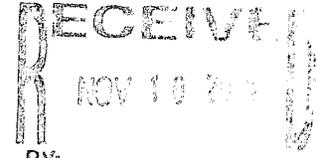


IN THE
ILLINOIS INDEPENDENT TAX TRIBUNAL
COOK COUNTY, ILLINOIS

INNOPHOS HOLDINGS INC.)
)
Taxpayer Account ID: 20-1380758)
Taxpayer Telephone No.: (609) 495-2495)
Tax Type: ROT / UT)
TPE: Tax Year Ending December 2009 &)
Tax Year Ending December 2010)
)
v.)
)
ILLINOIS DEPARTMENT OF REVENUE.)



No. _____
BY: _____
1477217

PETITION OF THE TAXPAYER

Innophos Holdings, Inc. ("Innophos"), by its attorneys of record, Reed Smith LLP, pursuant to Section 1-50 of the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010/1-5 *et seq.*] (the "Tax Tribunal Act"), complains of the Illinois Department of Revenue (the "Department" or "IDOR"), as follows:

Jurisdiction and Venue

1. This timely petition involves two Notices of Deficiency ("NOD") that each assess an amount in excess of \$15,000.00 in tax, penalty and interest under a tax law identified in Section 1-45 of the Tax Tribunal Act; therefore, the Tax Tribunal has jurisdiction over this petition.
2. Innophos accepts the Tax Tribunal's designation of its office in Cook County to conduct the hearing in this matter.

Facts Common to all Counts

The Parties

3. Innophos is a corporation maintaining its principal office at 259 Prospect Plains Road, Cranbury, New Jersey 08512-8000.
4. Innophos is a leading producer of specialty grade phosphate for the food, pharmaceutical and industrial market segments. Within these segments, Innophos' products cover a broad range of applications including water, paper and metal treatment, agriculture, electronics, textiles, tablets, meat preservation and detergents.
5. The Illinois Department of Revenue is an executive agency authorized, among other functions, to administer and enforce the provisions of the Illinois Income Tax Act. 35 ILCS 5/101 *et seq.*

Innophos Locations in North America

6. Innophos corporate headquarters are located in New Jersey.
7. Innophos manufacturing facilities are located in Illinois, Louisiana, New Jersey, Tennessee, and Utah.
8. Innophos also has manufacturing sites in Canada and Mexico.

Innophos' Illinois Locations

9. Innophos has two manufacturing plants located in Illinois, one in Chicago Heights, Illinois and the other in Waterway, Illinois.
10. Innophos owns a distribution center in Chicago Heights, Illinois (the "Jacobson Center").

11. The Jacobson Center, while owned by Innophos, a third-party under contract to Innophos is responsible for the Jacobson Center operations and employs its own personnel.

Innophos' Inventory Management

12. More than half of Innophos' products are routed through the Jacobson Center.
13. Products made in the United States, Mexico and Canada are routed through the Jacobson Center.
14. Purchase orders for Innophos' products are received and processed in New Jersey.
15. Innophos produces inventory to fill expected customer demand, in anticipation of purchase orders.
16. Innophos uses a business forecast model to predict its customers' order volume in the near future, usually 3 months to a year out.
17. The business forecast relies on the order history of Innophos' customers and is based on the customers' quantity, product and grade order history.
18. The business forecast model determines the amount of inventory that is stocked at any given time at the Jacobson Center, so that product is already on-site and ready to be shipped to customers as purchaser orders are received and processed in New Jersey.
19. Products are shipped and stored in the Jacobson Center even if ultimately they may not be sold or delivered to Illinois customers.

20. Most of the products produced in Illinois and shipped to the Jacobson Center, along with the products produced elsewhere that are shipped to the Jacobson Center, are sold to customers outside of Illinois.
21. The Jacobson Center uses a "pick ticket" authorization system to ship its inventory.
22. When an order is received and processed in New Jersey, a ticket instruction is then sent to the third-party manager of the Jacobson Center to fulfill the ticket. The third-party has no decision making ability; it only picks and ships the products (on a pallet basis) that it is told to ship.

