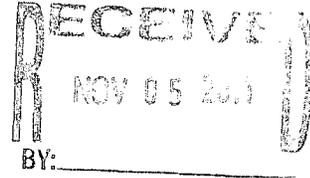


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SYED A. MIR AND HUMAIRA KHAN,)
)
 Petitioners,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Defendant.)

No.



(4 TT 213)

PETITION

Petitioner, Syed A. Mir and Humaira Khan (“Petitioners”), by and through their attorneys, The Law Office of James E. Dickett, Ltd., complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

PARTIES

1. Petitioners are individuals located at 1340 Bay Meadows Drive, Bartlett, Illinois, 60103, and can be reached at 630-363-3530.

2. Petitioners are represented by The Law Office of James E. Dickett, Ltd. Attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or jdickett@aol.com.

3. Petitioners’ Taxpayer (Account) ID is XXX-XX-XXXX (redacted).

4. 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.

NOTICE

5. On September 10, 2014, Petitioner received three Notice of Deficiency letters for Form IL-1040 (“Notices”) for the tax years 2009, 2010, and 2011. The Notices, in aggregate, reflect \$46,340 in tax due, plus penalties and interest. The Notices are attached hereto as Exhibit 1.

JURISDICTION

6. 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.

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

BACKGROUND

8. One of the Petitioners (Syed A. Mir) is the owner of an S corporation that is a petroleum retailer located in the northwest suburbs.

9. Defendant audited the S corporation’s books and records for sales tax for the periods 2009 to 2012, and, based on that audit, the Department projected the individual income tax assessments at issue herein without providing the proper allowance for cost of goods sold for the corporation (zero allowance in 2009).

COUNT I

Defendant’s audit methodology overstates Petitioners’ liability.

10. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the tax liabilities contained in the Notices based on the sales tax audit results without providing the proper allowance for cost of goods sold.

12. By applying the Department's corporate sales tax audit results to the business income tax Notices herein, the Department drastically and unreasonably inflated Petitioners' individual income tax liability.

WHEREFORE, Petitioners pray that the Tribunal enter an order that:

- (a) enters judgment in favor of Petitioners and against the Defendants and cancels the Notices;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notices;
- (c) grants such further relief as the Tribunal deems appropriate.

COUNT II

All penalties should be abated based on reasonable cause.

13. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. In its Notices, the Department assessed late filing and late payment penalties.

15. Illinois law provides that neither late penalties nor negligence penalties apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

17. Petitioners exercised ordinary business care and prudence when they reasonably determined its business income liability during the audit periods and clearly did not use the Department's proposed sales tax audit results.

WHEREFORE, Petitioners pray that the Tribunal enter an order that:

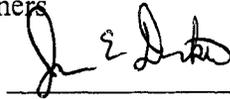
- (a) finds and declares that all penalties should be fully abated based on reasonable cause;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount of penalties due on the Notices; and
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Thank you for considering this Petition.

Respectfully submitted,

Syed A. Mir and Humaira Khan,
Petitioners

By:



One of Petitioners' Attorneys

Date:

11/3/14

James E. Dickett
The Law Office of James E. Dickett, Ltd.
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
Email: jdickett@aol.com

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return

Exhibit 1



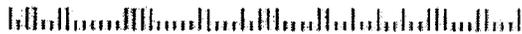
September 10, 2014



Letter ID: CNXXX12914X35360

#BWNKMGV
#CNXX X129 14X3 5360#
SYED A. MIR and HUMAIRA A. KHAN
1340 BAY MEADOWS DR
BARTLETT IL 60103-2068

Taxpayer ID: XXX-XX-5641
Audit ID: A1257121792
Reporting period: December 2009
Total Deficiency: \$33,457.57
Balance due: \$33,457.57



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

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

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total deficiency under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the balance due in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

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

Sincerely,

Brian Hamer
Director

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

(217) 558-4960

Statement

Date: September 10, 2014
Name: SYED MIR
Taxpayer ID: XXX-XX-5641
Letter ID: CNXXX12914X35360

Reasons for deficiency

We changed your adjusted gross income to include the results of an Illinois Sales Tax audit.
[35 ILCS 5/203(a)]

We determined that you omitted income in excess of 25 percent of the base income reported on your Illinois Income Tax return.
[35 ILCS 5/905(b)]

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%.
[35 ILCS 735-13-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$2,910.37 has been computed through September 10, 2014.

