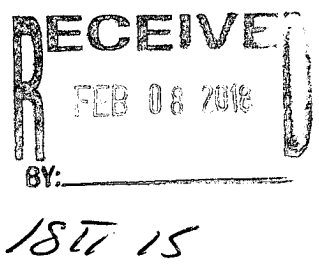


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL**

TUCKER HOLDINGS LLC (FKA TUCKER LP), )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 THE ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 Defendant. )

No.



**PETITION**

Petitioner, Tucker Holdings LLC (formerly known as Tucker LP) (“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. Petitioner is an Illinois limited liability company treated as a partnership for federal and state income tax purposes. Petitioner’s principal business address is 2495 Bungalow Road, Morris, IL 60450.
2. Petitioner is represented by David A. Hughes and Samantha K. Breslow of Horwood Marcus & Berk Chartered, located at 500 West Madison St., Suite 3700, Chicago, Illinois 60661, who can be reached at 312-606-3212 or dhughes@hmblaw.com, or 312-606-3206 or sbreslow@hmblaw.com.
3. Petitioner’s FEIN is 36-4323409.
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.

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

TUCKER HOLDINGS LLC (FKA TUCKER LP), )  
)  
Petitioner, )  
)  
v. )  
)  
THE ILLINOIS DEPARTMENT OF REVENUE, )  
)  
Defendant. )

No.

NOTICE OF FILING

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

RECEIVED  
FEB 08 2018  
BY: \_\_\_\_\_

*18/15*

PLEASE TAKE NOTICE that on the 8th day of February, 2018, we filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, IL 60601 Tucker Holdings LLC's (fka Tucker LP) **Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

**TUCKER HOLDINGS LLC (FKA  
TUCKER LP)**  
Petitioner

By: *[Signature]*  
One of Petitioner's Attorneys

David A. Hughes (dhughes@hmblaw.com)  
Samantha K. Breslow (sbreslow@hmblaw.com)  
Horwood Marcus & Berk Chartered  
500 W. Madison Street, Suite 3700  
Chicago, IL 60661  
(312) 606-3200

## **NOTICE**

5. On December 13, 2017, Petitioner received three Notices of Deficiency for the Tax Years Ending December 31, 2013, December 31, 2014, and December 31, 2015 (“Years at Issue”) in the amount of \$40,984.31, \$85,209.41, and \$46,601.82, respectively. True and accurate copies of the Notices of Deficiency (“Notices”) are attached hereto as Exhibit A.

## **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. The Tribunal has jurisdiction over this matter pursuant to sections 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this petition within 60 days of the Notices.

## **BACKGROUND**

8. Petitioner owns 49 percent of Utility Concrete Products, LLC (“UCP”).

9. UCP designs, produces, and installs precast concrete products for the communication, electric, and transportation industries throughout the Midwest, including Illinois, Indiana, Iowa, and Wisconsin.

10. Petitioner is the sole owner of StormTrap LLC (“StormTrap”), Worldwide StormTrap, LLC (“WWST”), and KLN Equities LLC (“KLN”).

11. Petitioner is the Member of StormTrap, WWST, and KLN.

12. During the Years at Issue, StormTrap, WWST, and KLN were treated as disregarded entities for federal and Illinois income tax purposes.

13. Petitioner’s members include Russell M. Hawken, as Trustee of the Russell M. Hawken Declaration of Trust dated December 13, 1999, Katherine W. Hawken, as Trustee of the Declaration of Trust dated December 13, 1999, James R. Hawken and Laura E. Hawken.

