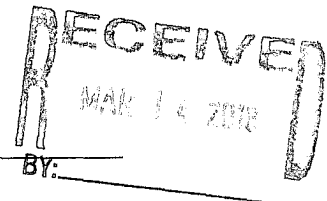


**IN THE ILLINOIS
INDEPENDENT TAX TRIBUNAL**

Michael Rothman and Jennifer Rothman,)
)
 Petitioners,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Respondent.)

NO. 18 TT



BY: _____
 Individual Income Tax
 TYE: 12/31/2014 and 12/31/2015
 181130

PETITION

Petitioners, Michael Rothman and Jennifer Rothman (“Michael” and “Jennifer,” or collectively “the Family”), bring this action 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”), to protest and obtain relief from this Tax Tribunal in respect to two Notices of Deficiency (“NOD”) issued to them under the Illinois Income Tax Act [35 ILCS 5/101 et seq.] (the “IITA”) by the Illinois Department of Revenue (the “Department” or “IDOR”).

Nature of the Action

1. This petition concerns the claim by Illinois that the Family’s payment of Illinois income tax, as married nonresidents filing jointly for the 2014 and 2015 calendar years, on income in an amount in excess of \$1 million and which represented approximately 60% of their total income as derived from Illinois sources, was not enough for Illinois. Instead, on the unsupported basis under the IITA that only Jennifer was a nonresident of Illinois, and only Michael was a resident of Illinois, the Department determined that the Family should jointly be assessed on 100% of their income from all sources, thus imposing tax, penalty and interest on the remaining 40% of the Family’s income.

Parties

2. Michael and Jennifer are individuals married to each other who, for each tax year at issue, jointly filed a personal Illinois non-resident individual income tax return and paid tax due to Illinois on taxable income therein reported.

3. The Illinois Department of Revenue is the Illinois agency charged with the administration and enforcement of the Illinois Income Tax Act, which determined that one of the Family was an Illinois resident in each of the two tax years at issue here.

Jurisdiction

4. This petition is timely filed within 60 days of the issuance of the two NOD's attached hereto as *Exhibit 1*,¹ arising from the same audit, the sum liability total of which is in excess of \$15,000.00 in penalty and interest assessed for the two years included in a single audit.

5. The Family accepts the Tax Tribunal's designation of its office in Cook County as the venue in which to conduct the hearing in this matter.

Allegations Common to All Counts

The Family in Illinois

6. Michael and Jennifer were married in 1981.

7. During the course of their marriage, the Family raised four children.

8. From the birth of their first child in 1985, to the year in which their fourth and youngest child graduated from high school in 2010, the Family lived in and around the City of Chicago, Illinois.

¹ All Exhibits hereto are redacted to protect the confidentiality of the identity of the Petitioners. Petitioners will upon identification of the presiding Judge and of the Department's counsel of record provide un-redacted exhibits to the Tax Tribunal's assigned Judge and Department's counsel.

9. The Family's children first attended schools in Highland Park, and later in the City of Chicago, when the Family moved to the City from Highland Park around 2003 or 2004.

10. At all subsequent times relevant hereto, the Family's children have been adults, attending college and pursuing their careers within and without Illinois.

11. Jennifer's parents are, and have at all relevant times resided as, tenants in Illinois property owned by the Family.

12. After moving to the City of Chicago, the Family lived for several years in rental property, and ultimately in a condominium they purchased in 2003 and disposed of in 2018, which they presently occupy as tenants.

13. The Family have not claimed a homestead tax exemption on any real property in Illinois since their move to the City of Chicago.

14. The total fair market value of real estate owned by the Family in Illinois during the tax years at issue, and at all other relevant times, has not exceeded \$6 million.

15. During the tax years at issue, and at all other times relevant hereto, the Family have neither owned nor leased any vehicles registered in their name in Illinois, with the exception of one 1970 General Motors vehicle with "Antique" license plates.

The Family Outside Illinois

16. Michael has traveled to Florida every year since he was 16 years of age.

17. Since the 1990's, Michael's mother has been domiciled in and a resident of Florida.

18. Since at least February of 2010, through a lease by Jennifer, the Family had a condominium residence in Miami, Florida, at an initial monthly rent of \$4,000.00.

19. In February of 2013, Jennifer renewed and amended the lease of the condominium residence in Miami, Florida, at a monthly rent of \$4,600.00.

20. In November of 2013, Michael purchased a penthouse unit at the same address in Miami, Florida at which Jennifer leased a condominium residence for approximately \$1.9 million (approximately \$2.1 million, with improvements).