The Illinois Income Tax Act

23. The Illinois Income Tax Act (the "IITA") imposes a tax on the net income of every individual, corporation, trust and estate for the privilege of earning or receiving income in or as a resident of Illinois. 35 ILCS 5/101 *et seq.*
24. For a taxpayer that makes sales of tangible personal property, like Innophos, the Illinois corporate income tax is imposed on the taxpayer's "base income," as defined in the IITA (federal taxable income after statutory addition and subtraction modifications) that is: (A) "non-business income" as defined in the IITA which is allocable to Illinois; and (B) "business income" as defined in the IITA (all income other than nonbusiness income) which is "apportionable" to Illinois according to the ratio of Illinois sales to total sales everywhere. That ratio is commonly referred to as the "sales factor" or the "apportionment formula."

The Department's Audit

25. The Department's audit staff and management requested and received access to Innophos' books and records supporting its Illinois state tax returns.
26. The Department's audit of Innophos included the taxable periods ending December 2009 and December 2010 (the "Years at Issue").
27. The Department's auditor (the "Auditor") determined a total deficiency for the tax period ending December 2009 of \$1,406,079.49 (the "2009 Deficiency").
28. The 2009 Deficiency resulted from (i) the Auditor's adjustment of Innophos' sales factor by adding to the numerator, as "Illinois sales", those sales shipments that originated in Illinois and were delivered to states in which the auditor determined Innophos was not subject to tax; and (ii) the Auditor's adjustment of Innophos' "Illinois sales to include all factorable receipts on federal 1120, Lines 1 through 10, over federal 1120, Line 1, as originally reported."
29. The Auditor proposed an additional late-payment penalty because Innophos "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."
30. Once an Illinois audit has commenced, an 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 an increase of the penalty to 20%. 35 ILCS 735/3-3(b-20)(2).

31. The Auditor determined a total deficiency for the tax period ending December 2010 of \$1,126,050.59 (the "2010 Deficiency").
32. The 2010 Deficiency resulted from (i) the Auditor's adjustment of Innophos' sales factor by adding to the numerator, as "Illinois sales", those sales shipments that originated in Illinois and were delivered to states in which the auditor determined Innophos was not subject to tax; and (ii) the Auditor's adjustment of Innophos' "Illinois sales to include all factorable receipts on federal 1120, Lines 1 through 10, over federal 1120, Line 1, as originally reported."
33. The Auditor imposed a late-filing or nonfiling penalty because Innophos did not file a processable return by the due date. This penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on Innophos' 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 Innophos' return, including any extended due date. The penalty cannot exceed \$250. 35 ILCS 735/3-3(a-10).
34. The Auditor imposed the additional late-payment penalty because Innophos "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."

The Controversy

35. On September 11, 2014, the Department issued to Innophos two Notices of Deficiency for the tax periods ending December 2009 and December 2010 assessing total deficiencies in the amounts of \$1,406,079.49 and \$1,126,050.59, respectively. Copies of the 2009 and 2010 Notices of Deficiency are attached hereto as **Exhibit 1** and **Exhibit 2**, respectively.

COUNT I

P.A. 98-0478 Rendered the "Throwback" Rule in IITA Section 304(a)(3)(B) Inapplicable to Returns for Tax Years Ending on or After December 31, 2008

36. Innophos incorporates by this reference and realleges paragraphs 1 through 35 as though fully-set forth herein.
37. The Department's Auditor used the so-called "throwback rule" found in IITA Section 304(a)(3)(B) to increase the portion of Innophos' total business income apportioned to and taxed by Illinois.
38. IITA Section 304(a)(3)(B) provides that a taxpayer's sales of tangible personal property made to states in which the taxpayer is not subject to tax are to be treated instead as sales in Illinois (*i.e.*, added to the numerator of the Illinois apportionment sales factor).
39. On August 16, 2013, Public Act 98-0478 amended, effective January 1, 2014, the Illinois Income Tax Act with retroactive application to tax years

ending on or after December 31, 2008, concerning the apportionment of business income.