14. Russell M. Hawken is the Manager of the Petitioner, StormTrap, and WWST.
15. As Manager, Russell Hawken was actively involved in the operations of Petitioner, StormTrap, and WWST, including strategic planning to expand and restructure the operations of the businesses and responsibilities involved with financial reporting.
16. James R. Hawken was the Vice President of UCP until December 2014.
17. Mr. James Hawken is currently the President of UCP.
18. As Vice President and President of UCP, Mr. James Hawken was responsible for implementing strategies related to the sales, marketing, engineering, project management, production, and administration of UCP's business.
19. Mr. James Hawken was actively involved in managing the operations functions of StormTrap and WWST, including implementing strategies to develop the growth of the businesses.
20. Ms. Laura Hawken was the Human Relation and Accounts Receivable Administrator of UCP, StormTrap, and WWST until September of 2014.
21. Ms. Laura Hawken was principally responsible for the Human Relations and Accounts Receivable responsibilities of UCP, StormTrap, and WWST, including but not limited to, on-boarding and exiting employees, payroll processing, insurance administration, creating and maintaining the policies of the business, ensuring timely collection of receivables, and processing credit card payments.
22. During the Years at Issue, Petitioner distributed some of its income to its members.
23. The payments Petitioner made to its members were in exchange for their personal services performed for the business.

24. On its Illinois Income and Replacement Tax Returns for the Years at Issue and in accordance with section 203(d)(2)(H) of the Illinois Income Tax Act (“Act”), Petitioner deducted the payments made to its members as compensation for services rendered by the members.

25. On audit, the Department substantially disallowed Petitioner’s deduction for compensation paid for services rendered by the members.

26. As a result of the disallowance of the services rendered deduction, the Department increased Petitioner’s net income to \$2,670,516 for the Tax Year Ending December 31, 2013.

27. In accordance with the disallowance, the Department assessed Replacement Tax against Petitioner in the amount of \$30,945, plus penalties and interest for the 2013 tax year.

28. For the Tax Year Ending December 31, 2014, the Department increased Petitioner’s net income to \$5,130,638 as a result of the disallowance of the services rendered deduction.

29. In accordance with the disallowance, the Department assessed Replacement Tax against Petitioner in the amount of \$65,828, plus penalties and interest.

30. For the Tax Year Ending December 31, 2015, the Department increased Petitioner’s net income to \$5,000,761 as a result of the disallowance of the services rendered deduction.

31. In accordance with the disallowance, the Department assessed Replacement Tax against Petitioner in the amount of \$36,865, plus penalties and interest.

## COUNT I

### **Petitioner is Entitled to A Deduction for the Compensation Paid to its Members for Services Rendered**

32. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 31, inclusive, hereinabove.

33. The Act allows a partnership to deduct “[a]ny income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater.” 35 ILCS 5/203(d)(2)(H).

34. Internal Revenue Code Section 1348, as in effect on December 31, 1981, provides that “personal service income” consists of “[a]ny income which is earned income within the meaning of section 401(c)(2)(C) or section 911(b) or which is an amount received as a pension or annuity which arises from an employer-employee relationship or from tax deductible contributions to a retirement plan.”

35. Internal Revenue Code section 911(b), as in effect on December 31, 1981, provided that the term “earned income” means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal profits rather than a reasonable allowance as compensation for services actually rendered.

36. The question of what constitutes reasonable compensation for services rendered to a business is one of fact. *Lydia E. Pinkham Medicine Co. v. Commissioner*, 128 F. 2d 986, 990 (1st Cir. 1942).

37. For payments to partners to be considered reasonable compensation for services rendered, it must be the intent of the business to compensate the partners for their services. *Whitcomb v. Commissioner*, 733 F.2d 1991 (1st Cir. 1984).

38. The income that Petitioner received from its interest in UCP, StormTrap, WWST, and KLN was not deducted twice under the personal services deduction.

39. Instead, the personal services deduction taken by UCP was reduced by the amount of income that flowed through to Petitioner.

40. Additionally, StormTrap, WWST, and KLN were treated as disregarded entities for federal and Illinois income tax purposes.

41. Petitioner's income, which was subject to Self-Employment Tax, was not attributable to passive real estate income.

42. Rather, because the members were actively involved in the business operations of UCP, StormTrap, WWST, and KLN, Petitioner's income was generated by the professional services of its members.

43. Because the payments made to the members constitute reasonable compensation for services performed, Petitioner was entitled to deduct these payments from its income pursuant to Act section 203(d)(2)(H).