21. In 2016, through a wholly-owned entity, the Family purchased a condominium in Miami, Florida, for \$1.5 million, for investment purposes.

22. The Family have during the tax years at issue claimed a homestead exemption on their residence in Miami, Florida, as actual, and officially domiciled, residents of Florida.

23. Since at least 2013, Michael and Jennifer have held voter registration cards in Miami, Florida.

24. Since at least 2013, Michael and Jennifer have held Florida driver licenses.

25. During the tax years at issue, and at all times relevant hereto, the Family have had multiple vehicles registered in their name in Florida, valued in dollars at several hundred thousand.

26. During the tax years at issue, and at all times relevant hereto, the Family had a 58-foot boat, valued at \$1.6 million, and a 77-foot boat, valued at \$4.5 million, registered in their name in Florida.

27. Since at least October of 2011, Michael has held a license for Dockage Space at the Miami Beach Marina for a vessel owned by a limited liability company wholly owned by Michael.

28. In October of 2013, the Family purchased a home in Aspen, Colorado, for approximately \$6.8 million (plus \$3.2 million in improvements).

29. Since 2013 and at all times relevant hereto, the Family have had multiple vehicles registered in their name in Colorado, valued in dollars at several hundred thousand.

30. Since at least 2012 and at all times relevant hereto, the Family, through a wholly owned limited liability company, have owned two passenger jet aircraft, hangered and maintained in Wisconsin.

31. Since at least 2012, and at all times relevant hereto, the Family, through a wholly owned limited liability company, have employed pilots to operate two passenger jet aircraft hangered and maintained in Wisconsin.

32. Since at least 2012, the Family have incurred and paid Wisconsin Use Tax on each personal use of their aircraft, including on any flights to and from Florida.

33. During the tax years at issue, and at all times relevant hereto, the estimated value of the Family's real estate and tangible personal property assets *outside* Illinois was approximately **9 (NINE)** times *greater than* the value of the Family's real estate and tangible personal property assets *within* Illinois.

34. During all tax years relevant hereto, the Family's annual *cost of travel outside* Illinois was **3 (THREE)** times *greater than* their Illinois income *tax liability*, whether as residents or non-residents of Illinois.

The Family's Businesses

35. Since at least 1980, starting with a net worth of zero, and at all times relevant hereto, Michael and Jennifer have been entrepreneurs who founded, owned, co-owned and sold a series of businesses based in Illinois, Indiana, and Florida, providing employment to support thousands of households, in Illinois and across the country.

36. At all times relevant hereto, and during the tax years at issue, on information and belief, these businesses have required Michael to travel throughout the country, regularly keeping him outside of Illinois in excess of 180 days a year.

37. Michael founded the business principally relevant to the tax years at issue in 2003, when Michael was 48 years of age, with six employees in Illinois.

38. That principal business, still based in Illinois, now has over 700 employees in Chicago, has leased 100,000 square feet of space in the Chicago Loop district, and has generated Illinois income tax withholding revenues of approximately \$1.8 million per year. The business now has a nationwide Fortune 500 customer base in retail and industrial, providing services at more than 200,000 locations.

39. The steady and strong growth of the principal business earned accolades in the press, attracted more opportunities for growth, and investors who, over time, positioned the business to accelerate its already impressive growth trajectory. On information and belief, the time Michael traveled outside of Illinois increased as well, to approximately 220 days per year in recent years.

40. Since 2010, it has been Michael's and Jennifer's intent and plan to diminish their ownership in, and as necessary their rights to control of, the principal business.

41. Since 2010, the Family have executed their plan to diminish their ownership and control through transactions in 2011, 2013, 2016, and others that have yet to occur.

42. As part of that plan, in October of 2016 Michael caused the business to retain the services of a professional executive search firm to find a candidate suitable to replace him as Chief Executive Officer ("CEO") of the business.

43. In 2017 Michael was able to surrender his post and duties as CEO to a newly installed CEO, and to transition himself to a stewardship and advisory role.

44. As planned in 2010, the Family have reduced their interest in the principal business from a level of 60% in 2010 to a current level of approximately 10%, and Michael's involvement in the principal business has correspondingly decreased as well.

45. Since approximately 2004 and at all times relevant hereto, among other businesses, Michael and Jennifer also purchased a chemical distribution business, based in West Palm Beach, Florida. Michael has been the manager of the business, and as with his other businesses, extensive travel has also been required of him by this Florida business.