Statement

Date: September 10, 2014
Name: SYED MIR
Taxpayer ID: XXX-XX-5641
Letter ID: CNXXX12914X35360

Computation of deficiency

Reporting Period: 31-Dec-2009

Adjusted gross income	\$1,016,377.00
Base income	\$1,016,377.00
Minus exemptions	-\$8,000.00
Net income	\$1,008,377.00
Tax amount	\$30,251.00
Total Tax (After Recapture of Investment Credits)	\$30,251.00
Credits	
IL property tax credit	-\$524.00
Tax Due	\$27,969.00
Minus tax previously assessed	-\$4,271.00
UPIA-5 late-payment penalty (Audit)	\$5,091.20
Plus interest on tax through September 10, 2014	\$2,910.37
Total deficiency	* \$33,457.57

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Deficiency (this notice)	\$33,457.57
Plus previously assessed tax	\$4,271.00
Minus IL income tax withheld	-\$1,758.00
Minus payments	-\$2,513.00
Balance due	* \$33,457.57

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



September 10, 2014



Letter ID: CNXXX11782XX5929

#BWVKMGV
#CNXX X117 82XX 5929#
SYED A. MIR and HUMAIRA A. KHAN
1340 BAY MEADOWS DR
BARTLETT IL 60103-2068

Taxpayer ID: XXX-XX-5641
Audit ID: A1257121792
Reporting period: December 2010
Total Deficiency: \$8,304.97
Balance due: \$8,304.97



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

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

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).
- In all other cases, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total deficiency under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the balance due in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

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

Sincerely,

Brian Hamer
Director

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

(217) 558-4960

Statement

Date: September 10, 2014
Name: SYED MIR
Taxpayer ID: XXX-XX-5641
Letter ID: CNXXX11782XX5929

Reasons for deficiency

We changed your adjusted gross income to include the results of an Illinois Sales Tax audit.
[35 ILCS 5/203(a)]

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%.
[35 ILCS 735-13-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$500.17 has been computed through September 10, 2014.

Statement

Date: September 10, 2014
Name: SYED MIR
Taxpayer ID: XXX-XX-5641
Letter ID: CNXXX11782XX5929

Computation of deficiency

Reporting Period: 31-Dec-2010

Adjusted gross income	\$499,937.00
Base income	\$499,937.00
Minus exemptions	-\$8,000.00
Net income	\$491,937.00
Tax amount	\$14,758.00
Total Tax (After Recapture of Investment Credits)	\$14,758.00
Credits	
IL property tax credit	-\$520.00
Tax Due	\$11,890.00
Minus tax previously assessed	-\$7,734.00
UPIA-5 late-payment penalty (Audit)	\$1,300.80
Plus interest on tax through September 10, 2014	\$500.17

Total deficiency * \$8,304.97

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Deficiency (this notice)	\$8,304.97
Plus previously assessed tax	\$7,734.00
Minus IL income tax withheld	-\$2,348.00
Minus payments	-\$5,386.00
Balance due	* \$8,304.97

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



September 10, 2014



Letter ID: CNXXXX183394X166

#BWNKMGV
#CNXX XX18 3394 X166#
SYED.A. MIR and HUMAIRA A. KHAN
1340 BAY MEADOWS DR
BARTLETT IL 60103-2068

Taxpayer ID: XXX-XX-5641
Audit ID: A1257121792
Reporting period: December 2011
Total Deficiency: \$6,287.28
Balance due: \$6,287.28



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

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

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total deficiency under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the balance due in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

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

Sincerely,

Brian Hamer
Director

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

(217) 558-4960

Statement

Date: September 10, 2014
Name: SYED MIR
Taxpayer ID: XXX-XX-5641
Letter ID: CNXXXX183394X166

Reasons for deficiency

We changed your adjusted gross income to include the results of an Illinois Sales Tax audit.
[35 ILCS 5/203(a)]

Penalties

We are imposing a late-filing or nonfiling penalty because you did not file a processable return by the due date (including any extended due date). This penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on your return, after subtracting any payments made or credits allowed by the due date of the return. This penalty is imposed the day after the original due date of your return, including any extended due date. This penalty cannot exceed \$250.
[35 ILCS 735/3-3(a-10)] (for liabilities due on or after 1/1/2001)

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%.
[35 ILCS 735-/3-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$209.24 has been computed through September 10, 2014.

Statement

Date: September 10, 2014
Name: SYED MIR
Taxpayer ID: XXX-XX-5641
Letter ID: CNXXXX183394X166

Computation of deficiency

Reporting Period: 31-Dec-2011

Adjusted gross income	\$148,004.00
Base income	\$148,004.00
Minus exemptions	-\$8,000.00
Net income	\$140,004.00
Tax amount	\$7,000.00
Total Tax (After Recapture of Investment Credits)	\$7,000.00
Credits	
IL property tax credit	-\$519.00
Tax Due	\$6,481.00
Minus tax previously assessed	-\$1,499.00
Plus late-filing penalty	\$99.64
UPIA-5 late-payment penalty (Audit)	\$996.40
Plus interest on tax through September 10, 2014	\$209.24
Total deficiency	* \$6,287.28

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Deficiency (this notice)	\$6,287.28
Plus previously assessed tax	\$1,499.00
Minus Estimated payments	-\$4,000.00
Minus IL income tax withheld	-\$3,016.00
Refunds	\$5,517.00
Balance due	* \$6,287.28