Taxpayer ID:	84-1175406
Account ID:	14558-79168
Audit ID:	A562715648
Reporting period:	January 2010

We have audited your account for the claim for refund filed for the reporting period listed above. The proposed adjustment and net claim allowed are shown on the back page of this notice. Also, attached is the EDA-27-BI, Explanation of Adjustments, which details the reason. (35 ILCS 5/909(e)).

If you agree and your account is in balance, no action is required. You will receive a full refund if your account is overpaid and no other liabilities exist. If your account has a balance due, you will receive a bill.

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

- **If the amount of tax at issue, exclusive of penalty and interest is more than $15,000, or if you are not claiming an overpayment of tax but the total penalties and interest are 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 within 60 days** of this notice. If you file a protest on time, we must reconsider our denial of claim (35 ILCS 5/910(a)), and if requested, grant you or your authorized representative an administrative hearing (35 ILCS 5/914). An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative hearing 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 denial will become final. A protest of this notice does not preserve your rights under any other notice.

If you do not protest this notice, the denial of your claim shall become final.

If a balance due is created on a subsequent tax year because of this denial, that amount will be shown on a Notice of Deficiency.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 524-4279

Statement

Date: April 14, 2016
Letter ID: CNXXX12X11669920
Name: NORDSTROM FSB & AFFILIATE
Taxpayer ID: 84-1175406
Account ID: 14558-79168
Audit ID: A562715648
Reporting period: January 2010

Computation of claim denial

Reporting period ending:	01/31/2010
Claim receive date:	04/09/2013
Amount of original claim:	$224,471.00
Amount of proposed adjustment:	($224,471.00)
Net claim allowed:	$0.00

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 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.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Explanation of Audit Adjustments

Income Tax

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

April 14, 2016

#BWNKMGV
#CNXX X149 5155 8566#
NORDSTROM FSB & AFFILIATE
PO BOX 2229
SEATTLE WA 98111-2229

Letter ID: CNXXX14951558566

Taxpayer ID:	84-1175406
Account ID:	14558-79168
Audit ID:	A562715648
Reporting period:	January 2010

Explanation of adjustments for tax period ending 01/31/2010	Income change	Tax impact
We excluded from your sales factor receipts (other than receipts from sales of tangible personal property) that could not be attributed to an income-producing activity in any state. [86 IL Adm. Code 100.3380(c)(4)]	-$2,620,057,911.00	$224,471.00
We have adjusted the Illinois sales factor to include in the numerator receipts (other than receipts from sales of tangible personal property) which are allocable to Illinois. [5 ILCS 304(a)(3)(C-5)]	$40,524,664.00	$0.00

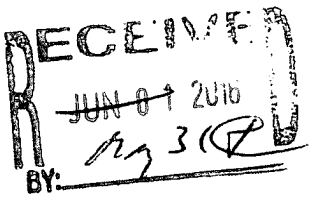
CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that he caused a copy of the foregoing **Verified Petition** to be served upon other counsel of record herein by causing the same to be delivered by messenger before the hour of 5:00 p.m. on the 31st day of May, 2016.

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

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NORDSTROM fsb & AFFILIATE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No.
	)	
THE ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Defendant.	)	



16TTT14

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 31st day of May, 2016, we filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, IL 60601, Nordstrom fsb & Affiliate's **Verified Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

NORDSTROM fsb & AFFILIATE, Petitioner

By: _____
One of Its Attorneys

Fred O. Marcus (fmarcus@hmblaw.com)
Christopher T. Lutz (clutz@hmblaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

EXHIBIT B

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NORDSTROM fsb & AFFILIATE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 16-TT-114
	)	
THE ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Defendant.	)	

DEPARTMENT'S ANSWER TO PETITION

NOW COMES the Department of Revenue of the State of Illinois ("Department"), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its Answer to Nordstrom FSB and Affiliate's ("Petitioner") Petition respectfully pleads as follows:

PARTIES

1. For the tax years ending January 30, 2010 and January 29, 2011 ("Years in Issue"), Petitioner was and currently is a federal savings bank whose principal business address was and currently is 8502 East Princess Drive, Suite 150, Scottsdale, Arizona 85255.

ANSWER: Admit.

2. Petitioner is represented by Fred O. Marcus and Christopher T. Lutz of Horwood Marcus & Berk Chartered, 500 West Madison St., Suite 3700, Chicago, Illinois 60661. Mr. Marcus can be reached by phone at 312-606-3210 or by e-mail at fmarcus@hmblaw.com. Mr. Lutz can be reached by phone at 312-405-3459 or by e-mail at clutz@hmblaw.com.

ANSWER: The information contained in paragraph 2 is required by Illinois Independent Tax Tribunal Regulation ("Rule") 310(a)(1)(B) (86 Ill. Adm. Code §5000.310) and is not a material allegation of fact, and therefore does not require an

answer pursuant to Rule 310(b)(2). Notwithstanding the above, Department admits the factual allegations contained in paragraph 2.

3. Nordstrom fsb ("Bank") FEIN is 84-1175406.

ANSWER: The information contained in paragraph 3 is required by Rule 310(a)(1)(C) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). Notwithstanding the above, Department admits the factual allegations contained in paragraph 3.

4. Bank is a wholly-owned subsidiary of Nordstrom, Inc., a Washington corporation ("Nordstrom"), a retail company headquartered in the State of Washington.

ANSWER: Admit.

5. Bank is a member of and the designated agent for a unitary group of corporations that file Illinois corporate income and replacement tax returns on a combined basis as financial institutions.

ANSWER: Based on information on its IL-1120 for tax years ending January 30, 2010 and January 29, 2011 (the "Years at Issue"), the Department admits that Nordstrom FBS ("Bank") was the designated agent of an Illinois unitary business group that included Nordstrom Credit, Inc. ("NCI") and that such Illinois unitary business group filed Illinois corporate income and replacement tax returns on a combined basis as financial institutions for the Years at Issue. The phrase "a unitary group of corporations" is vague, and therefore the Department denies all other allegations in paragraph 5 and demands strict proof thereof.

6. Nordstrom Credit, Inc. ("NCI"), a Colorado corporation, a wholly owned subsidiary of Nordstrom with principle offices located at 13531 E. Caley Avenue, Centennial, Colorado 80111, is a member of Petitioner's unitary business group. NCI's FEIN is 91-1181301.

ANSWER: The Department admits that NCI, a Colorado corporation, is a wholly owned subsidiary of Nordstrom and is located in Centennial, Colorado. The Department also admits that NCI is a member of Petitioner's Illinois unitary business group and its FEIN is 91-1181301. The Department denies all other allegations contained in paragraph 6 and demands strict proof thereof.

7. 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.

ANSWER: The Department admits that the Department is an agency of the State of Illinois and that the Department is responsible for enforcing the Illinois Income Tax Act (35 ILCS 5/101 et seq.), which is relevant to the legal claims raised in Taxpayer's Petition. The term "tax laws" is vague and therefore the Department denies all other allegations contained in paragraph 7 and demands strict proof thereof.

NOTICES

8. On April 14, 2016, the Department issued two Notices of Claim Denial ("Notices") totaling $514,030 for the Years in Issue. True and accurate copies of the Notices are attached hereto as Exhibits A and B, respectively. Unless otherwise stated, the following paragraphs relate to the Years in Issue.

ANSWER: A copy of the Notice is required to be attached to the Taxpayer's Petition pursuant to Rule 310(a)(1)(D) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the above, Department admits the factual allegations contained in paragraph 8.

JURISDICTION

9. 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 and the Illinois Income Tax Act ("Income Tax Act"), 35 ILCS 5/101 et. seq.

ANSWER: Admit.

10. This Tribunal has jurisdiction over this matter pursuant to Sections 1-15, 1-45 and 1-50 of the Tribunal Act and Section 909(e) of the Income Tax Act because the Department Petitioner timely filed this petition within 60 days of the Notices.

ANSWER: Paragraph 10 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department admits the existence, force and effect at all relevant times of the statute set forth or referred to in paragraph 10 and states that such statute speaks for itself.

BACKGROUND

11. Petitioner, timely filed original Illinois combined corporate income and replacement tax returns for the Years in Issue.

ANSWER: Paragraph 11 contains a legal conclusion, not a factual allegation, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the foregoing, the Department admits that Petitioner filed its Illinois combined Corporation Income and Replacement Tax Return ("IL-1120") for tax year ending January 30, 2010 on or before the extended due date of November 15, 2010. The Department denies all other allegations contained in paragraph 11 and demands strict proof thereof.

12. During the Years at Issue, Bank was a federal savings bank chartered in Arizona with operations also in Colorado and California.

ANSWER: The Department admits that Bank was a federal savings bank that was incorporated in Arizona. The Department lacks sufficient knowledge to either admit or deny the other allegations contained in paragraph 12 and demands strict proof thereof.

13. During the Years at Issue, Bank issued private label credit cards that could be used at Nordstrom stores across the country, some of which were located in Illinois.