46. Currently, Michael and Jennifer, indirectly, have founded a newly formed operating business, with offices in Tampa, Florida.

The Audits of the Family by the Department

47. As a nonresident of Illinois, and not being the recipient of income from Illinois sources, for the tax year 2013 Jennifer did not file an Illinois income tax return.

48. As a non-resident of Illinois, and being a recipient of income from Illinois sources, for the 2013 tax year Michael filed an Illinois non-resident return and paid tax on the income reported to Illinois.

49. For the 2014 tax year, as nonresidents of Illinois, Michael and Jennifer filed a nonresident joint Illinois income tax return and paid \$54,345 in tax due to Illinois, at the then applicable 5% tax rate for individuals.

50. For the 2015 tax year, as nonresidents of Illinois, Michael and Jennifer filed a nonresident joint Illinois income tax return and paid \$43,725 in tax due to Illinois, at then then applicable 3.75% tax rate for individuals.

51. In February of 2017, Michael and Jennifer received a Notice of Audit Initiation from the Department for the 2014 and 2015 tax years.

52. After complying with all Department document and information requests, in October 5, 2017, the Department's auditor issued an IL-1040 Auditor's Report for the 2014 tax year showing that in the "As Filed" column of the report Michael and Jennifer had a "Filing Status" of "2 Married Jnt Rtn", which status they maintained in the "As Corrected" column, together with Notices of Proposed Deficiency which provided for a 60-day period to request a review by the Informal Conference Board, an intermediate discretionary review available before the conclusion of an audit and before the issuance of formal assessments. *Exhibit 2*

53. The IL-1040 Auditor's Report for the 2014 tax year showed in the "Residency Code," in the "As Filed" column, that they were "2 Non-Resident" but in the "As Corrected Column" they were "1 Resident."

54. The IL-1040 Auditor's Report for the 2014 tax year, in the "Net Change" Column showed an amount of additional "Net Taxable Income" of \$742,922, with additional tax due of \$37,146, interest of \$3,458, a negligence penalty of \$7,429, and a late payment penalty of \$5,382.

55. After complying with all Department document and information requests, the Department's auditor issued an IL-1040 Auditor's Report for the 2015 tax year showing that in the "As Filed" column of the report Michael and Jennifer had a "Filing Status" of "2 Married Jnt Rtn", which status they maintained in the "As Corrected" column.

56. The IL-1040 Auditor's Report for the 2015 tax year showed in the "Residency Code" in the "As Filed" column they were "2 Non-Resident" but in the "As Corrected Column" they were "1 Resident."

57. The IL-1040 Auditor's Report for the 2015 tax year, in the "Net Change" Column showed an amount of additional "Net Taxable Income" of \$494,027, with additional tax due of \$18,526, interest of \$766, a negligence penalty of \$3,705, and a late payment penalty of \$1,821.

58. Considering the amount of additional tax, interest and penalty proposed for assessment for 2014 and 2015, relative to the cost of litigating the issue of Michael's residency, on October 27, 2017, through different counsel, Michael and Jennifer chose to petition the auditor to abate the penalties assessed on the basis of reasonable cause regarding the residency determination, and to allow the period for informal protest to close without protest.

59. On November 27, 2017, within days of the close the informal protest period for 2014 and 2015, the auditor provided Michael and Jennifer with a Notice of Audit Results for 2014 and 2015, setting forth the previously communicated amounts of additional tax, penalties and interest, unchanged.

60. On November 30, 2017, Michael and Jennifer, through their then counsel, tendered payment of tax and interest for 2014 and 2015, but refused to sign the IL-870 form to preserve their right to protest the penalty amounts.

61. On December 5, 2017, the auditor sent Michael and Jennifer a Notice of Audit Initiation for 2013 and another Notice of Audit Initiation for 2016. ***Exhibit 3.***

62. On information and belief, there was no coincidence at work in the auditor's unsequenced selection of tax years to audit Michael and Jennifer (see paragraph 40).

63. On January 18, 2018, the Department issued the Notices of Deficiency for 2014 and 2015, including the penalty amounts, which are the subject of this action.

64. On or about March 14, 2018, Michael and Jennifer filed IL-1040X Forms claiming a refund of the tax and interest paid for 2014 and 2015, asserting Michael's position as

a nonresident of Illinois, as in Michael and Jennifer’s original joint return filings prior to adjustment by the Department’s audit.

65. The instant action was timely filed shortly thereafter.

COUNT I
2014 Tax Year

66. Petitioners by this reference incorporate and re-allege paragraphs 1 through 65 hereof as though fully set forth in this Count I.