40. As amended by Public Act 98-0478, Section 304 (f) of the IITA provides that for taxable years ending on or after December 31, 2008, if the apportionment provisions of the IITA do not "fairly represent the market for the person's goods, services or other sources of business income," a person may petition for, or the Director may, without a petition, permit or require (i) separate accounting; (ii) exclusion of any one or more factors; (iii) the inclusion of one or more additional factors; or (iv) the employment of any other method to effectuate an equitable allocation and apportionment of the person's business income. 35 ILCS 5/304(f), as amended.
41. To throwback and add a sale to the Illinois numerator of the sales factor pursuant to IITA Section 304(a)(3)(B) a taxpayer must first determine that the sale was not made to the Illinois market, *i.e.* that the item sold had a final delivery destination in a market other than Illinois.
42. The application of Section 304(a)(3)(B) to a tax year ending on or after December 31, 2008, which results in a sale to another state being added to the Illinois numerator, is directly at odds with IITA Section 304(f) as amended by P.A. 98-0478, because the knowing addition of a non-Illinois sale to the Illinois numerator of the sales factor knowingly does not "fairly

represent the market for the person's goods, services or other sources of business income."

43. After January 1, 2014, the effective date of P.A. 98-0478, IITA Section 304(a)(3)(B) of the IITA can only be reconciled with IITA Section 304(f) when: (A) it is applied to a tax year ending before December 31, 2008, or (B) the Department, using its authority under IITA Section 304(f) and thus bearing the burden of proof thereunder, determines the application of the throwback rule to a tax year ending on or after December 31, 2008, is necessary to "fairly represent the market for the person's goods, services or other sources of business income."

WHEREFORE, Innophos prays that the Tax Tribunal find and determine that P.A. 97-0478 has rendered IITA Section 304(a)(3)(B) not applicable to tax years ending on or after December 31, 2008, and therefore that the Department's adjustment to include non-Illinois sales of Innophos in the Innophos Illinois sales factor numerators for 2009 and 2010 is not authorized by the IITA.

COUNT II

For Tax Years Ending on or after December 31, 2008, a Throwback Adjustment must be Proposed Pursuant to Section 304(f) of the IITA, and the Proponent must Bear the Burdens of Proof and of going Forward with Evidence

44. Innophos incorporates by this reference and realleges paragraphs 1 through 43 as though fully-set forth herein.

45. The Department's regulation implementing IITA Section 304(f) provides that:

Section 100.3390 Petitions for Alternative Allocation or Apportionment (Section 304(f) of the IITA)

(c) . . . The party (the Director or the taxpayer) seeking to utilize an alternative apportionment method has the burden of going forward with the evidence and proving by clear and cogent evidence that the statutory formula results in taxation of extraterritorial values and operates unreasonably and arbitrarily in attributing to Illinois a percentage of income out of all proportion to the business transacted in this State. In addition, the party seeking to use an alternative apportionment formula must go forward with the evidence and prove that the proposed alternative apportionment method fairly and accurately apportions income to Illinois based upon the business activity in this State. (emphasis added)

46. Because P.A. 98-0478 renders IITA Section 304(a)(3)(B) applicable to tax years ending before December 31, 2008, the Department's adjustment to add non-Illinois sales to the Illinois sales factor numerators of Innophos for 2009 and 2010 is permissible only if, pursuant to IITA Section 304(f) and Section 100.3390 of the Department's regulations, the Department meets the burden of going forward with evidence that proves by clear and cogent evidence that:

