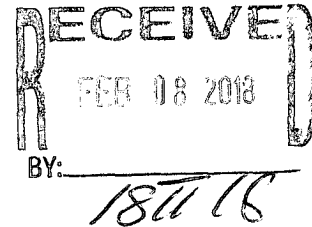


IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

UTILITY CONCRETE PRODUCTS LLC,)
)
 Petitioner,)
)
 v.)
)
 THE ILLINOIS DEPARTMENT OF REVENUE,)
)
 Defendant.)

No.



PETITION

Petitioner, Utility Concrete Products LLC (“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 36-4333670.

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 December 15, 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 \$13,695.49, \$29,051.81, and \$35,347.16, 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 designs, produces, and installs precast concrete products for the communication, electric, and transportation industries throughout the Midwest, including Illinois, Indiana, Iowa, and Wisconsin.

9. Petitioner is owned in part by Tucker Holdings, LLC.

10. Petitioner’s members include Russell M. Hawken 6-Year Grantor Retained Annuity Trust, Katherine W. Hawken 6-Year Grantor Retained Annuity Trust and Tucker Holdings, LLC.

11. Russell M. Hawken is the Chief Executive Officer and Manager of the Petitioner.

12. Mr. Hawken is principally responsible for the profitability of Petitioner but is also involved in marketing, production, strategy, and administration of the business.

13. During the Years at Issue, Petitioner distributed some of its income to its members.

14. The payments Petitioner made to its members were in exchange for their personal services performed for the business.

15. 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.

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

17. As a result of the disallowance of the services rendered deduction, the Department increased Petitioner's net income to \$1,390,734 for the Tax Year Ending December 31, 2013.

18. In accordance with the disallowance, the Department assessed Replacement Tax against Petitioner in the amount of \$21,261, plus penalties and interest for the 2013 tax year.

19. For the Tax Year Ending December 31, 2014, the Department increased Petitioner's net income to \$3,633,081 as a result of the disallowance of the services rendered deduction.

20. In accordance with the disallowance, the Department assessed Replacement Tax against Petitioner in the amount of \$22,440, plus penalties and interest.

21. For the Tax Year Ending December 31, 2015, the Department increased Petitioner's net income to \$3,685,551 as a result of the disallowance of the services rendered deduction.

22. In accordance with the disallowance, the Department assessed Replacement Tax against Petitioner in the amount of \$27,957, plus penalties and interest.

COUNT I

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

23. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 22, inclusive, hereinabove.

24. 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).

25. 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.”

26. 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.

27. 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).

28. 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).

29. Petitioner's income, which was subject to self-employment tax, was not attributable to passive real estate income.

30. Because Petitioner produces unique and innovative engineering solutions, the exclusive source of Petitioner's income was generated by the professional services of its members.

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

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

32. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 31, inclusive, hereinabove.

33. In its Notices, Defendant assessed late payment penalties in an amount totaling \$12,147.20.

34. 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.

35. 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).

36. 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).

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

38. The Department previously audited Petitioner'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").

39. Pursuant to the audit, the Department did not reduce the personal services deduction claimed by the Petitioner or adjust the Petitioner's methodology with respect to the deduction for the Prior Years at Issue.

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

41. 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,

**UTILITY CONCRETE PRODUCTS
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



#BWNKMGV
#CNXX X124 X393 X728#
UTILITY CONCRETE PRODUCTS LLC
2495 BUNGALOW RD
MORRIS IL 60450-9038

December 15, 2017



Letter ID: CNXXX124X393X728

Taxpayer ID: 36-4333670
Audit ID: A615612416
Reporting period: December 2013
Total Deficiency: \$13,695.49
Balance due: \$13,695.49

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 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.

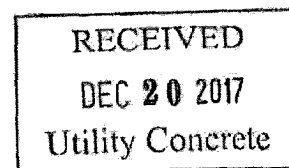
If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due which, may include levy of your wages and bank accounts, filing of a tax lien, or other action.