67. The IITA defines the word “resident” as “an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year.” 35 ILCS 5/1501(a)(20)(A).

68. “If individuals leave the state for other than a temporary or transitory purpose, or establish domicile elsewhere, they cease to be Illinois residents. 35 ILCS 5/1501(a)(17).” *Cain v. Hamer*, 2012 Ill. App. (1st) 112833, ¶ 16.

69. As of at least 2010, Michael and Jennifer had left Illinois for other than temporary or transitory purposes.

70. As of at least 2011, Jennifer had established domicile in Florida.

71. As of at least 2013, Michael had established domicile in Florida.

72. Since at least 2011, Michael and Jennifer have been in Florida for other than temporary or transitory purposes and have been non-residents of Illinois for purposes of the IITA.

73. Effective April 19, 2013, after the Department lost multiple attempts to assert residency positions in *Cain v. Hamer*, 2012 Ill. App. (1st) 112833 and at least two other unpublished decisions from the Appellate Court’s First and Second Districts, and there being no amendment to the IITA definition of the terms “resident”, “non-resident” or “part-year resident”, the Department amended Section 100.3020 of the Department’s IITA regulations, in pertinent part, as follows:

f) Presumption of residence. The following create rebuttable presumptions of residence. These presumptions are not conclusive and may be overcome by clear and convincing evidence to the contrary. ~~If an individual spends in the aggregate more than nine months of any taxable year in Illinois it will be presumed that he is a resident of Illinois. An individual who is absent from Illinois for one year or more will be presumed to be a nonresident of Illinois. These presumptions are not conclusive, and may be overcome by other satisfactory evidence to the contrary.~~

- 1) An individual receiving a homestead exemption (see 35 ILCS 200/15-175) for Illinois property is presumed to be a resident of Illinois.
- 2) An individual who is an Illinois resident in one year is presumed to be a resident in the following year if he or she is present in Illinois more days than he or she is present in another state.

37 Ill. Reg. (Issue 18) 5823, May 3, 2013 (eff. April 19, 2013)

74. Without any support in case law or a statutory change so authorizing, the Department unilaterally changed the evidentiary standard of proof to overcome a presumption of residency from “satisfactory evidence” to “clear and convincing evidence” for tax years to which the 2013 amendment is applicable.

75. Michael and Jennifer had a preponderance of evidence and at a minimum, more than “satisfactory evidence,” to overcome the regulatory presumption for taking Illinois non-resident positions for the 2013, 2014, 2015, and 2016 tax years.

76. Michael and Jennifer did not claim an Illinois homestead exemption on any Illinois property in the 2013, 2014, 2015, and 2016 tax years and thus were not presumed under the regulation to be Illinois residents in 2013, 2014, 2015 and 2016.

77. Jennifer was a nonresident of Illinois for 2011 and 2012 and she was therefore not presumed under the regulation to be a resident of Illinois in 2013, without regard to the number of days that she was present in Illinois relative to any other state.

78. Michael was a nonresident of Illinois for 2011 and 2012 and he was therefore not presumed under the regulation to be a resident of Illinois in 2013, without regard to the number of days that he was present in Illinois relative to any other state.

79. There being no presumption under the regulation that is operative for the 2014 tax year, the burden of proof rests upon to the Department to come forward with evidence to establish, and to persuade the Tax Tribunal, that Michael and Jennifer were, contrary to their Illinois nonresident joint returns signed under penalties of perjury, instead residents of Illinois for IITA purposes.

80. It was arbitrary and capricious, and an abuse of discretion and authority, for the Department to impose a negligence penalty for the 2014 tax year, when no presumption of residency was triggered under the regulation and the issue of Michael's and Jennifer's intent was inherently, and highly, fact sensitive.

COUNT II

2015 Tax Year

81. Petitioners by this reference incorporate and re-allege paragraphs 1 through 80 hereof as though fully set forth in this Count II.

82. Jennifer was a nonresident of Illinois for 2012 and 2013 and she was therefore not presumed under the regulation to be a resident of Illinois in 2014, without regard to the number of days that she was present in Illinois relative to any other state.

83. Michael was a nonresident of Illinois for 2012 and 2013 and he was therefore not presumed under the regulation to be a resident of Illinois in 2014, without regard to the number of days that he was present in Illinois relative to any other state.