ANSWER: On information and belief, the Department admits the allegation contained in paragraph 13.

14. During the Years at Issue, Bank also issued co-branded VISA credit cards that could be used at Nordstrom stores across the country, some of which were located in Illinois.

ANSWER: On information and belief, the Department admits the allegation contained in paragraph 14.

15. Bank received interest and fee income from its credit card customers during the Years at Issue.

ANSWER: Admit.

16. Bank serviced all of the receivables that were outstanding and was responsible for collecting all balances due pursuant to a Transfer and Servicing Agreement.

ANSWER: The term "serviced" is not defined, and therefore is vague. As a result of such vague term, the Department lacks sufficient knowledge to either admit or deny the allegations contained in paragraph 16 and demands strict proof thereof.

17. Bank securitized 90% of its VISA credit card receivables and 100% of its private label credit card receivables by selling those portions of its receivables to NCI pursuant to a Participation Agreement.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations contained in paragraph 17 and demands strict proof thereof.

18. NCI, in turn, sold 90% of its VISA credit card receivables and 100% of the private label credit card receivables to a second bankruptcy remote entity, NCCRII, LLC, a disregarded single-member LLC.

ANSWER: The Department lacks sufficient knowledge to either admit or deny the allegations contained in paragraph 18 and demands strict proof thereof.

19. On its original Illinois combined corporate income and replacement tax return for each of the Years in Issue, Bank, under the "lock box" method, included in its sales factor numerator all payments (outstanding balances, including finance charges and other fees) received on VISA and private label accounts at Nordstrom stores located in Illinois. Petitioner's combined sales factor denominator included all payments (outstanding balances, including finance charges and other fees) received on VISA and private label accounts at Bank's lockbox in Phoenix, Arizona and Nordstrom stores located throughout the country.

ANSWER: The Department lacks sufficient knowledge to either admit or deny the allegations contained in paragraph 19 and demands strict proof thereof.

20. Due to a change in Illinois law regarding how financial institutions should apportion their income to Illinois beginning for taxable years on or after December 31, 2008, Petitioner timely filed amended Illinois combined corporate income and replacement tax returns for each of the Years in Issue ("Amended Returns"). In calculating the combined sales factor on each of its amended returns, Petitioner, utilizing market based sourcing, included in the numerator of its combined sales factor finance charges and other fees received by Bank on VISA and private label accounts from Illinois customers and in the denominator of its combined sales factor, finance

charges and other fees received by Bank on VISA and private label accounts received from all customers.

ANSWER: The Department admits that Petitioner filed an IL-1120X for tax year ending January 30, 2010 ("Tax Year 2010") and on the face of the IL-1120X, Step 2, Petitioner included language stating that it filed the IL-1120X because of "law changes made by the state of Illinois affecting the apportionment of business income of financial organizations." The Department denies all other allegations contained in paragraph 20 and demands strict proof thereof.

21. The Department audited Petitioner's Amended Returns and issued its Notices on April 14, 2016.

ANSWERS: Admit.

22. In each of its Notices, the Department, citing to 86 Il Adm. Code Sec. 100.3380(c)(4), explains that it excluded from Petitioner's sales factor receipts that could not be attributed to an income-producing activity in any state.

ANSWER: The Department admits that each Notice of Claim Denial issued to Petitioner for the Years at Issue states that receipts that "could not be attributed to an income-producing activity in any state" were excluded from Petitioner's sales factor. Further, the Department admits that the citation (i.e., 86 Ill. Adm. Code Section 100.3380(c)(4)) set forth in the Notices of Claim Denial, attached to the Petition as Exhibits A and B, is incorrect. Section 304(a)(3)(C-5) of the Illinois Income Tax Act requires the use of income-producing activities to apportion interest, net gains and other income derived from a taxpayer's intangible personal property, but not the income of a financial organization. However, the Department's auditor did not use income-producing activities

to apportion the income at issue in this matter. Instead, for tax years ending on or after December 31, 2008, income derived from credit cards and credit card receivables are sourced to Illinois if the credit card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(3)(v). *See also* 86 Ill. Adm. Code Section 100.3405(c)(5). During the audit of Petitioner's Illinois Amended Corporation Income and Replacement Tax Return ("IL-1120X") for the Years at Issue, the Petitioner did not provide the billing addresses of NCI's customers. In fact, on September 11, 2013, Anne House, Petitioner's manager of tax audits, informed the Department's auditor, audit supervisor and division manager that the Petitioner would not provide their customers' names because such information was confidential. (*See* EDC-5, Audit History Worksheet, attached hereto as Dept's Exhibit B). The Department's audit supervisor asked Ms. House whether the Petitioner could provide the customer billing addresses using account/customer numbers. (*See* Dept's Exhibit B). Nevertheless, Petitioner did not provide the information that would allow the Department to source NCI's receipts based on the customers' billing addresses. On March 16, 2015, the Department's auditor explained to Shannon Kingston, Petitioner's representative, that the Department would deny the refunds because of a lack of adequate information. (*See* Dept's Exhibit B). Inasmuch as Petitioner did not comply with the statutory sourcing requirements for income derived from credit cards, the Department denied the Petitioner's refund for the Years at Issue based on the provisions contained in 35 ILCS 5/304(c)(3)(v) and as further explained in the Department's regulation, namely 86 Ill. Adm. Code Section 100.3405(c)(5). Accordingly, the citations that should have been included in the Notices of Claim Denial are 35 ILCS 5/304(c)(3)(v) and 86 Ill. Adm. Code Section 100.3405(c)(5).

23. The Notices indicate that this adjustment resulted in a reduction in Petitioner's receipts of $2,620,057,911 and $2,625,491,867, respectively for the Years at Issue, having a tax impact of $224,471 and $289,559, respectively for the Years at Issue.

ANSWER: Admit. Further, the Department asserts that the Notices of Claim Denial, attached to the Petition as Exhibits A and B, speak for themselves.

24. In each of its Notices, the Department, citing to 5 ILCS 304(a)(3)(C-5), states that it "adjusted the Illinois sales factor to include in the numerator receipts (other than receipts from sales of tangible personal property) which are allocable to Illinois" (received from an Illinois resident customer).

ANSWER: The Department admits that each of the Notices of Claim Denial, citing 5 ILCS 304(a)(3)(C-5), states that the Department "adjusted the Illinois sales factor to include in the numerator receipts (other than receipts from sales of tangible personal property) which are allocable to Illinois." Further, the Department admits that the citation (i.e., 5 ILCS 304(a)(3)(C-5)) set forth in the Notices of Claim Denial, attached to the Petition as Exhibits A and B, is incorrect. Section 304(a)(3)(C-5) of the Illinois Income Tax Act requires the use of income-producing activities to apportion interest, net gains and other income derived from a taxpayer's intangible personal property, but not the income of a financial organization. However, the Department's auditor did not use income-producing activities to apportion the income at issue in this matter. Instead, for tax years ending on or after December 31, 2008, income derived from credit cards and credit card receivables are sources to Illinois if the credit card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(v). *See also* 86 Ill. Adm. Code Section 100.3405(c)(5). During the audit of Petitioner's Illinois Amended Corporation Income and

Replacement Tax Return ("IL-1120-X") for the Years at Issue, the Petitioner did not provide the billing addresses of NCI's customers. In fact, Anne House, Petitioner's manager of tax audits, informed the Department's auditor that the Petitioner did not have the capability to provide sourcing data for NCI's receipts. Inasmuch as Petitioner did not comply with the statutory sourcing requirements for income derived from credit cards, the Department denied the Petitioner's refund for the Years at Issue based on the provisions contained in 35 ILCS 5/304(c)(v) and as further explained in the Department's regulation, namely 86 Ill. Adm. Code Section 100.3405(c)(5). Accordingly, the citations that should have been included in the Notices of Claim Denial are 35 ILCS 5/304(c)(v) and 86 Ill. Adm. Code Section 100.3405(c)(5).

25. The Notices indicate that this adjustment resulted in an increase in Petitioner's Illinois sales factor numerator by $40,524,664 and $44,057,864, respectively for the Years at Issue, having a tax impact of $0 for the Years at Issue.

ANSWER: Admits. Further, the Department asserts that the Notices of Denial, attached to the Petition as Exhibits A and B, speak for themselves.

COUNT I

26. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 25, inclusive, herein above.

ANSWER: The Department incorporates and repeats its answers to paragraph 1 through 25 as if fully set forth herein.

27. 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).

ANSWER: Paragraph 27 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department admits the existence, force, and effect at all relevant times of the statute set forth or referred to in paragraph 27 and states that such statute speaks for itself.

28. The primary issue in this case is the manner in which a financial institution should source its receipts earned from credit card operations to Illinois.

ANSWER: Deny. The Department asserts that the issue in this matter is which of Petitioner's receipts (including its subsidiaries and Affiliate) should be included in Petitioner's Illinois apportionment factor.

29. On its Amended Returns, Petitioner switched from utilizing the "Lock Box" method to the market based sourcing method required by 35 ILCS 5/304(c)(3); and 86 Ill. Admin. Code 100.3405.