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

- (a) finds and declares that the Petitioner is entitled to deduct from its income the payments it made to its members for personal services rendered by the members;
- (b) enters judgment in favor of Petitioner and against the Defendant and orders Defendant to withdraw and cancel the Notices;
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

## COUNT II

### **All Late Payment Penalties Should be Abated Based on Reasonable Cause**

44. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 43, inclusive, hereinabove.

45. In its Notices, Defendant assessed late payment penalties in an amount totaling \$26,727.60.

46. Illinois law provides that late payment penalties do not apply if a taxpayer shows that its failure to pay tax at the required time was due to reasonable cause. 35 ILCS §734-8.

47. 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. 86 Ill. Admin. Code §700.400(b).

48. 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).

49. Petitioner reasonably deducted the income that it paid to its members for services rendered

50. The Department previously audited UCP's Illinois income and its deduction claimed for compensation paid to its members for services rendered during the tax years beginning January 1, 2011 through December 31, 2012 ("Prior Years at Issue").

51. Pursuant to the audit, the Department did not reduce the personal services deduction claimed by UCP or adjust its methodology with respect to the deduction for the Prior Years at Issue.

52. Petitioner, relying on Illinois law and regulations and the methodology reviewed by the Department in UCP's previous audit, exercised ordinary business care and prudence when it reasonably determined its Illinois replacement tax liability for the Years at Issue.



53. The Department's determination that Petitioner owes penalties on late payment of tax is not supported by fact or law.

WHEREFORE, Petitioner prays 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 in any other way prosecute and collect the amount of penalties on the Notices; and
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,

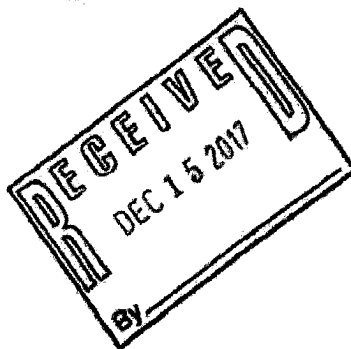
**TUCKER HOLDINGS LLC**  
Petitioner

By:   
One of Petitioner's Attorneys

David A. Hughes (dhughes@hmblaw.com)  
Samantha K. Breslow (sbreslow@hmblaw.com)  
Horwood Marcus & Berk Chartered  
500 W. Madison Street, Suite 3700  
Chicago, IL 60661  
(312) 606-3200

# **EXHIBIT A**

**Notice of Deficiency**  
**for Form IL-1065, Partnership Replacement Tax Return**



#BWVKMGV  
#CNXX XX94 173X 6X85#  
TUCKER LP  
TUCKER HOLDINGS LLC  
2495 BUNGALOW RD  
MORRIS IL 60450-9038

December 13, 2017



Letter ID: CNXXX94173X6X85

Taxpayer ID: 36-4323409  
Audit ID: A547764224  
Reporting period: December 2013  
Total Deficiency: \$40,984.31  
Balance due: \$40,984.31

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 the "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 the date 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 and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. 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 liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

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

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

Sincerely,

Constance Beard  
Director

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

(217) 558-4960

# Statement

Date: December 13, 2017  
Name: TUCKER LP  
Taxpayer ID: 36-4323409  
Letter ID: CNXXXX94173X6X85