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 15, 2017
Name: UTILITY CONCRETE PRODUCTS LLC
Taxpayer ID: 36-4333670
Letter ID: CNXXX124X393X728

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	\$2,900,665.00
Total unmodified base income	\$2,900,665.00
Income or loss	
Illinois replacement tax deducted	\$26,000.00
Illinois bonus depreciation addition	\$61,665.00
Payments to partners from Form 1065	\$670,601.00
Other additions	\$0.00
Total income or loss	\$3,658,931.00
Illinois base income or net loss	
Personal service income or reasonable allow.	\$788,365.00
Income dist. to a partner subject to rep. tax	\$1,255,178.00
Illinois bonus depreciation subtraction	\$224,654.00
Total subtractions	\$2,268,197.00
Base income or loss	\$1,390,734.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$1,390,734.00
Apportionment formula	
Total sales everywhere	\$0.00
Total Illinois sales	\$0.00
Apportionment factor	1.000000
Business income/loss apportionable to IL	\$0.00
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	\$0.00
Net income	
Base income or net loss	\$1,390,734.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$1,390,734.00
Exemption allowance	\$1,000.00
Net income	\$1,389,734.00
Base income or loss allocable to Illinois	\$1,389,734.00
Net replacement tax	
Replacement tax	\$20,846.00

Statement

Date: December 15, 2017
Name: UTILITY CONCRETE PRODUCTS LLC
Taxpayer ID: 36-4333670
Letter ID: CNXXX124X393X728

Computation of deficiency	Reporting period: 31-Dec-2013
Recapture of investment credits	\$415.00
Replacement tax before investment credits	\$21,261.00
Replacement tax Investment credits	\$0.00
Net replacement tax due	\$21,261.00
Minus tax previously assessed	-\$10,922.00
Total tax deficiency	\$10,339.00
UPIA-5 late-payment penalty (Audit)	\$2,067.80
Plus interest on tax through December 15, 2017	\$1,288.69
Total deficiency	* \$13,695.49

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	* \$13,695.49

Explanation of Audit Adjustments

Income Tax



#BWNKMGV
#CNXX XX42 7661 1X46#
UTILITY CONCRETE PRODUCTS LLC
2495 BUNGALOW RD
MORRIS IL 60450-9038

December 15, 2017



Letter ID: CNXXXX4276611X46

Taxpayer ID: 36-4333670
Account ID: 02485-86240
Audit ID: A615612416
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)]

Return Impact

Tax impact

\$689,237.00

\$10,339.00

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 XX91 1482 8320#
UTILITY CONCRETE PRODUCTS LLC
2495 BUNGALOW RD
MORRIS IL 60450-9038

December 15, 2017



Letter ID: CNXXX9114828320

Taxpayer ID: 36-4333670
Audit ID: A615612416
Reporting period: December 2014
Total Deficiency: \$29,051.81
Balance due: \$29,051.81

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 15, 2017
Name: UTILITY CONCRETE PRODUCTS LLC
Taxpayer ID: 36-4333670
Letter ID: CNXXX9114828320

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	\$6,162,285.00
Total unmodified base income	\$6,162,285.00
Income or loss	
Illinois replacement tax deducted	\$10,922.00
Illinois bonus depreciation addition	\$1,270,626.00
Payments to partners from Form 1065	\$699,620.00
Other additions	\$0.00
Total income or loss	\$8,143,453.00
Illinois base income or net loss	
Personal service income or reasonable allow.	\$788,365.00
Income dist. to a partner subject to rep. tax	\$3,343,159.00
Illinois bonus depreciation subtraction	\$378,848.00
Total subtractions	\$4,510,372.00
Base income or loss	\$3,633,081.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$3,633,081.00
Apportionment formula	
Total sales everywhere	\$0.00
Total Illinois sales	\$0.00
Apportionment factor	1.000000
Business income/loss apportionable to IL	\$0.00
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	\$0.00
Net income	
Base income or net loss	\$3,633,081.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$3,633,081.00
Exemption allowance	\$1,000.00
Net income	\$3,632,081.00
Base income or loss allocable to Illinois	\$3,632,081.00
Net replacement tax	
Replacement tax	\$54,481.00

Statement

Date: December 15, 2017
Name: UTILITY CONCRETE PRODUCTS LLC
Taxpayer ID: 36-4333670
Letter ID: CNXXXX9114828320

Computation of deficiency		Reporting period: 31-Dec-2014
Recapture of investment credits		\$0.00
Replacement tax before investment credits		\$54,481.00
Replacement tax investment credits		\$10,546.00
Net replacement tax due		\$43,935.00
Pass-through Withholding Payments		\$212,266.00
Total New Replacement Tax & Pass-Through		\$256,201.00
Minus tax previously assessed		-\$233,761.00
Total tax deficiency		\$22,440.00
UPIA-5 late-payment penalty (Audit)		\$4,488.00
Plus interest on tax through December 15, 2017		\$2,123.81
Total deficiency		* \$29,051.81
If you intend to pay under protest, you must pay this total deficiency amount.		