ANSWER: The Department admits that Petitioner changed its apportionment factor on its Amended Returns. The Department's lacks sufficient evidence to either admit or deny that Petitioner switched from the "Lock Box" method to the market sourcing method on its Amended Returns. Accordingly, the Department demands strict proof thereof.

30. This change in treatment resulted in Petitioner significantly revising its Illinois apportionment factor numerator and denominator in each of the Years in Issue.

ANSWER: The Department admits that Petitioner revised its Illinois apportionment factor as shown on its IL-1120 and IL-1120X for each of the Years at Issue. The Department denies all other allegations contained in paragraph 30 and demands strict proof thereof.

31. The Department's adjustments nonsensically explain that Petitioner's Illinois apportionment factor denominator should be significantly reduced because the receipts could not be attributed to an income producing activity in any state.

ANSWER: The Department denies the allegations in paragraph 31. Further answering, the Department admits that each Notice of Claim Denial issued to Petitioner for the Years at Issue states that receipts that "could not be attributed to an income-producing activity in any state" were excluded from Petitioner's sales factor. Further, the Department admits that the citation (i.e., 86 Ill. Adm. Code Section 100.3380(c)(4)) set forth in the Notices of Claim Denial, attached to the Petition as Exhibits A and B, is incorrect. Section 304(a)(3)(C-5) of the Illinois Income Tax Act requires the use of income-producing activities to apportion interest, net gains and other income derived from a taxpayer's intangible personal property, but not the income of a financial organization. However, the Department's auditor did not use income-producing activities to apportion the income at issue in this matter. Instead, for tax years ending on or after December 31, 2008, income derived from credit cards and credit card receivables are sources to Illinois if the credit card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(3)(v). *See also* 86 Ill. Adm. Code Section 100.3405(c)(5). During the audit of Petitioner's Illinois Amended Corporation Income and Replacement Tax Return ("IL-1120X") for the Years at Issue, the Petitioner did not provide the billing addresses of NCI's customers. In fact, on September 11, 2013, Anne House, Petitioner's manager of tax audits, informed the Department's auditor, audit supervisor and division manager that the Petitioner would not provide their customers' names because such information was confidential. (*See* EDC-5, Audit History Worksheet, attached hereto as Dept's Exhibit B). The Department's audit supervisor asked

Ms. House whether the Petitioner could provide the customer billing addresses using account/customer numbers. (*See* Dept's Exhibit B). Nevertheless, Petitioner did not provide the information that would allow the Department to source NCI's receipts based on the customers' billing addresses. On March 16, 2015, the Department's auditor explained to Shannon Kingston, Petitioner's representative, that the Department would deny the refunds because of a lack of adequate information. (*See* Dept's Exhibit B). Inasmuch as Petitioner did not comply with the statutory sourcing requirements for income derived from credit cards, the Department denied the Petitioner's refund for the Years at Issue based on the provisions contained in 35 ILCS 5/304(c)(v) and as further explained in the Department's regulation, namely 86 Ill. Adm. Code Section 100.3405(c)(5). Accordingly, the citations that should have been included in the Notices of Claim Denial are 35 ILCS 5/304(c)(v) and 86 Ill. Adm. Code Section 100.3405(c)(5).

32. The Department's adjustments nonsensically explain that Petitioner's Illinois apportionment factor numerator should be significantly increased because those receipts are allocable to Illinois as services for Illinois customers pursuant to 5 ILCS 304(a)(3)(C-5).

ANSWER: Deny. Further, paragraph 32 refers to statements in the Notices of Claim Denial, attached to the Petition as Exhibits A and B, which speak for themselves. The Department admits that the explanations and citations to 5 ILCS 304(a)(3)(C-5) set forth in the Notices of Claim Denial are incorrect. Section 304(a)(3)(C-5) of the Illinois Income Tax Act requires the use of income-producing activities to apportion income derived from a taxpayer's intangible personal property, but not the income of a financial organization. However, the Department's auditor did not use income-producing activities to apportion the income at issue in this matter. Instead, for tax years ending on or after December 31,

2008, income derived from credit cards and credit card receivables are sources to Illinois if the credit card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(3)(v). *See also* 86 Ill. Adm. Code Section 100.3405(c)(5). During the audit of Petitioner's IL-1120X for the Years at Issue, the Petitioner did not provide the billing addresses of NCI's customers. In fact, on September 11, 2013, Anne House, Petitioner's manager of tax audits, informed the Department's auditor, audit supervisor and division manager that the Petitioner would not provide their customers' names because such information was confidential. (*See* EDC-5, Audit History Worksheet, attached hereto as Dept's Exhibit B). The Department's audit supervisor asked Ms. House whether the Petitioner could provide the customer billing addresses using account/customer numbers. (*See* Dept's Exhibit B). Nevertheless, Petitioner did not provide the information that would allow the Department to source NCI's receipts based on the customers' billing addresses. On March 16, 2015, the Department's auditor explained to Shannon Kingston, Petitioner's representative, that the Department would deny the refunds because of a lack of adequate information. (*See* Dept's Exhibit B). Inasmuch as Petitioner did not comply with the statutory sourcing requirements for income derived from credit cards, the Department denied the Petitioner's refund for the Years at Issue based on the provisions contained in 35 ILCS 5/304(c)(v) and as further explained in the Department's regulation, namely 86 Ill. Adm. Code Section 100.3405(c)(5). Accordingly, the citations that should have been included in the Notices of Claim Denial are 35 ILCS 5/304(c)(3)(v) and 86 Ill. Adm. Code Section 100.3405(c)(5).

33. The Department provides no basis for concluding, nor was the issue ever raised at audit, that Petitioner's denominator should be reduced because the receipts could not be attributed to any state.

ANSWER: Deny. Although the "throw out" rule does not apply in this matter (see Department's answer to paragraph 32, which is incorporated herein by reference), the Department's auditor and audit supervisor discussed the "throw out" rule with Petitioner's representatives on April 18, 2013 and February 13, 2014. (*See* Dept's Exhibit B). However, as previously stated, the Department denied the Petitioner's refund claims because the Petitioner did not provide the information needed to apportion its income in accordance with 35 ILCS 5/304(c)(3)(v), namely the billing addresses of Petitioner's (including NCI) customers.

34. The Department's adjustment to Petitioner's Illinois apportionment factor numerator is also nonsensical, as these receipts come from the same sources that the Department claims cannot be attributed to any income-producing activity in any state.

ANSWER: Deny. Further, paragraph 34 refers to statements in the Notices of Claim Denial, attached to the Petition as Exhibits A and B, which speak for themselves. The Department admits that the explanations set forth in the Notices of Claim Denial, attached to the Petition as Exhibits A and B, are incorrect. The Department's auditor did not use income-producing activities to analyze or evaluate the apportionment factor Petitioner reported on its IL-1120X for the Years at Issue. For tax years ending on or after December 31, 2008, income derived from credit card receivables are sources to Illinois if the credit card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(3)(v). *See also* 86 Ill. Adm. Code Section 100.3405(c)(5). During the audit of Petitioner's IL-1120X for

the Years at Issue, the Petitioner did not provide the billing addresses of NCI's customers during the Years at Issue as required by 35 ILCS 5/304(c)(3)(v). Inasmuch as Petitioner did not comply with the statutory sourcing requirements with respect to NCI's income derived from credit card receivables, the Department reversed the adjustments the Petitioner reported on its IL-1120X, thereby returning Petitioner to the position shown on its IL-1120. By reversing the adjustments Petitioner reported on its IL-1120X, the Department, in effect, denied Petitioner's refunds for the Years at Issue. The adjustments the Department made to Petitioner's IL-1120X for the Years at Issue were based on the provisions contained in 35 ILCS 5/304(c)(3)(v) and as further explained in the Department's regulation 86 Ill. Adm. Code Section 100.3405(c)(5). Accordingly, the Department should have cited 35 ILCS 5/304(c)(3)(v) and 86 Ill. Adm. Code Section 100.3405(c)(5) in the Explanation of Audit Adjustments attached to the Notices of Claim Denial for the Years at Issue.

35. Assuming the Department's citation to 5 ILCS 304(a)(3)(C-5) was intended to mean 35 ILCS 5/304(a)(3)(C-5), these provisions are inapplicable to Petitioner, because Petitioner is a financial institution subject to the provisions of 35 ILCS 5/304(c).

ANSWER: The Department admits that the citation to 5 ILCS 304(a)(3)(C-5) (and even 35 ILCS 5/304(a)(3)(C-5)) is incorrect.

36. The Department's adjustments make no indication as to whether the receipts are being treated as Petitioner's receipts or NCI's receipts.

ANSWER: The Department admits that the audit adjustments set forth in the Notices of Claim Denial do not indicate whether the receipts at issue are Petitioner's receipts or NCI's receipts. However, on its IL-1120X for each of the Years at Issue, Petitioner did not

indicate whether the receipts it excluded from the numerator and denominator of its Illinois apportionment factor were its receipts or NCI's receipts. As previously stated, the Department denied Petitioner's claim for refunds because Petitioner did not provide the billing addresses of its customers as required by 35 ILCS 5/304(c)(3)(v).