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

## Computation of deficiency

Reporting period: 31-Dec-2013

Unmodified base income or loss	
Total unmodified base income or loss	\$4,196,927.00
Total unmodified base income	\$4,196,927.00
Income or loss	
State, Municipal, and other interest excluded	\$26.00
Illinois replacement tax deducted	\$19,305.00
Illinois bonus depreciation addition	\$96,418.00
Distributive share of additions	\$42,956.00
Payments to partners from Form 1065	\$240,000.00
Other additions	\$0.00
Total income or loss	\$4,595,632.00
Illinois base income or net loss	
Personal service income or reasonable allow.	\$457,000.00
Illinois bonus depreciation subtraction	\$90,940.00
Distributive share of subtractions	\$110,080.00
Total subtractions	\$658,020.00
Base income or loss	\$3,937,612.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$3,937,612.00
Apportionment formula	
Total sales everywhere	\$35,623,632.00
Total Illinois sales	\$24,160,200.00
Apportionment factor	0.678207
Business income/loss apportionable to IL	\$2,670,516.00
Non-business income/loss allocable to IL	\$0.00
Non-unitary part bus income/loss apptn to IL	\$0.00
Base income or net loss allocable to IL	\$2,670,516.00
Net income	
Base income or net loss	\$2,670,516.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$2,670,516.00
Exemption allowance	\$678.00
Net income	\$2,669,838.00
Base income or loss allocable to Illinois	\$2,669,838.00

# Statement

Date: December 13, 2017  
Name: TUCKER LP  
Taxpayer ID: 36-4323409  
Letter ID: CNXXX11461864161

## Computation of deficiency

Reporting period: 31-Dec-2013

Net replacement tax	
Replacement tax	\$40,048.00
Recapture of investment credits	\$0.00
Replacement tax before investment credits	\$40,048.00
Replacement tax investment credits	\$866.00
Net replacement tax due	\$39,182.00
Minus tax previously assessed	-\$8,237.00
Total tax deficiency	\$30,945.00
UPIA-5 late-payment penalty (Audit)	\$6,189.00
Plus interest on tax through December 13, 2017	\$3,850.31
Total deficiency	* \$40,984.31

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

## Computation of balance due

Reporting period: 31-Dec-2013

Balance due	* \$40,984.31
-------------	---------------

# Explanation of Audit Adjustments

Income Tax



#BWNKMGV  
#CNXX XX53 62X6 3845#  
TUCKER LP  
TUCKER HOLDINGS LLC  
2495 BUNGALOW RD  
MORRIS IL 60450-9038

December 13, 2017



Letter ID: CNXXXX5362X63845

Taxpayer ID: 36-4323409  
Account ID: 11212-39296  
Audit ID: A547764224  
Reporting period: December 2013

Explanation of adjustments for tax period ending 12/31/2013

We adjusted or disallowed the subtraction modifications for the amount of income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership. [35 ILCS 5/203(d)(2)(H)]

<u>Return Impact</u>	<u>Tax impact</u>
\$3,041,842.00	\$30,945.00

Interest on tax and penalty, if applicable, has been computed as allowed by Illinois law. [35 ILCS 735/3-2]

We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on Form IL-870, Waiver of Restrictions, has resulted in this penalty increasing to 20 percent. [35 ILCS 735/3-3(b-20)(2)]

**Notice of Deficiency**  
for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV  
#CNXX X148 173X 7366#  
TUCKER LP  
TUCKER HOLDINGS LLC  
2495 BUNGALOW RD  
MORRIS IL 60450-9038

December 13, 2017



Letter ID: CNXXX148173X7366

Taxpayer ID: 36-4323409  
Audit ID: A547764224  
Reporting period: December 2014  
Total Deficiency: \$85,209.41  
Balance due: \$85,209.41

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 the "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 the date 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 and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. 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 liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

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

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

Sincerely,

Constance Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 19012  
SPRINGFIELD IL 62794-9012  
(217) 558-4960

# Statement

Date: December 13, 2017  
Name: TUCKER LP  
Taxpayer ID: 36-4323409  
Letter ID: CNXXX148173X7366

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.  
**Computation of deficiency**