84. There being no presumption under the regulation that is operative for the 2015 tax year, the burden of proof rests upon to the Department to come forward with evidence to establish, and to persuade the Tax Tribunal, that Michael and Jennifer were, contrary to their Illinois nonresident joint returns signed under penalties of perjury, instead residents of Illinois for IITA purposes.

85. Michael and Jennifer responded fully, with substantial documentation, to the Department's extensive and intrusive information and documentation requests for the 2014 and 2015 tax years, providing ample factual support for their Illinois nonresident status and position in each year.

86. It was arbitrary and capricious, and an abuse of discretion and authority, for the Department to impose a negligence penalty for the 2015 tax year, when no presumption of residency was triggered under the regulation and the issue of Michael's and Jennifer's intent was inherently, and highly, fact sensitive.

COUNT III

In The Alternative

Reasonable Cause for Abatement of Penalties

87. Petitioners by this reference incorporate and re-allege paragraphs 1 through 86 hereof as though fully set forth in this Count III.

88. Section 3-8 of the Uniform Penalty and Interest Act (the “UPIA”) provides that the penalties imposed under Sections 3-4, 3-4, 3-5 and 3-75 of the UPIA “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.

89. Section 3-5 of the UPIA, dealing with a penalty for negligence, provides that “[n]o penalty shall be imposed under this Section if it is shown that the failure to comply with the tax is due to reasonable cause” and that “[a] taxpayer is not negligent if the taxpayer shows substantial authority to support the return as filed.” 35 ILCS 735/3-5(b).

90. Section 700.400 of the Department’s regulations administering the Uniform Penalty and Interest Act (35 ILCS 735/3-1, et seq.), provide that “the penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of the Act shall not apply if the taxpayer shows that his failure to file a return or to pay tax at the required time was due to reasonable cause.” 86 Ill. Admin. Code § 700.400(a).

91. “Reasonable cause shall be determined in each situation in accordance with this Section. (Section 3-8 of the Act).” 86 Ill. Admin. Code § 700.400(a). Therefore, “the determination of whether a taxpayer acted with reasonable cause shall be made on a case-by-case basis” and “the most important factor in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine his proper tax liability and to file and pay his proper liability in a timely fashion.” 86 Ill. Admin. Code § 700.400(b).

92. Among the factors upon which a determination of reasonable cause depends is the taxpayer’s exercise of “ordinary business care and prudence” which in turn takes into account “the clarity of the law or its interpretation.” 86 Ill. Admin. Code § 700.400(c). Among the examples of such instances is a circumstance where an “Illinois appellate court decision . . .

which supports the taxpayer's position" and which "will ordinarily provide a basis for a reasonable cause determination." 86 Ill. Admin. Code § 700.400(e)(8).

93. The Department's loss of three appellate court cases where it asserted residency under the terms of its regulation prior to its amendment in 2013, which support Michael's and Jennifer's non-residency positions in the tax years at issue, and the Department's amendment of its residency regulation in mid-2013 without there being a statutory change to the IITA terms regarding residency, nonresidency and part-year residency, are factors affecting the "clarity of the law" which should have supported the Department's auditor abating the penalties, and indeed should have worked to stay his hand in imposing a negligence penalty at all.

94. It was an arbitrary and capricious abuse of discretion for the auditor to reject the abatement of penalties requested by Michael and Jennifer.

* * * * *

WHEREFORE, with regard to **Count I** and **Count II** hereof, Michael and Jennifer pray that the Tax Tribunal accept and provide them a hearing on their protest to the 2014 and 2015 NODs, find and determine that the NODs are in error and that the statutory *prima facie* validity of the NODs is overcome because Michael and Jennifer were nonresidents of Illinois in the 2014 tax year and in the 2015 tax year, and enter an order granting judgment in their favor and against the Department on their protest to the NOD issued for 2014 and the NOD issued for 2015, and for such other relief as the Tax Tribunal deems just and proper under the circumstances.

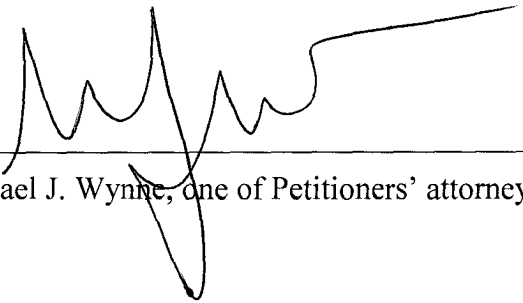
In the alternative, with regard to **Count III**, Michael and Jennifer pray that the Tax Tribunal accept and provide them a hearing on their protest to the 2014 and 2015 NODs, and find and determine that Michael and Jennifer established reasonable cause for abatement of the

penalties imposed for the 2014 tax year and the 2015 tax year, and enter an order abating such penalties for the 2014 tax year and the 2015 tax year.