37. The Department's Notices provide no meaningful explanation as to why the Department denied Petitioner's refund claims.

ANSWER: Deny. Further, during the course of the audit, on August 6, 2013, the Department's auditor sent Anne House, Petitioner's manager of tax audits, a letter explaining how Illinois apportions income derived from credit card receivables for tax years ending on or after December 31, 2008. (See letter dated August 6, 2013, attached hereto as Dept's Exhibit A). Although the letter does not include a citation to the IITA, it cites the Department's Regulation 86 Ill. Adm. Code Section 100.3405(c)(5), which cites 35 ILCS 5/304(c)(3)(v). Both the regulation and the IITA state that "income, and other receipts from credit card receivables are from sources in this State if the card charges are regularly billed to a customer in this State." 35 ILCS 5/304(c)(3)(v) and 86 Ill. Adm. Code Section 100.3405(c)(5). In addition to the August 6, 2016 letter, the auditor explained the applicable apportionment methodology to Petitioner's representatives on several occasions during the audit of Petitioner's IL-1120X for the Years at Issue. Specifically, on April 11, 2013, the auditor explained to the Petitioner's representative that the apportionment factor in the instant matter would be computed as prescribed in IITA 304(c)(3) for tax years beginning on or after December 31, 2008. *See* EDC-5, Audit History Worksheet, attached hereto as Dept's Exhibit B. On February 13, 2014, the auditor and her supervisor explained to the Petitioner's two representatives during a telephone conference that NCI's

income derived from credit card receivables would be "included in the apportionment [factor] based on IITA 304(c)(3)(v)." *See* Dept's Exhibit B. Additionally, on March 16, 2015, the auditor informed Shannon Kingston, Petitioner's representative, that the Department denied Petitioner's refunds for the Years at Issue "due to a lack of adequate information for [the] Illinois factor." *See* Dept's Exhibit B. Based on the foregoing, the Department auditor and her supervisor fully informed Petitioner's representatives regarding the computation of the Illinois apportionment factor for an entity that derives income from credit card receivables. The auditor also provided the Petitioner's representatives with the appropriate statutory and regulation citations. Therefore, the Department provided meaningful explanations regarding the computation of Petitioner's Illinois apportionment factor and the reasons the Department denied Petitioner's refund claims for the Years at Issue.

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

ANSWER: Deny. *See also* Department's answer to paragraph 37, which is incorporated herein by reference.

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

ANSWER: Deny. *See also* Department's answer to paragraph 37, which is incorporated herein by reference.

40. Because the Notices do not comply with the Taxpayer Bill of Rights, the Notices deprived Plaintiff of a meaningful opportunity to challenge the assessment.

ANSWER: Deny. Further, an assessment is not at issue in this matter. Rather, the Department denied Petitioner's refund claims for the Years at Issue. The Department's

auditor and audit supervisor fully explained the basis for the denial of the refund to the Petitioner's representative at the conclusion of the audit. Moreover, on August 6, 2013, the Department's auditor sent Anne House, Petitioner's manager of tax audits, a letter explaining, among other things, the apportionment of income from credit cards in Illinois and citations to the applicable regulation. Accordingly, the Department fully apprised the Petitioner regarding the audit adjustments and the applicable legal authority for such adjustment. Therefore, Petitioner has not been deprived of a meaningful opportunity to challenge the denial of its refund claims for the Years at Issue. *See also* the Department's answer to paragraph 37, which is incorporated herein by reference.

41. 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.

ANSWER: Paragraph 41 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). The Department admits the existence, force and effect at all relevant times of the statute set forth or referred to in Paragraph 41 and states that such statute speaks for itself.

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

a) finds that the Notices comply with the Taxpayer Bill of Rights;

b) finds that the Notices are valid;

c) enters judgment upholding the Notices, thereby denying Petitioner's refunds for the Years at Issue;

d) denies all claims for damages under the Taxpayer Bill of Rights, including attorney fees; and

e) grants such further relief as the Court deems appropriate under the circumstances.

COUNT II

42. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 41, inclusive, herein above.

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 41 as if fully set forth herein.

43. For the Tax Year Ending January 30, 2010, Petitioner included on the Schedule UB of its Original Return its receipts and NCI's receipts. For its Illinois apportionment factor, using the "Lock Box" method, Petitioner included receipts in the amount of $2,987,836,861 in the denominator and $41,666,329 in the numerator for an Illinois apportionment factor of .013945.

ANSWER: For the Tax Year 2010, the Department admits that Nordstrom FSB & Affiliate (which is defined as "Petitioner" in the introductory paragraph of the Petition) included Nordstrom Credit, Inc. (defined as "NCI" in paragraph 6 of the Petition) on its Illinois UB Schedule and (i) reported "Total sales everywhere" and "Total sales inside Illinois" of $2,987,836,861 and $41,666,329, respectively, on its IL-1120; and (ii) reported an Illinois apportionment factor of .013945 on its IL-1120. Whether Petitioner (as defined in the introductory paragraph of the Petition) used the "lock box" method to compute its Illinois apportionment factor as reported on its IL-1120 for Tax Year 2010 is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

44. On its Amended Return for the Tax Year Ending January 30, 2010, Petitioner revised, pursuant to the market based sourcing requirements, its Illinois apportionment factor to

include the amount of $367,778,950 in the denominator and $1,141,665 in the numerator for an Illinois apportionment factor of .003104.

ANSWER: For the Tax Year 2010, the Department admits that Nordstrom FSB & Affiliate (which is defined as "Petitioner" in the introductory paragraph of the Petition) (i) reported "Total sales everywhere" and "Total sales inside Illinois" of $367,778,950 and $1,141,665, respectively, on its IL-1120X; and (ii) reported an Illinois apportionment factor of .003104 on its IL-1120X. Whether Petitioner (as defined in the introductory paragraph of the Petition) used the "market based sourcing requirements" to compute its Illinois apportionment factor as reported on its IL-1120X for Tax Year 2010 is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

45. For the Tax Year Ending January 29, 2011 (the "Tax Year 2011"), Petitioner included on the Schedule UB of its Original Return its receipts and NCI's receipts. For its Illinois apportionment factor, using the "Lock Box" method, Petitioner included receipts in the amount of $3,012,175,004 in the denominator and $45,203,305 in the numerator for an Illinois apportionment factor of .015007.

ANSWER: For the Tax Year 2011, the Department admits that Nordstrom FSB & Affiliate (which is defined as "Petitioner" in the introductory paragraph of the Petition) included Nordstrom Credit, Inc. (defined as "NCI" in paragraph 6 of the Petition) on its Illinois UB Schedule and (i) reported "Total sales everywhere" and "Total sales inside Illinois" of $3,012,175,004 and $45,203,305, respectively, on its IL-1120; and (ii) reported an Illinois apportionment factor of .015007 on its IL-1120. Whether Petitioner (as defined in the introductory paragraph of the Petition) used the "lock box" method to compute its

Illinois apportionment factor as reported on its IL-1120 for Tax Year 2011 is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

46. On its Amended Return for the Tax Year Ending January 29, 2011, Petitioner revised, pursuant to the market based sourcing requirements, its Illinois apportionment factor to include the amount of $386,683,137 in the denominator and $1,145,441 in the numerator for an Illinois apportionment factor of .002962.

ANSWER: For the Tax Year 2011, the Department admits that Nordstrom FSB & Affiliate (which is defined as "Petitioner" in the introductory paragraph of the Petition) (i) reported "Total sales everywhere" and "Total sales inside Illinois" of $386,683,137 and $1,145,441, on its IL-1120X; and (ii) reported an Illinois apportionment factor of .003104 on its IL-1120X. Whether Petitioner (as defined in the introductory paragraph of the Petition) used the "market based sourcing requirements" to compute its Illinois apportionment factor as reported on its IL-1120X for Tax Year 2011 is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

47. Although the Notices do not adequately explain this, the Department effectively allowed Petitioner's reduction of the denominator of its Illinois apportionment factor denominator, but disallowed Petitioner's corresponding reduction of its Illinois apportionment factor numerator.

ANSWER: Deny.

48. For the Tax Year Ending January 30, 2010, the Notice explains that the everywhere sales were reduced by $2,620,057,911, which is the exact reduction Petitioner made to its Illinois apportionment factor denominator on its Amended Return.

ANSWER: Admit. Further, the Notice for Tax Year 2010 was attached to the Petition as Exhibit A and such document speaks for itself.

49. For the Tax Year Ending January 29, 2011, the Notice explains that the everywhere sales were reduced by $2,625,491,867, which is the exact reduction Petitioner made to its Illinois apportionment factor dominator on its Amended Return.

ANSWER: Admit. Further, the Notice for Tax Year 2011 was attached to the Petition as Exhibit B and such document speaks for itself.