Reporting period: 31-Dec-2014

Unmodified base income or loss	
Total unmodified base income or loss	\$6,659,414.00
Total unmodified base income	\$6,659,414.00
Income or loss	
State, Municipal, and other interest excluded	\$2.00
Illinois replacement tax deducted	\$8,237.00
Illinois bonus depreciation addition	\$85,927.00
Distributive share of additions	\$627,959.00
Payments to partners from Form 1065	\$240,000.00
Other additions	\$0.00
Total income or loss	\$7,621,539.00
Illinois base income or net loss	
Personal service income or reasonable allow.	\$457,000.00
Illinois bonus depreciation subtraction	\$91,769.00
Distributive share of subtractions	\$185,636.00
Other subtractions	\$1,979.00
Total subtractions	\$736,384.00
Base income or loss	\$6,885,155.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$6,885,155.00
Apportionment formula	
Total sales everywhere	\$48,805,533.00
Total Illinois sales	\$36,368,595.00
Apportionment factor	0.745174
Business income/loss apportionable to IL	\$5,130,638.00
Non-business income/loss allocable to IL	\$0.00
Non-unitary part bus income/loss apprtn to IL	\$0.00
Base income or net loss allocable to IL	\$5,130,638.00
Net income	
Base income or net loss	\$5,130,638.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$5,130,638.00
Exemption allowance	\$745.00
Net income	\$5,129,893.00



## Statement

Date: December 13, 2017  
Name: TUCKER LP  
Taxpayer ID: 36-4323409  
Letter ID: CNXXXX9448598243

<b>Computation of deficiency</b>	<b>Reporting period: 31-Dec-2014</b>
Base income or loss allocable to Illinois	\$5,129,893.00
Net replacement tax	
Replacement tax	\$76,948.00
Recapture of investment credits	\$0.00
Replacement tax before investment credits	\$76,948.00
Replacement tax investment credits	\$11,120.00
Net replacement tax due	\$65,828.00
Pass-through Withholding Payments	\$28,529.00
Total New Replacement Tax & Pass-Through	\$94,357.00
Minus tax previously assessed	-\$28,529.00
Total tax deficiency	\$65,828.00
UPIA-5 late-payment penalty (Audit)	\$13,165.60
Plus interest on tax through December 13, 2017	\$6,215.81
Total deficiency	* \$85,209.41

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

<b>Computation of balance due</b>	<b>Reporting period: 31-Dec-2014</b>
Balance due	* \$85,209.41

# Explanation of Audit Adjustments

## Income Tax



#BWNKMGV  
#CNXX X139 9659 12X5#  
TUCKER LP  
TUCKER HOLDINGS LLC  
2495 BUNGALOW RD  
MORRIS IL 60450-9038

December 13, 2017



Letter ID: CNXXX139965912X5

Taxpayer ID: 36-4323409  
Account ID: 11212-39296  
Audit ID: A547764224  
Reporting period: December 2014

### Explanation of adjustments for tax period ending 12/31/2014

### Return Impact

### Tax Impact

We adjusted or disallowed the subtraction modifications for the amount of income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership. [35 ILCS 5/203(d)(2)(H)]

\$6,131,542.00

\$68,536.00

We adjusted your research and development credit by eliminating items that do not qualify for the credit. [35 ILCS 5/201(k)]

\$0.00

-\$2,708.00

Interest on tax and penalty, if applicable, has been computed as allowed by Illinois law. [35 ILCS 735/3-2]

We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on Form IL-870, Waiver of Restrictions, has resulted in this penalty increasing to 20 percent. [35 ILCS 735/3-3(b-20)(2)]

**Notice of Deficiency**  
**for Form IL-1065, Partnership Replacement Tax Return**



#BWVKMGV  
#CNXX XX11 7273 5521#  
TUCKER LP  
TUCKER HOLDINGS LLC  
2495 BUNGALOW RD  
MORRIS IL 60450-9038

December 13, 2017



Letter ID: CNXXXX1172735521

Taxpayer ID: 36-4323409  
Audit ID: A547764224  
Reporting period: December 2015  
Total Deficiency: \$46,601.82  
Balance due: \$46,601.82

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 the "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 the date 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 and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at [tax.illinois.gov](http://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 liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

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

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

Sincerely,

Constance Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 19012  
SPRINGFIELD IL 62794-9012  
(217) 558-4960

# Statement

Date: December 13, 2017  
Name: TUCKER LP  
Taxpayer ID: 36-4323409  
Letter ID: CNXXXX1172735521