Computation of balance due		Reporting period: 31-Dec-2014
Balance due		* \$29,051.81

Explanation of Audit Adjustments

Income Tax



#BWNKMGV
#CNXX XX34 6317 2323#
UTILITY CONCRETE PRODUCTS LLC
2495 BUNGALOW RD
MORRIS IL 60450-9038

December 15, 2017



Letter ID: CNXXXX3463172323

Taxpayer ID: 36-4333670
Account ID: 02485-86240
Audit ID: A615612416
Reporting period: December 2014

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

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)]

Return Impact

\$1,496,009.00

Tax impact

\$22,440.00

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 XX24 X394 1923#
UTILITY CONCRETE PRODUCTS LLC
2495 BUNGALOW RD
MORRIS IL 60450-9038

December 15, 2017



Letter ID: CNXXXX24X3941923

Taxpayer ID: 36-4333670
Audit ID: A615612416
Reporting period: December 2015
Total Deficiency: \$35,347.16
Balance due: \$35,347.16

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 15, 2017
Name: UTILITY CONCRETE PRODUCTS LLC
Taxpayer ID: 36-4333670
Letter ID: CNXXXX24X3941923

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	\$7,504,232.00
Total unmodified base income	\$7,504,232.00
Income or loss	
Illinois replacement tax deducted	\$45,000.00
Illinois bonus depreciation addition	\$258,782.00
Payments to partners from Form 1065	\$603,913.00
Other additions	\$0.00
Total income or loss	\$8,411,927.00
Illinois base income or net loss	
Personal service income or reasonable allow.	\$788,365.00
Income dist. to a partner subject to rep. tax	\$3,522,567.00
Illinois bonus depreciation subtraction	\$415,444.00
Total subtractions	\$4,726,376.00
Base income or loss	\$3,685,551.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$3,685,551.00
Apportionment formula	
Total sales everywhere	\$0.00
Total Illinois sales	\$0.00
Apportionment factor	1.000000
Business income/loss apportionable to IL	\$0.00
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	\$0.00
Net income	
Base income or net loss	\$3,685,551.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$3,685,551.00
Exemption allowance	\$1,000.00
Net income	\$3,684,551.00
Base income or loss allocable to Illinois	\$3,684,551.00
Net replacement tax	
Replacement tax	\$55,268.00

Statement

Date: December 15, 2017
Name: UTILITY CONCRETE PRODUCTS LLC
Taxpayer ID: 36-4333670
Letter ID: CNXXXX24X3941923

Computation of deficiency	Reporting period: 31-Dec-2015
Recapture of investment credits	\$768.00
Replacement tax before investment credits	\$56,026.00
Replacement tax investment credits	\$2,876.00
Net replacement tax due	\$53,150.00
Pass-through Withholding Payments	\$158,486.00
Total New Replacement Tax & Pass-Through	\$211,636.00
Minus tax previously assessed	-\$183,679.00
Total tax deficiency	\$27,957.00
UPIA-5 late-payment penalty (Audit)	\$5,591.40
Plus interest on tax through December 15, 2017	\$1,798.76
Total deficiency	* \$35,347.16
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	* \$35,347.16

Explanation of Audit Adjustments

Income Tax



#BWNKMGV
#CNXX X163 4134 8327#
UTILITY CONCRETE PRODUCTS LLC
2495 BUNGALOW RD
MORRIS IL 60450-9038

December 15, 2017



Letter ID: CNXXX16341348327

Taxpayer ID: 36-4333670
Account ID: 02485-86240
Audit ID: A615612416
Reporting period: December 2015

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

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)]

Return Impact

\$1,863,799.00

Tax impact

\$27,957.00

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



IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

UTILITY CONCRETE PRODUCTS LLC,)
)
) Petitioner,)
)
))
))
) v.)
)
THE ILLINOIS DEPARTMENT OF REVENUE,)
)
) Defendant.)

No.

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NOTICE OF FILING

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

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 Utility Concrete Products LLC’s **Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

**UTILITY CONCRETE PRODUCTS
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