50. For the Tax Year Ending January 30, 2010, the Notice explains that the Illinois sales were increased by $40,524,664, which is the exact reduction that Petitioner made to its Illinois apportionment factor numerator on its Amended Return.

ANSWER: Admit. Further, the Notice for Tax Year 2010 was attached to the Petition as Exhibit A and such document speaks for itself.

51. For the Tax Year Ending January 29, 2011, the Notice explains that the Illinois sales were increased by $44,057,864, which is the exact reduction that Petitioner made to its Illinois apportionment factor numerator on its Amended Return.

ANSWER: Admit. Further, the Notice for Tax Year 2011 was attached to the Petition as Exhibit B and such document speaks for itself.

52. Notwithstanding its entirely incorrect citations and nonsensical explanations, the Department has purported to exclude the very same receipts from the denominator that it included from the numerator.

ANSWER: Deny.

53. Because the Department agrees that the receipts should be excluded from the denominator of the Illinois apportionment factor, those same receipts should be excluded from the numerator of the Illinois apportionment factor.

ANSWER: Deny.

54. Petitioner's Amended Returns were calculated based on the amendments to 35 ILCS 5/304(c)(3), which require that receipts from a financial organization be apportioned to Illinois by multiplying the organization's income by a faction, the numerator of which is its gross receipts from sources in Illinois and the denominator of which is its gross receipts everywhere during the taxable year.

ANSWER: Paragraph 54 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

55. Petitioner's Amended Returns reflect the interest and fee income Petitioner earned on the receivables as they were earned from Illinois sources as compared to everywhere.

ANSWER: Deny.

56. The Notices, however, reflect an entirely inconsistent treatment of the receipts whereby the denominator of Petitioner's adjusted apportionment factor continues to reflect the interest and fee receipts earned everywhere, but the numerator reflects the "Lock Box" method, which includes all receivables, interest, and fee income received at an Illinois location.

ANSWER: Deny.

57. Petitioner's Amended Returns correctly treated interest and fee income earned from Illinois customers consistently, and should have been accepted, entitling Petitioner to refunds of $224,471 and $289,559, respectively for the Years at Issue.

ANSWER: Deny.

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

a) finds that the Notices correctly treat Petitioner's numerator and denominator calculations;

b) finds that the Notices are valid;

c) enters judgment in favor of the Department, thereby denying Petitioner's refunds for the Years at Issue; and

d) grants such further relief as the Court deems appropriate under the circumstances.

COUNT III

58. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 57, inclusive, herein above.

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 57 as if fully set forth herein.

59. Illinois law requires that interest income, fees, gains on disposition, service charges, merchant discount income, and other receipts from credit card receivables are from sources in Illinois if the card charges are regularly billed to a customer in Illinois. 35 ILCS 5/304(c)(3)(v).

ANSWER: Paragraph 59 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

60. While the receipts earned on receivables are to be sourced to Illinois in the manner described, the receivables themselves do not form the base of the gross receipts, and are not included in the Illinois apportionment factor. *See* 35 ILCS 5/304(c)(3)(i)-(viii); 86 Ill. Admin. Code 100.3405.

ANSWER: Paragraph 60 contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

61. On its Notices, the Department excluded the receivables from the Illinois apportionment factor denominator, but included the receivables in the Illinois apportionment factor numerator.

ANSWER: Deny.

62. Because the receivables themselves should have been excluded from both the Illinois apportionment factor numerator and denominator, Petitioner is entitled to the refund reflected on its Amended Returns.

ANSWER: Deny.

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

a) finds that the Notices correctly applied the applicable section of the Illinois Income Tax Act to calculate the numerator of Petitioner's Illinois apportionment factor;

b) finds that the Notices are valid;

c) enters judgment in favor of the Department, thereby denying Petitioner's refunds for the Years at Issue; and

d) grants such further relief as the Court deems appropriate under the circumstances.

COUNT IV

63. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 62, inclusive, herein above.

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 62 as if fully set forth herein.

64. Although the credit card receivables themselves should be excluded from the Illinois apportionment factor entirely, if they should be included, they should be sourced according to the provision in 35 ILCS 5/304(c)(3)(v).

ANSWER: Paragraph 64 contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department admits the existence, force and effect at all relevant times of the statute set forth or referred to in Paragraph 64 and states that such statute speaks for itself.

65. In its Notices, however, the Department merely utilized the Illinois receipts that were calculated based on the "Lock Box" method, thus sourcing the receivables to Illinois based on whether they were received at an Illinois location rather than based on the location of the customer that made the payment.

ANSWER: Deny.

66. Because Illinois law requires financial organizations to source their receivables according to where the charges are regularly billed to the customer, the Department's Notices are erroneous, and Petitioner is entitled to the refund reflected on its Amended Returns.

ANSWER: The Department denies that the Notices are erroneous and that Petitioner is entitled to the refunds reflected on its Amended Returns. Whether Illinois law requires financial organizations to source income they derive from receivables according to where the charges are regularly billed to the customer is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

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

a) finds that the Notices are valid because the Department correctly sourced Petitioner's receipts to Illinois;

b) finds that the Notices are valid;

c) enters judgment in favor of Defendants; and

d) grants such further relief as the Court deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By:
Rickey A. Walton
Special Assistant Attorney General

Rickey A. Walton
Special Assistant Attorney General
Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7-900
Chicago, IL 60601

DEPARTMENT'S ANSWER TO NORDSTROM FSB & AFFILIATE'S PETITION

DOCKET NO. 16-TT-114

EXHIBIT A

Illinois Department of Revenue
Maine North Regional Bldg.
9511 W. Harrison Street
Des Plaines, IL 60016

To : Anne House, Manager Tax Audits

From : Miranda Hung, RA III

Date : August 6, 2013

Re : Illinois Codes and Letter Rulings

Illinois Codes and Letter Rulings for Nordstrom Credit Inc

100.3405(a) For taxable years ending on or after December 31, 2008, the business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its ***gross receipts from sources in this State*** or otherwise ***attributable to this State's marketplace*** and the denominator of which is its gross receipts everywhere during the taxable year.

100.3405(c)(5) Interest income, fees, gains on disposition, service charges, merchant discount income, and other receipts from credit card receivables are from sources in this State if the card charges are regularly billed to a customer in this State.

100.9720(c)(2)(B)(i) PL 86-272 immunizes solicitation only for sale of tangible personal property. ***Efforts to sell intangibles, such as services***, franchises, patents, copyrights, trademarks and service marks, are not protected, nor is solicitation for the leasing, renting or licensing of tangible personal property.

100.9720(c)(2)(D) An activity ***regularly conducted*** within this State ***on a regular or systematic basis*** or pursuant to a company policy ***shall normally not be considered trivial***. If the activity either quantitatively or qualitatively creates a non-trivial connection with this State, then the activity exceeds the protection of PL86-272.

GIL IT 07-0033 As a general rule, the Department interprets the concept of nexus as broadly as possible. Where any part of a nonresident taxpayer's income is allocable to Illinois under Article 3 of the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/101 *et seq.*), unless protected under P.L. 86-272, the Department will assert jurisdiction to tax.

GIL IT 09-0004 Where any part of a foreign corporation's income is allocable to Illinois in accordance with the provisions of Article 3 of the IITA, Illinois can demonstrate the connection, or nexus, necessary to subject a foreign corporation to tax. Therefore, unless protected by Public

Cc: File

Law 86-272, a foreign corporation is liable for Illinois income tax where any portion of its income is allocated to Illinois.

Throw-Rule for Apportionment

IITA Section 304(a)(3)(C-5)(IV) Sales of services are in this State if the services are received in this State. For the purposes of this section, gross receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where that corporation, partnership, or trust has a fixed place of business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed. ***If the taxpayer is not taxable in the state in which the services are received, the sale must be excluded from both the numerator and the denominator of the sales factor***. The Department shall adopt rules prescribing where specific types of service are received, including, but not limited to, publishing, and utility service

IITA Definition for "Duty to File" with Jurisdiction:

IITA Section 303(f) Taxability in other state. For purposes of allocation of income pursuant to this Section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Cc: File

DEPARTMENT'S ANSWER TO NORDSTROM FSB & AFFILIATE'S PETITION

DOCKET NO. 16-TT-114

EXHIBIT B

UPDATED EDC-5 (7/2/2016)

ILLINOIS DEPARTMENT OF REVENUE EDC-5

AUDIT HISTORY WORKSHEET

TAXPAYER: Nordstrom FSB & Affiliate
ADDRESS: P.O. Box 2229
CITY: Seattle
STATE: WA
ZIP: 98111
PHONE: (206) 233-6442 Ann House, (206) 233-6541 Shannon Kingston
CONTACT: Anne House
RATRATION NUMBER: 84-1175406

DATE/TIME	COMMENTS
12/11/12	Contacted tp and left message for tp to return call.
12/12/12	Tp returned call and set an appt for 4/8/13 week and 4/15/13 week with tp. Sent confirmation letter to tp thru postal mail.
4/8/13	Had an initiation meeting with tp covering the following: - How this audit will be processed. • Each area examined result will be explained to tp. • Audit computation schedules will be presented and explained to tp. • For agreed, final audit letter will be issued to tp in the field. For unagreed, tp needs to file ICB-1 for review of the audit result. - Information needed for commencement of this audit • US1120 & US 851 of the parent • US consolidated schedule of the parent • Profoma US1120 for financial organization • IL1120 for financial organization • Apportionment schedules for financial organization Reviewed 10K
4/9/13	Reviewed business nature for entities listed on US851 of the parent. This process is to identify unitary entities for Illinois financial organization. Completed the review and there are two entities for Illinois financial organization. One is Nordstrom FSB and the other is Nordstrom Credit Inc. Reviewed IL1120 to US1120 proforma for entities identified as financial organization.