Michael Rothman and Jennifer Rothman

JONES DAY

By:



Michael J. Wynne, one of Petitioners' attorneys

Michael J. Wynne (mwynne@jonesday.com)
Jennifer C. Waryjas (jwaryjas@jonesday.com)
Douglas A. Wick (dwick@jonesday.com)

JONES DAY

77 West Wacker Drive
Chicago, IL 60601
(312) 260-1515

EXHIBIT 1

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



#BXNKMGMV
CNXX X2X8 4917 42468
MICHAEL J. [REDACTED]

January 16, 2018
Letter ID: CNXXX2X849174246

Taxpayer ID: [REDACTED]
Audit ID: A165847564B
Reporting period: December 2014
Total Deficiency: \$7,429.20
Balance due: \$14,037.64

We have audited your Form IL-1040, Individual Income Tax Return, for the reporting period listed above. We are assessing a negligence penalty, which is 20 percent of the deficiency attributable to the negligent act. (35 ILCS 735/3-5(a)) 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. Make your check payable to the "Illinois Department of Revenue", write your Social Security number on your check, and mail a copy of this notice along with your payment.

If you do not agree to this deficiency, you may protest this notice by following the instructions listed below within specific time periods.

If the amount of 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 are more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 90 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, within 90 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 the rules adopted by the Department and is presided over by an administrative hearing 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 90 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.

Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, under Section 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 2a.1), pay the total tax 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 timely 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.

Note: If you are under bankruptcy protection, see the "Bankruptcy Information" section on the following page of this notice for additional information and instructions.

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

Sincerely,

Constance Ewald
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19912
SPRINGFIELD IL 62734-9912
(217) 785-6711

DP00000000000000000000

9-000001

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



#BWIKMGV
#CNXX XXX3 8X97 X720#
MICHAEL and JENNIFER

January 18, 2018
Letter ID: CNXXXX38X97X720
Taxpayer ID: [REDACTED]
Audit ID: A1888475648
Reporting period: December 2016
Total Deficiency: \$3,706.25
Balance due: \$3,247.21

We have audited your Form IL-1040 Individual Income Tax Return for the reporting period listed above. We are assessing a negligence penalty, which is 20 percent of the deficiency attributable to the negligent act. [35 ILCS 735/3-5(a)] 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. Make your check payable to the "Illinois Department of Revenue", write your Social Security number on your check, and mail a copy of this notice along with your payment.

If you do not agree to this deficiency, you may protest this notice by following the instructions listed below within specific time periods.

If the amount of 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 are 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, 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 the rules adopted by the Department and is presided over by an administrative hearing judge. Submit your protest on Form EAR-14, Form 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.

Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, under Section 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 2a.1), pay the total tax 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 circuit court for a review of our determination.

If you do not timely 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.

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

Sincerely,

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 18012
SPRINGFIELD IL 62794-9012

(773) 785-6711

Taxpayer Statement



#BWNKMGV
 ICNXX X134 4575 X246#
 MICHAEL and JENNIFER

January 18, 2018 TDD 1 800 544-6304
 Letter ID: CNXX1344575X246
 Account ID: P16873261
 Total amount due: \$19,284.85

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Note: Tax refers to Tax after nonrefundable credits. Payments/Credits include withholding, estimated payments, earned income credit, and various other payments made to satisfy your balance.

IL Individual Income Tax						Account ID: P16873261
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2014	75,187.00	14,079.35	3,415.89		(78,645.10)	14,037.64
31-Dec-2015	12,141.00	5,526.35	486.86		(12,907.00)	5,247.21
* \$7,429.20 of this amount is subject to protest. Do not pay this amount if you intend to file a protest. - \$3,705.20 of this amount is subject to protest. Do not pay this amount if you intend to file a protest.						

6-000000
 50A

Retain this portion for your records.
 Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)



Letter ID: CNXX1344575X246
 MICHAEL and JENNIFER

Total amount due: \$19,284.85
 Write the amount you are paying below.

Mail this voucher and your payment to:
 ILLINOIS DEPARTMENT OF REVENUE
 PO BOX 19006
 SPRINGFIELD, IL 62784-9006

Write your Account ID on your check.

\$11,134.40 is subject to protest.
 Do not pay any Income Tax liability that you intend to protest.

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