- a. not throwing back to the Illinois numerator the Innophos sales to states in which it is not subject to income taxation "results in the taxation of extraterritorial values and operates unreasonably and arbitrarily by attributing to Illinois a percentage of income which is out of all proportion to" the market in this State; and,

- b. that using the throwback method to increase the Innophos Illinois numerator by throwing back to the numerator the sales of states in which Innophos is not subject to tax does "fairly and accurately apportion income to Illinois based upon" the market in this State.
47. Generally, under Section 904 of the IITA the Department's Notices of Deficiency are *prima facie* correct and shall be prima facie evidence of the correctness of the amount of tax and penalties due.
48. The Department's Notices of Deficiency are, without more, insufficient to establish a *prima facie* case of alternative apportionment under Section 304(f) of the IITA where the Department is the proponent of the alternative method and therefore, has the burden to prove by clear and cogent evidence that the statutory formula applied by the taxpayer does not fairly and accurately apportion income to Illinois.

WHEREFORE, Innophos prays that the Tax Tribunal find and determine:

- A. that, for adjustments made after January 1, 2014, the Department bears the burden of going forward with evidence that proves by clear and cogent evidence that, for tax years ending on or after December 31, 2008, the statutory apportionment formula's exclusion of non-Illinois sales from the Illinois sales factor numerator does not "fairly represent the market for [Innophos'] goods," and also has the burden to prove that the adjustment proposed by the Department, to include non-Illinois sales in

the Illinois sales factor numerator, indeed does "fairly represent the market for [Innophos'] goods" and,

B. that the Department's Notices of Deficiency for 2009 and 2010 are, without more, insufficient to meet the Department's burden under Section 304(f) of the IITA and Section 100.3390 of the Department's regulations.

Count III

In the alternative, Throwback Violates the Supremacy Clause of the United States Constitution because it causes the Illinois Income Tax Burden to Rise in Direct Relation to the Protection Afforded by U.S. Public Law 86-272

49. Innophos incorporates by this reference and realleges paragraphs 1 through 43 as though fully-set forth herein.

50. U.S. Public Law 86-272 provides in pertinent part:

No State, or political subdivision thereof, shall have power to impose, . . . a net income tax on the income derived within such State by any person from intrastate commerce if the only business activities within such State by or on behalf of such a person during the taxable year are either, or both, of the following . . .

1. The solicitation of orders by such person, or his representative, in such State for sales of tangible personal property, which orders are sent outside the State for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside of the State; . . . and

2. The solicitation of orders by such a person, or his representative, in such State in the name of or for the benefit of a prospective customer of such a person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitation are orders described in

15 U.S. Code § 381.

51. In summary, Congress intended for P.L. 86-272 to provide clear guidance to multistate business enterprises, and to thereby relieve them of undue state income tax compliance and economic burdens, by providing immunity from state income taxation to businesses that limited their activities in a state to those specified in the federal law.

52. Article VI, Cl. 2 of the United States Constitution provides, in pertinent part, that:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; . . .

53. The Department's decision to increase the Illinois tax by the inclusion in the Illinois sales factor numerator of the Innophos sales to states in which P.L. 86-272 relieves Innophos of an income tax burden, frustrates the design and intent of Congress by increasing the burdens on interstate commerce in direct relation to the protection conferred by Congress.

WHEREFORE, Innophos prays that the Tax Tribunal determine and find that the Department's adjustment to increase Innophos' Illinois sales factor numerator by adding thereto the sales made to states where Innophos enjoys the protection of Federal Public Law 86-272 violates the Supremacy Clause of the United States Constitution because it frustrates the intent and design of the federal law by increasing the Illinois tax

burden in direct relation to the burden relieved by the application of the federal law.