4/10/13 Had a discussion with RAS regarding tp's Illinois factor per IITA 304 (c)(3) effective on or after 12/31/2008 that numerator of which is its gross receipts from sources in this state.

Informed RAS that tp's parent, per banking regulation, allocates 10% receivables to Nordstrom FSB and 90% receivables to Nordstrom Credit Inc. Tp regarded that 90% receivables under Nordstrom Credit Inc are not subject to Illinois income tax since this entity does not have business connection in Illinois.

RAS and I agreed that 10% receivables under Nordstrom FSB and 90% receivables under Nordstrom Credit Inc should be subject to Illinois income tax based on the source in this state. In other words, tp's receivables paid by customers through tp's Illinois store locations and receivables paid by customers through mailing to tp's lockbox in Arizona are all subject to Illinois income tax based on the source in this state.

4/11/13 Explained Illinois factor per IITA 304 (c)(3) effective on or after 12/31/2008 to tp and informed tp that 10% receivables of Nordstrom FSB and 90% receivables of Nordstrom Credit inc based on Illinois customer address should be allocated to Illinois numerator.

Tp's view for Illinois numerator is that 10% receivables under Nordstrom FSB based on Illinois customer address is allocable to Illinois. Tp's reasoning is as follows:

- Nordstrom FSB has nexus for Illinois. Nexus was created when an Illinois customer opens a charge card account at Nordstrom store location in Illinois, Nordstrom store in Illinois acts as an agent for Nordstrom FSB.
- Nordstrom Credit Inc has no nexus in Illinois since this entity does not perform financing related activities and was set up for holding 90% receivables pertaining to customers' charge card billings per banking guideline.

Tp requested a meeting with my RAS for the Illinois numerator issue. Informed tp that I will contact my RAS for a meeting and will coordinate a meeting time between two sides.

4/12/13 Reviewed tax accrual summary for Illinois income tax addback.

Reviewed depreciation detailed schedules for tp's reporting for bonus depreciation.

4/15/13

Tp, Ms. Anne House, RAS, and I had a teleconference meeting for the issue on Nordstrom Credit Inc (NCI) 90% receivables that should be allocable to Illinois numerator or not. For this issue, tp's position is the following:

NCI was set up to hold 90% receivable and performs no financing activities. Also, NCI has no business activities in Illinois for Illinois nexus. Since NCI does not perform financing activities and has no nexus in Illinois, the 90% receivables under NCI are not allocable to Illinois numerator.

RAS requested tp to provide a written explanation covering the business nature and activities of tp's financial organization, Nordstrom FSB and Nordstrom Credit Inc. RAS informed tp once the written explanation is provided by them, she will forward the written explanation to the Dept's technical support for a response on the issue.

Tp consented to provide a written explanation. Meeting adjourned

Tp informed that they would like to file IL1120X for 1/31/2010 and 1/31/2011 year with the Dept. Emailed tp's IL1120X for these two years to RAS so RAS can forward tp's IL1120X to Laurie Evans, audit planning and audit planning can scan tp's IL1120X into Gentax. I provided Laurie Evans, audit planning's mailing address to tp and informed tp to send the original copy of IL1120X to audit planning, attn: Laurie Evans.

Reviewed apportionment schedules and income statement for sales factor examination. Prepared an Excel analysis schedule based on apportionment schedules and income statement provided by tp. The everywhere total for visa interest charge on apportionment schedule is less than USline 5 interest income, in other words, tp may allocate less visa interest charge to Illinois numerator. Had a meeting with tp about why everywhere total for visa interest charge on apportionment schedule is less than USline 5 and tp explained as follows:

The everywhere total on apportionment schedule for visa interest charge only includes Nordstrom visa interest charge and does not include Nordstrom private label charge card interest income and does not include the 90% receivables under NCI. Requested tp to provide an apportionment schedule that includes all types of charge card income for Nordstrom FSB and Nordstrom Credit Inc for the audit years. Tp consented to do so.

Provided an information request to tp. This request is to verify whether tp has filed income tax return with all states listed on apportionment schedule and whether tp has filed income tax return with foreign jurisdiction that tp has allocated charge card income to foreign jurisdiction. Based on throw-out rule for everywhere factor, for the state or foreign jurisdiction that tp does not file income tax return, allocation of charge card income to tp's non-income tax filing jurisdiction cannot be allowed in everywhere factor since apportionment is weighing based on total income tax that tp pays to taxing authorities for the year.

4/16/13 Reminded tp to provide apportionment schedule that includes charge card income for all types of charge cards for Nordstrom FSB and Nordstrom Credit Inc.

4/17/13 Informed tp to provide the following:
-apportionment schedule that includes all types of charge card income
- tp's explanation in writing about the business nature of Nordstrom FSB and Nordstrom Credit Inc
- response to information request EDA-70-1

Also reminded tp to send the original copy of IL1120X to Springfield attn: Laurie Evans, audit planning.

4/18,19/13 Had a meeting with tp for Illinois throw-out rule pertaining to apportionment. The meeting covers the following:
- What throw-out rule is
- IITA 304(a)(3)(C-5)(iv) provided to tp
- Support of returns filed with taxing authorities from tp to prove that tp filed income tax with which taxing authorities
- Informed tp for jurisdiction that tp did not report income tax, denominator and numerator for the jurisdiction will be excluded from apportionment

Presented EDA-70-3 to tp, which requests tp to provide an explanation in writing about how Nordstrom sources the receipts to Illinois and their position that receivables allocated to Nordstrom Credit Inc are not for Illinois numerator.

Informed tp to do the following:
- To send IL1120X to Springfield, attn: Laurie Evans
- Apportionment information for receivables booking to Nordstrom Credit Inc
- To respond to EDA-70-3 by 5/3

5/9/13 Had a discussion with RAS about this audit status and covered the following:

- For merchant fee receipts, does this item fall into throw-out rule for apportionment purpose, RAS and I agree that we will seek a response from Technical Support for how to proceed on this item.

- For Nordstrom Credit Inc 90% receivable allocation to Illinois numerator or not, RAS and I agreed that once tp responds in writing about how they source the receipts to Illinois, tp's response will be submitted to Technical Support for an opinion.
- I informed RAS that tp's has expressed that they may not sign the waiver to extend statute. RAS instructed me to close this audit and submit to her by 5/27 and also deny tp's amended returns for the audit years.

Contacted tp, Ms Ann House, thru phone and email and requested tp to return a call to me.

5/10/13 Tp, Ms Anne House, returned call and informed tp that if they sign the waiver, I will submit the merchant fee item and Nordstrom Credit Inc 90% receivables item to Technical Support for an opinion. If there is no waiver to secure the audit period, I will close this audit and deny their amended returns.

Ms. House informed that she will let me know whether they are going to sign waiver by next Wednesday (5/15).

Ms. House informed that she mailed the hardcopy of IL1120X for 1/31/2010 and 1/31/2011 year to Springfield, attention: Laurie Evans on 4/29.

5/15/13 Ms. House informed that they will not sign waiver for this audit.

5/17/13 Prepared audit computation on this audit.

5/21/13 Discussed my audit computation with RAS on apportionment area. Since tp did not provide sufficient information for Illinois numerator on Nordstrom FSB and Nordstrom Credit Inc, I pointed out to RAS that I allocated 100% denominator to Illinois. RAS instructed me to prepare a write-up about tp's Illinois numerator issue and she will submit the write-up to Technical Support to seek an opinion whether Nordstrom Credit Inc receivables are allocable to Illinois. RAS informed that if Technical Support also views that Nordstrom Credit Inc receivables are allocable to Illinois, under the circumstance that tp is not willing to provide numerator information on Nordstrom Credit Inc, 100% denominator then can be all for Illinois factor.

I informed RAS that per field work policy on statute, this audit needs to be submitted to her by 6/15. RAS

informed that she will inform Manager, Charles Campbell about this audit situation and will request manager to make an exception on field work due date on this audit.

5/24/13 Emailed write-up about Nordstrom Credit Inc receivables allocable to Illinois issue and throw-out rule issue to RAS.

5/30/13 RAS emailed the write-up on two mentioned issues to Technical Support for an opinion.

