

NOTICE

5. On October 10, 2014, Petitioner received four (4) Notice of Deficiency letters for Form IL-1040, Individual Income Tax Return (“Notices”) for the tax years 2007, 2008, 2009, and 2010. The Notices, in aggregate, reflect approximately \$70,000 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. Petitioner lived and worked in Wisconsin in 2007, 2008, and part of 2009. Petitioner moved to Illinois during 2009. Petitioner owned part of two S corporations that were audited for sales tax by the Department for the tax years 2007 to 2010.

9. The sales tax audit results of the S corporations were projected by the Department to create business income tax assessments that have been protested and that are currently pending in the Department’s administrative hearings division because those assessments do not properly account for the S corporations’ cost of goods sold and also do not properly account for reductions to the underlying sales tax audits that were recently finalized in the administrative hearings division. The business income tax assessments issued to the S corporations were projected by the Department to create the individual income tax assessments at issue herein, though the Department also improperly added all of the Petitioner’s Wisconsin income to the tax years 2007, 2008, and 2009 (see Exhibit 1).

COUNT I

Defendant's audit methodology overstates Petitioner's liability.

10. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the individual income tax liabilities contained in the Notices based on business income tax assessments that are still pending and that are overstated for several reasons including but not limited to understated cost of goods sold, failure to account for subsequent reductions in the underlying SALES tax audit, and improperly including Wisconsin-based income from a Wisconsin resident during most of the tax years at issue.

12. By applying the Department's unfinalized and overstated business income tax assessments to the individual income tax Notices herein, the Department drastically and unreasonable inflated Petitioner's individual income tax liability.

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

- (a) enters judgment in favor of Petitioner 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. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. In its Notices, the Department assessed multiple penalties.

15. Illinois law provides that penalties do not 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. Petitioner exercised ordinary business care and prudence when it reasonably determined its individual income liability during the audit periods and clearly did not use the Department's proposed business income tax audit results.

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

- (a) finds that all penalties should be abated based on reasonable cause; and
- (b) grants such further relief as the Tribunal deems appropriate under the circumstances.

Thank you for considering this Petition.

Respectfully submitted,

Mark and Lata Santaines,
Petitioner

By: 
One of Petitioner's Attorneys

Date: 12/2/14

James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)

Notice of Deficiency
for Form IL-1040, Individual Income Tax Return

Exhibit 1



October 10, 2014



Letter ID: CNXXX17X95352XX9

#BWNKMGV
#CNXX X17X 9535 2XX9#
MARK C. and LATA SANTAINES
3351 SANDSTONE CT
LK IN THE HLS IL 60156-4425



Taxpayer ID: XXX-XX-8935
Audit ID: A14457472
Reporting period: December 2007
Total Deficiency: \$32,587.88
Balance due: \$32,587.88

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) 524-4279

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



October 10, 2014



Letter ID: CNXXXX36735792X3

#BWNKMGV
#CNXX XX36 7357 92X3#
MARK C. and LATA SANTAINES
3351 SANDSTONE CT
LK IN THE HLS IL 60156-4425

Taxpayer ID: XXX-XX-8935
Audit ID: A14457472
Reporting period: December 2008
Total Deficiency: \$45,941.60
Balance due: \$45,941.60



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.

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- 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.

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Brian Hamer
Director

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

(217) 524-4279

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



October 10, 2014



Letter ID: CNXXX1441X997449

#BWNKMGV
#CNXX X144 1X99 7449#
MARK C. and LATA SANTAINES
3351 SANDSTONE CT
LK IN THE HLS IL 60156-4425

Taxpayer ID: XXX-XX-8935
Audit ID: A14457472
Reporting period: December 2009
Total Deficiency: \$26,488.15
Balance due: \$26,488.15



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.

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AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 524-4279

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



October 10, 2014



Letter ID: CNXXXXXX52469925

#BWNKMGV
 #CNXX XXXX 5246 9925#
 MARK C. and LATA SANTAINES
 3351 SANDSTONE CT
 LK IN THE HLS IL 60156-4425

Taxpayer ID: XXX-XX-8935
 Reporting period: December 2010
 Total Deficiency: \$8,057.45
 Balance due: \$8,057.45



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.

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 SPRINGFIELD IL 62794-9012

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