Count IV

In the alternative, if Section 304(a)(3)(B) Required an Increase to the Numerators for 2009 and 2010, it was Impossible for Innophos to Petition then for Relief upon the now Available Basis that the Increase did not Fairly and Accurately Represent the Market for Innophos' Goods, and Innophos Would be Deprived of Due Process if such Relief is not now Granted

54. Innophos incorporates by this reference and realleges paragraphs 1 through 43 as though fully-set forth herein.
55. Because of the retroactive application of Public Act 98-0478, Innophos could not have, prior to January 1, 2014, petitioned under Section 304(f) of the IITA to avoid throwback on the basis that Section 304(a)(3)(B) of the IITA did not fairly and accurately reflect the market for Innophos' goods.
56. In 2009 and 2010 Innophos believed, as it does now, that the returns including only its Illinois destination sales in its Illinois sales factor numerator reflected its Illinois market.
57. However, at the time of filing its original 2009 and 2010 Illinois income tax returns, Innophos' belief regarding whether the Illinois apportionment formula fairly and accurately reflected the market for its goods was irrelevant, because from 1969 through January 1, 2014 – during which years Illinois had a three-factor property payroll and sales apportionment formula, then a four factor (double-weighted sales) formula, and finally a single sales factor formula -- Section 304(f) of the IITA provided relief if the

statutory apportionment formula did not "fairly represent the extent of a person's business activity in this State" and did not concern itself with a fair representation of the market for a person's goods.

58. At the time of filing its 2009 and 2010 Illinois returns Section 304(f) of the IITA would not have informed Innophos that relief from the throwback rule of Section 304(a)(3)(B) of the IITA was available upon the basis that it did not fairly reflect the market for Innophos' goods.

59. The application of throwback in 2014 to the 2009 and 2010 Innophos returns without the retroactive opportunity to obtain relief under the current version of Section 304(f) of the IITA deprives Innophos of due process.

WHEREFORE, Innophos prays that the Tax Tribunal find and determine that Innophos would have been eligible for IITA Section 304(f) relief had it been available when Innophos filed its 2009 and 2010 Illinois income tax returns, that Innophos would be deprived of Due Process if it is now denied the opportunity to obtain relief under Section 304(f) of the IITA from the adjustment to its Illinois sales factor numerator which does not fairly and accurately reflect the Illinois market for its goods.

COUNT V

Innophos' Failure to Pay the Alleged Additional Tax was due to Reasonable Cause

60. Innophos incorporates by this reference and realleges paragraphs 1 through 43 as though fully-set forth herein.

61. For both the tax period ending December 2009 and December 2010, the Department imposed a late-payment penalty pursuant to Section 3-3(b-20)(2) of the UPIA.

62. Section 3-8 of the UPIA provides that penalties, other than a fraud penalty, "shall not apply if the taxpayer shows that his failure to . . . pay tax at the required time was due to reasonable cause." 35 ILCS 735/3-8.

63. Innophos made a good faith effort to determine the correct reporting of its sales and use tax liability through the exercise of ordinary business care and prudence.

64. Innophos acted with reasonable cause and therefore, under section 3-8 of the UPIA, no penalties should apply to the audit deficiencies that the Department assessed against Innophos.

WHEREFORE, Innophos prays that the Tax Tribunal find and determine that the penalties assessed against Innophos violate section 3-8 of the UPIA and must therefore be cancelled or withdrawn.

COUNT VI

Innophos' Failure to File a Processable Return by the due date was due to Reasonable Cause

65. Innophos incorporates by this reference and realleges paragraphs 1 through 43 as though fully-set forth herein

66. For the tax period ending December 2010, the Department imposed a late-filing or nonfiling penalty pursuant to Section 3-3(a-10) of the UPIA. 35 ILCS 735/3-3(a-10).

67. Section 3-8 of the UPIA provides that penalties, other than a fraud penalty, "shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. . ." 35 ILCS 735/3-8.

68. Innophos made a good faith effort to file its processable return by the due date through the exercise of ordinary business care and prudence.