6/3/13 Received an email from Laurie Evans, supervisor - audit planning & technical support, that she has assigned my write-up for the two issues in this audit to her staff, Kevin Bullington who will work on a response for the two issues.

Emailed RAS to let Laurie Evans know that tp does not agree to sign waiver for this audit and whether her staff can provide a response by end of June.

6/20/13 Received an email from Kevin Bullington. He informed that he is in the process of working on the two issues with legal Paul Casleton.

7/10/13 Sent an email to Kevin Bullington. This email is that I would like to know the status on response from Technical Support for Nordstrom FSB issues. This email is also to remind Kevin Bullington that tp refuses to sign waiver and the statute of the audit is 11/15/2013.

7/12/13 Received response from Technical Support regarding the nexus issue and the throw-out issue.

7/16/13 Contacted RAS to seek her instruction for how to proceed this audit since Technical Support had provided the responses on the two issues. Unable to get through the phone communication with her. RAS will be on vacation from 7/17 thru 7/26. Will contact her on 7/29 for her instruction on this audit.

7/29/13 RAS is back from her vacation. Contacted her and sought her guidance for how to handle this audit situation since Technical Support's response supports the audit position. Whether I present the audited EDA-25 to tp, which tp's denominator is 100% allocated to Illinois numerator or other suggestion from her.

RAS requested me to email her the audited EDA-25 to her so she can discuss this audit situation with her superior. Besides EDA-25 emailed to RAS, I also emailed Technical Support response and IL-1120X filed by tp to RAS to facilitate her discussion of this audit situation with her superior.

7/31/13 Contacted RAS to find out whether she has discussed this audit situation with her superior and how her superior and she like me to handle this audit situation.

RAS informed that she will get back to me so she can discuss this audit with me.

8/1/13 I emailed RAS to inform her my suggestion to handle this audit situation:

1) I prepare information request covering Illinois numerator area and throw-out rule on apportionment area.
2) I prepare code sections to support the information request #1
3) I prepare a waiver to give tp time to provide information request #1

8/2/13 RAS and I had discussion of this audit situation:
- RAS agreed to my mentioned suggestion.
- RAS informed me that for the situation that tp does not provide information in the audit and the audit is assessed in high dollar and the tp then files ICB-1. ICB has just informed the audit management that ICB will not accept this type of ICB-1 anymore and tp will have to go to administrative hearing.
- I informed RAS that I will prepare item 1), 2), 3) and email to her by 8/5 so she can review. Once she is OK on it, item 1), 2), 3) will be presented to tp.

Contacted tp's manager, Anne House and spoke with her in person. I informed her that I have received response from Technical Support for apportionment issues and I will present information request to her next week and would like to have teleconference with her while I present information requests to her next week so I can explain each information request to her.

8/5/13 Prepared information requests and waiver.

Emailed information requests to RAS for her to review. RAS reviewed the information requests sent to her and instructed me to do revision.

Prepared revised information requests.

8/6/13 Emailed the revised information requests EDA-70-5, EDA-70-6 to RAS for her to review. RAS confirmed the revised information requests are good to send to tp.

Emailed the following to tp, Ms. Anne House:
- Information request EDA-70-5
- Information request EDA-70-6
- Waiver to secure 1/31/2010 year through 11/15/2014

- A letter to inform tp to return the signed EDA-70-5, EDA-70-6, waiver to me thru my email address and also inform tp that ICB's new policy that ICB will not accept tp's ICB-1 filing for audit assessment due to lack of sufficient information provided by taxpayer in the field.

(This email was also CC to RAS.)

Received a "Read" receipt thru Email System. This receipt shows that tp's manager, Ms. Anne House, read the email for the mentioned information requests on 8/6/2013 4:20P central standard time.

8/9/13 Eamiled RAS to inform her that tp has not returned the signed EDA-70-5 & EDA-70-6 or the signed waiver back to me. This email also asked RAS whether she likes to send EDA-70-5 & EDA-70-6 to tp again on 8/12 with a due date of 8/19 for tp to provide all information listed on EDA-70-5 & EDA-70-6.

8/12/13 Received an email from tp, tax manager, Anne House. In her email, her email content is as follows:

We were in our quarter end process this week, therefore I have not had a chance to review the attachments to your email below I will review them next week and get back to you
Anne

Anne L. House
Nordstrom Corporate Tax
1301 2nd Avenue, Seattle, WA 98101
Phone 206-233-6442
anne.house@nordstrom.com

In her email, she did not return the signed EDA-70-5 & EDA-70-6 or the signed waiver. Also she did not state the date that she will provide the information for the two information requests. She just informed that she will review the two information requests next week and she will get back to me.

Contacted RAS to seek her guidance about tp's above email. RAS instructed me the following:
- Respond to tp's email and advise tp to sign waiver and return waiver back to me by 8/16.
- If tp still does not sign waiver, issue the Second time of EDA-70-5 & EDA-70-6 to tp on 8/19 with 8/26 due date indicated for responses provided by tp.
- If tp still does not sign waiver and does not provide information requested, issue the Third time of EDA-70-5 and EDA-70-6 to tp on 8/26 with 9/2 due date indicated for responses provided by tp.

I prepared my response to tp's email with instruction given by RAS in a letter format and emailed this letter to tp and cc to RAS.

8/14/13 Received the signed waiver from tp thru email and forwarded it to RAS for countersignature.

Tp informed on the email that she has questions on information requests presented to her last week and would like to have a discussion with me about her questions on the information requests. Emailed her back to inform her to let me know the date and time that she would like to have a conference meeting with me.

8/16/13 Emailed tp, Ms. Anne House, to remind her to return the signed EDA-70-5 & EDA-70-6 to me.

Ms. House contacted me and informed that she will not sign EDA-70-5 & EDA-70-6. I explained to her that it is a receipt for me that she has received these two requests. Ms. House still said that she will not sign EDA-70-5 & EDA-70-6.

She also informed me that she will be off for the week of 8/19 and will be back to her work on 8/27. She and I agreed that she will contact me after she is back from her off and she will set a conference date and time with me and my supervisor for discussion of the items listed on EDA-70-5 & EDA-70-6.

8/28/13 Emailed Ms House to see whether she is back from her time-off and whether a conference meeting between RAS & me and Ms House can be set for the week of 9/2.

Ms House responded that 9/3 or 9/6 is good for her to have a conference meeting with RAS & me. Informed RAS the dates that tp is available for conference meeting. RAS informed that she will contact audit manager, Charles Campbell, to see whether he has availability to join the conference meeting as well. RAS informed she will let me know which date is good after she checks with Mr. Campbell so we can have a meeting with tp all together.

8/29/13 RAS informed that division manager, Charles Campbell, will join the meeting with tp. She informed any day for the week of 9/9 is good for her and division manager except 9/12 AM.

I emailed tp whether 9/9 week is good for a meeting with my management. Tp responded either 9/11 or 9/12 PM.

8/30/13 Emailed RAS the date and time that tp is available for a meeting.

9/4/13 Received a teleconference call in number and code from RAS. I responded my acceptance of this meeting date and time to RAS. The meeting date is 9/11, time 900A PST

RAS sent the same meeting invitation to tp to notify tp the meeting date and time.

9/11/13 Division manager, Charles Campbell; RAS, Hallie Dorsey; taxpayer, Ms. Anne House; and the auditor had a conference meeting for discussing EDA-70-5 and EDA-70-6:

EDA-70-5:
Tp informed the request for a list of customer list is not feasible to provide because this information has their customers' names and customers' names are confidential to their business. RAS informed tp that they can provide Illinois customer information by customer number. Tp consented for this suggestion and informed that she will talk to the dept that handles customer information to see whether Illinois customer information can be provided by customer number.

For receipts such as merchant fee, late fee, origination fee, tp informed they allocated these types of receipts to Arizona where the Bank (means: Nordstrom FSB, Nordstrom Credit Inc) is located. RAS asked tp whether they allocated by cost of performance rule. Tp confirmed yes. RAS informed tp that on or after 12/31/2008, Illinois is a marketplace state and requested tp to provide information for these types of receipts sorted by marketplace. Tp consented that she will provide these types of receipts based on marketplace.

EDA-70-6:
In tp's view, throw-out rule on apportionment does not apply to their business since they are a financial organization. Division manager, Mr. Campbell informed tp that he will provide statutory regarding throw-out rule on apportionment for financial organization in the near future.

Meeting adjoured.

9/12/13 Prepared a 9/11/2013 meeting recap. This recap is to facilitate tp and me to keep track the process of this audit.

Prepared EDA-70-7. This request is to request tp to explain origination fee and interchange fee in writing.

Emailed the meeting recap and EDA-70-7 to tp.

9/24/13 Informed RAS that as of today, tp has not responded the meeting recap for the date that they will provide the information for Illinois customer list. RAS informed me that I also cc the meeting recap to her when I emailed the meeting recap to tp and as long as I cc to her and she was aware of this matter and if when wavier is needed, tp refuses to sign future waiver, she will bring this matter to tp's attention.