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

## Computation of deficiency

Reporting period: 31-Dec-2015

Unmodified base income or loss	
Total unmodified base income or loss	\$7,727,145.00
Total unmodified base income	\$7,727,145.00
Income or loss	
State, Municipal, and other interest excluded	\$2.00
Illinois replacement tax deducted	\$21,471.00
Illinois bonus depreciation addition	\$432,121.00
Distributive share of additions	\$148,853.00
Payments to partners from Form 1065	\$240,000.00
Other additions	\$0.00
Total income or loss	\$8,569,592.00
Illinois base income or net loss	
Personal service income or reasonable allow.	\$355,000.00
Illinois bonus depreciation subtraction	\$157,614.00
Distributive share of subtractions	\$203,568.00
Total subtractions	\$716,182.00
Base income or loss	\$7,853,410.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$7,853,410.00
Apportionment formula	
Total sales everywhere	\$50,415,587.00
Total Illinois sales	\$32,102,756.00
Apportionment factor	0.636763
Business income/loss apportionable to IL	\$5,000,761.00
Non-business income/loss allocable to IL	\$0.00
Non-unitary part bus income/loss apprt n to IL	\$0.00
Base income or net loss allocable to IL	\$5,000,761.00
Net income	
Base income or net loss	\$5,000,761.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$5,000,761.00
Exemption allowance	\$637.00
Net income	\$5,000,124.00
Base income or loss allocable to Illinois	\$5,000,124.00

## Statement

Date: December 13, 2017  
Name: TUCKER LP  
Taxpayer ID: 36-4323409  
Letter ID: CNXXXX299999X565

### Computation of deficiency

Reporting period: 31-Dec-2015

Net replacement tax	
Replacement tax	\$75,002.00
Recapture of investment credits	\$230.00
Replacement tax before investment credits	\$75,232.00
Replacement tax investment credits	\$11,222.00
Net replacement tax due	\$64,010.00
Pass-through Withholding Payments	\$103,389.00
Total New Replacement Tax & Pass-Through	\$167,399.00
Minus tax previously assessed	-\$130,534.00
Total tax deficiency	\$36,865.00
UPIA-5 late-payment penalty (Audit)	\$7,373.00
Plus interest on tax through December 13, 2017	\$2,363.82
Total deficiency	* \$46,601.82

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

### Computation of balance due

Reporting period: 31-Dec-2015

Balance due	* \$46,601.82
-------------	---------------

# Explanation of Audit Adjustments

## Income Tax



#BWNKMGV  
#CNXX X119 1X15 3762#  
TUCKER LP  
TUCKER HOLDINGS LLC  
2495 BUNGALOW RD  
MORRIS IL 60450-9038

December 13, 2017



Letter ID: CNXXX1191X153762

Taxpayer ID: 36-4323409

Account ID: 11212-39296

Audit ID: A547764224

Reporting period: December 2015

### Explanation of adjustments for tax period ending 12/31/2015

	<u>Return impact</u>	<u>Tax impact</u>
We adjusted or disallowed the subtraction modifications for the amount of income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership. [35 ILCS 5/203(d)(2)(H)]	\$3,575,490.00	\$34,151.00
We adjusted your research and development credit by eliminating items that do not qualify for the credit. [35 ILCS 5/201(k)]	\$0.00	\$2,714.00
Interest on tax and penalty, if applicable, has been computed as allowed by Illinois law. [35 ILCS 735/3-2]		
We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on Form IL-870, Waiver of Restrictions, has resulted in this penalty increasing to 20 percent. [35 ILCS 735/3-3(b-20)(2)]		

**CERTIFICATE OF SERVICE**

Undersigned counsel of record hereby certifies that he caused a copy of the foregoing **Petition** to be served by electronic mail and by enclosing the same in an envelope, properly addressed, first-class postage prepaid and deposited in the US Mail at 500 West Madison Street, Chicago, Illinois, 60661, before the hour of 5:00 p.m. on the 8th day of February, 2018.

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