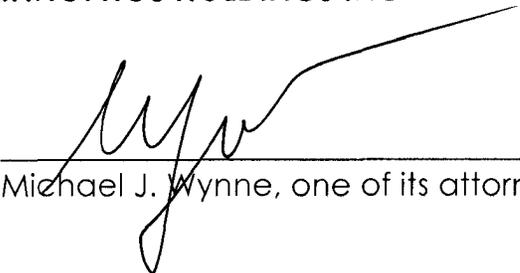
69. Innophos acted with reasonable cause and therefore, under section 3-8 of the UPIA, no penalties should apply to the audit deficiencies that the Department assessed against Innophos.

WHEREFORE, Innophos prays that the Tax Tribunal find and determine that the penalties assessed against Innophos violate section 3-8 of the UPIA and must therefore be cancelled or withdrawn.

Respectfully submitted,

INNOPHOS HOLDINGS INC

By:


Michael J. Wynne, one of its attorneys.

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EXHIBIT 1

Notice of Deficiency

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



September 11, 2014



Letter ID: CNXXXX43919976X2

#BWNKMGV
#CNXX XX43 9199 76X2#
INNOPHOS HOLDINGS INC
259 PROSPECT PLAINS RD
CRANBURY NJ 08512-3717

Taxpayer ID: 20-1380758
Reporting period: December 2009
Total Deficiency: \$1,406,079.49
Balance due: \$1,402,309.49



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 11, 2014
Name: INNOPHOS HOLDINGS INC
Taxpayer ID: 20-1380758
Letter ID: CNXXXX43919976X2

Reasons for deficiency

We adjusted your sales apportioned to Illinois by including sales originating in Illinois and delivered to states in which you are not taxable.

[86 IL Adm. Code 100.3370(c)(1)(F)]

We adjusted your Illinois sales to include all factorable receipts on federal 1120, Lines 1 through 10, over federal 1120, Line 1, as originally reported.

[86 IL Adm. Code 100.3370(a)(1)]

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 735-3-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$125,689.29 has been computed through September 11, 2014.

Statement

Date: September 11, 2014
Name: INNOPHOS HOLDINGS INC
Taxpayer ID: 20-1380758
Letter ID: CNXXXX43919976X2

Computation of deficiency

Reporting Period: 31-Dec-2009

Income or loss	
Federal taxable income	\$69,887,697.00
Net operating loss deduction	\$17,687,496.00
Income tax and replacement tax deduction	\$540,916.00
Illinois bonus depreciation addition	\$3,916,097.00
Other additions	\$0.00
Income or loss	\$92,032,206.00
Base income or loss	
Illinois bonus depreciation subtraction	\$2,075,095.00
Total subtractions	\$2,075,095.00
Base income or net loss	\$89,957,111.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$0.00
Business income or loss	\$89,957,111.00
Apportionment formula	
Total sales everywhere	\$529,477,021.00
Total Illinois sales	\$145,933,936.00
Apportionment factor	0.275619
Business income/loss apportionable to IL	\$24,793,889.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$0.00
Base income or net loss allocable to IL	\$24,793,889.00
Net income	
Base income or net loss	\$24,793,889.00
IL net loss deduction (NLD)	\$4,587,786.00
Income after NLD	\$20,206,103.00
Net income	\$20,206,103.00
Net replacement tax	
Replacement tax	\$505,153.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$505,153.00
Replacement tax investment credits	\$0.00
Net replacement tax	\$505,153.00
Net income tax	
Income tax	\$969,893.00

Statement

Date: September 11, 2014
Name: INNOPHOS HOLDINGS INC
Taxpayer ID: 20-1380758
Letter ID: CNXXXX43919976X2

Recapture of investment credits	\$0.00
Income tax before credits	\$969,893.00
Income tax investment credits	\$0.00
Net income tax	\$969,893.00
Refund or balance due	
Net replacement tax	\$505,153.00
Net income tax	\$969,893.00
Total net income and replacement tax due	\$1,475,046.00
Minus tax previously assessed	-\$408,054.00
Total tax deficiency	\$1,066,992.00
UPIA-5 late-payment penalty (Audit)	\$213,398.20
Plus interest on tax through September 11, 2014	\$125,689.29
Total deficiency	* \$1,406,079.49
If you intend to pay under protest, you must pay this total deficiency amount.	