RAS also informed me that she will prepare a response request from Technical Support about whether Sales of Services rule applies to tp, a financial organization. I informed RAS that on the meeting recap, we had indicated to tp that we will provide the ruling support by 10/15.

9/25/13 Reviewed RAS's write-up for seeking a response from Technical Support about the treatment on tp's various types of fee income under financial organization for apportionment purpose. Informed RAS her write-up is good and RAS informed me that she will forward her write-up to her manager, Charles Campbell for review and once her manager is OK on it, she will forward it to Technical Support for a response.

9/30/13 RAS submitted the write-up for seeking a response from Technical Support about the treatment on tp's various types of fee income under financial organization for apportionment purpose to Technical Support and Technical Support emailed back to acknowledge the receiving of this write-up.

10/2/13 Tp send the following email to me and RAS on 9/28 (Saturday):

Miranda,

When we filed our Nordstrom fsb and affiliate amended returns for fiscal years 2009 and 2010 we properly stated the apportionment as reflected in law changes made by the state of Illinois for financial institutions. In light of our position on this issue please let me know the Illinois statutes and relevance of your information requests in EDA-70-5 and EDA-70-6 Specifically the request for lists of Illinois customers for both Nordstrom fsb and Nordstrom Credit, Inc. and the application of throwout to the apportionment calculation of financial institutions.

Please feel free to call me if you have any questions

Thank you,
Anne

Contact RAS about this email. RAS informed that she already forwarded this email to her manager, Charles Campbell and her manager already requested Technical Support for statute so we can provide to tp. RAS informed Technical Support shall reply by 10/15.

11/1/13 Received an email from tp, Ms Ann House and her email is to find out how is the status on her above 9/28 request send thru email. RAS responded the following to her thru email:

Ann,
Sorry I did not respond when you sent the original question but I was thinking that I would have the Tech Request Response returned to me shortly and I would be able to relay the content to you Unfortunately we are still waiting for the legal interpretation of the Regulation Section that is being relied upon in the audit. As soon as the response is received we will let you know. We did not want to move forward with audit's interpretation until we have been assured that legal is in agreement. If they do not agree then it will not be an issue but if they agree then we will have to precede as we discussed in the last conference The Technical Support Unit has some backlog but we are expecting a response soon We will get back to you as soon as we get it Thank you for your patience because we want to get it right in the end

Hallie Dorsey.

12/9/13 RAS & I were off for vacation in November and part of December. I will resume this audit in January when RAS & I are both back to work.

1/27/14 Had an overall discussion with RAS about technical support's second response in relation to throw-out rule applicable to NCI receipts for apportionment purpose.

2/6/14 Had a further discussion with RAS about technical support's second response. In this discussion, RAS and I agreed that if tp does not provide valid support for the amending on apportionment, tp's amending for claim for refund will be denied.

2/11/14 Prepared an Illinois code summary based on Technical Support's second response and emailed this summary along with the prior Illinois code summary prepared based on the first Technical Support's response to RAS for her to review.

2/13/14 Had a discussion with RAS for the two summaries emailed to her on 2/11 for the preparation of teleconference with tp today at 11:00PST.

RAS and I had a teleconference with tp's two representatives, tax managers of tp's tax dept. The meeting covered:

- the throw-out issue applicable to NCI credit card receivables or not
- NCI nexus issue
- Adequate support provided by tp for amended returns

RAS explained the throw-out rule to tp and informed tp that throw-out rule does not apply to NCI credit card receivables. In other words, NCI receipts will be included in the apportionment based on IITA 304 (C)(3)(v).

Tp claimed that NCI does not have nexus in Illinois. Auditor informed tp that in August 2013, a memo prepared by the auditor was supplied to tp, which informed tp that NCI created nexus in Illinois based on 86-272.

RAS informed tp that the code section provided for adequate support is that adequate support is required in order for items amended on returns to be reviewed for approval or not.

Taxpayer expressed that they do not agree to the audit determination on NCI nexus so they will not provide NCI receipts information for the audit. RAS informed tp since they do not agree to the audit determination, their amended returns will be denied in the audit.

Meeting adjourned.

Emailed meeting summarization to tp. Tp requested code sections for NCI nexus determination. Emailed code sections for NCI nexus determination to tp.

2/24/14 Prepared and completed write-up.

Emailed write-up to RAS for review.

2/27/14 Submitted this audit to RAS.

1/22/15	Received an email from ICB, Craig Callahan. He informed me that he is handling this case and requested me to provide audit comments and audit result to him. I emailed the info he requested to him.
3/16/15	Received an email from ICB, Craig Callahan. This email was to inform me to contact tp for answering tp's questions. Contacted tp, Ms. Shannon Kingston and answered her questions why IL1120Xs were denied in the audit. I informed her that the denial was due to lack of adequate information for Illinois factor. I also provided Illinois codes & letter rulings concerning NCI's nexus and information request for FSB & NCI Illinois factor to her. She informed that she will response to ICB in May.
3/17/15	Emailed ICB, Craig Callahan for informing him that I had contacted tp yesterday for answering tp's questions about why IL1120Xs were denied. I also informed Craig that I provided codes & letter rulings for NCI nexus and information request for FSB & NCI Illinois factor to tp.
11/16/15	Received a cc to me email from ICB, Craig Callahan that he sent an email to Brian Fliflet of Informal Conference Board and Craig's email was to inform Brian Fliflet that he had sent recommendation and action decision to him.
2/8/16	Received an email from ICB, Brian Fliflet. He sent Action Decision and recommendation on this audit to me.
2/23/16	Emailed 1) post ICB EDA-70-1 Information request for tp to provide Illinois sales factor information for NCI 2) ICB's Action Decision 3) waiver for 1/31/2010, 1/31/2011 to secure through 2/6/2017 to tp's tax manager, Ms. Shannon Kingston. Contacted her and left message for her to return my call. The purpose of this contact was to explain post ICB EDA-70-1 to her.
2/24/16	Tp's tax manager, Ms. Shannon Kingston, sent an email requesting my supervisor's email address. Informed RAS that tp requested her email address from me. RAS consented to provide tp's her email address. Emailed Ms. Kingston back with my supervisor's name and email address. Today 1:17PM received an email from Ms. Shannon Kingston. Her email was to inform me that she will not provide further information for this audit and please have this audit submitted to Springfield. RAS also received the same email from her. RAS informed me to submit this audit to her by phone.
3/1,2/16	Prepared updated completion of this audit.
3/3/16	Submitted this audit to RAS.

STATE OF ILLINOIS)
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COUNTY OF HARRIS)
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AFFIDAVIT OF ANITA SANDERS
PURSUANT TO TRIBUNAL RULE 5000.310(B)(3)

Under penalties as provided by Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/109, I, Anita Sanders, being first duly sworn on oath, depose, and states as follows:

1. I am an adult resident of the State of Texas and can truthfully and competently testify to the matters contained herein based upon personal knowledge.
2. I am currently employed by the Illinois Department of Revenue as a Revenue Audit Supervisor in the Illinois Department of Revenue's Audit Division.
3. The Department's conducted an audit of Nordstrom FSB & Affiliates' (collectively, "Taxpayer") Illinois Amended Corporation Income and Replacement Tax Returns ("IL-1120X") for tax years ending January 31, 2010 and January 31, 2011 ("Years at Issue").
4. Taxpayer disagreed with the proposed audit adjustments, and therefore submitted a petition with the Department's Informal Conference Board ("ICB") to review the proposed audit adjustments.
5. I was the Revenue Audit Supervisor when the Taxpayer submit its petition to the Department's ICB and during the 1-year period in which Taxpayer's case was before ICB.
6. Further, I was also the Revenue Audit Supervisor when ICB issued its Action Decision regarding Taxpayer's petition.
7. I lack the requisite knowledge to either admit or deny the allegations alleged in Nordstrom FSB & Affiliates' Petition in paragraphs 12, 16 through 19 and 29.

Under penalties as provided by law, pursuant to Section 1-109 of the Code of Civil Procedure, the certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she believes the same to be true.

Anita Sanders
Revenue Audit Supervisor
Illinois Department of Revenue
Houston, Texas

8/11/16
Date

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

NORDSTROM fsb & AFFILIATE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 16-TT-114
	)	
THE ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Defendant.	)	

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

TO: fmarcus@hmblaw.com
clutz@hmblaw.com
Fred O. Marcus
Christopher T. Lutz
Horwood Marcus & Berk Chartered
Chicago, IL 60661
(312) 606-3200

Please take notice that the undersigned Representative for the Illinois Department of Revenue (the "Department") certifies that, on August 16, 2016 he served the Department's Answer to Nordstrom fsb & Affiliate's Petition on the individuals listed above by electronic mail at the electronic mail addresses shown above at the date and time shown on the electronic transmission confirmation.

Rickey A. Walton
Special Assistant Attorney General

Rickey A. Walton
Illinois Dept. of Revenue
100 West Randolph Street, 7-900
Chicago, IL 60601
(312) 814-1016 phone
(312) 814-4344 facsimile
rick.walton@illinois.gov