Computation of balance due

Minus payments	-\$3,770.00
Balance due	* \$1,402,309.49

Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.

EXHIBIT 2

Notice of Deficiency

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



September 11, 2014



Letter ID: CNXXXX976X7X6725

#BWNKMGV
#CNXX XX97 6X7X 6725#
INNOPHOS HOLDINGS INC
259 PROSPECT PLAINS RD
CRANBURY NJ 08512-3717

Taxpayer ID: 20-1380758
Reporting period: December 2010
Total Deficiency: \$1,126,050.59
Balance due: \$1,125,416.59



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 11, 2014
Name: INNOPHOS HOLDINGS INC
Taxpayer ID: 20-1380758
Letter ID: CNXXXX976X7X6725

Reasons for deficiency

We adjusted your sales apportioned to Illinois by including sales originating in Illinois and delivered to states in which you are not taxable.

[86 IL Adm. Code 100.3370(c)(1)(F)]

We adjusted your Illinois sales to include all factorable receipts on federal 1120, Lines 1 through 10, over federal 1120, Line 1, as originally reported.

[86 IL Adm. Code 100.3370(a)(1)]

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 \$70,171.39 has been computed through September 11, 2014.

Statement

Date: September 11, 2014
Name: INNOPHOS HOLDINGS INC
Taxpayer ID: 20-1380758
Letter ID: CNXXXX976X7X6725

Computation of deficiency

Reporting Period: 31-Dec-2010

Income or loss	
Federal taxable income	\$54,475,863.00
Net operating loss deduction	\$12,076,819.00
Income tax and replacement tax deduction	\$253,206.00
Illinois bonus depreciation addition	\$3,600,201.00
Other additions	\$0.00
Base income or loss	
Illinois bonus depreciation subtraction	\$2,750,345.00
Total subtractions	\$2,750,345.00
Base income or net loss	\$67,655,744.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$0.00
Business income or loss	\$67,655,744.00
Apportionment formula	
Total sales everywhere	\$498,167,634.00
Total Illinois sales	\$140,646,769.00
Apportionment factor	0.282328
Business income/loss apportionable to IL	\$19,101,111.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$0.00
Base income or net loss allocable to IL	\$19,101,111.00
Net income	
Base income or net loss	\$19,101,111.00
IL net loss deduction (NLD)	\$0.00
Net income	\$19,101,111.00
Net replacement tax	
Replacement tax	\$477,528.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$477,528.00
Replacement tax investment credits	\$0.00
Net replacement tax	\$477,528.00
Net income tax	
Income tax	\$916,853.00
Recapture of investment credits	\$0.00
Income tax before credits	\$916,853.00

Statement

Date: September 11, 2014
Name: INNOPHOS HOLDINGS INC
Taxpayer ID: 20-1380758
Letter ID: CNXXXX976X7X6725

Income tax investment credits	\$0.00
Net income tax	\$916,853.00
Refund or balance due	
Net replacement tax	\$477,528.00
Net income tax	\$916,853.00
Total net income and replacement tax due	\$1,394,381.00
Minus tax previously assessed	-\$514,690.00
Total tax deficiency	\$879,691.00
Plus late-filing penalty	\$250.00
UPIA-5 late-payment penalty (Audit)	\$175,938.20
Plus interest on tax through September 11, 2014	\$70,171.39
Total deficiency	* \$1,126,050.59

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

Computation of balance due

Minus payments	-\$634.00
Balance due	* \$1,125,416.59

Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.