

**IN THE ILLINOIS  
INDEPENDENT TAX TRIBUNAL**

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Michael Rothman and Jennifer Rothman,	)	
	)	Hon. Judge Barov
Petitioners,	)	
	)	
v.	)	No. 18 TT 30
	)	
Illinois Department of Revenue,	)	Individual Income Tax
	)	TYE: 12/31/2014 and 12/31/2015
Respondent.	)	

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**NOTICE OF FILING**

TO: See attached Certificate of Service

**PLEASE TAKE NOTICE** that on July 26, 2019 Petitioner, Michael Rothman and Jennifer Rothman, through their counsel Jones Day, filed by electronic mail with the Illinois Independent Tax Tribunal their **Unopposed Motion for Leave to File First Amended Petition**, in the above-captioned matter, true copies of which are attached hereto and herewith served upon you.

Dated: July 26, 2019

Respectfully submitted,

*s/Michael J. Wynne*

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Michael J. Wynne

mwynne@jonesday.com

Jennifer C. Waryjas

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Douglas A. Wick

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**JONES DAY**

77 West Wacker

Chicago, IL 60601.1692

Telephone: +1.312.782.3939

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**CERTIFICATE OF SERVICE**

I, Douglas A. Wick, one of the undersigned attorneys for the Petitioners, Michael Rothman and Jennifer Rothman, hereby certify that on July 26, 2019, I caused a copy of our **Unopposed Motion for Leave to File First Amended Petition**, in the above-captioned matter, to be served on all parties of record in this cause by electronic mail addressed to the attorneys on July 26, 2019:

Susan Budzelini  
Valerie Puccini  
Special Assistant Attorney General  
Illinois Department of Revenue  
100 West Randolph Street, 7-900  
Chicago, IL 60601  
[Susan.Budzileni@illinois.gov](mailto:Susan.Budzileni@illinois.gov)  
[Valeria.A.Puccini@illinois.gov](mailto:Valeria.A.Puccini@illinois.gov)

Rebecca Kulekowskis  
Deputy General Counsel for Income Tax Litigation  
Illinois Department of Revenue  
100 West Randolph Street, 7-900  
Chicago, IL 60601  
[Rebecca.Kulekowskis@illinois.gov](mailto:Rebecca.Kulekowskis@illinois.gov)

By:     /s Douglas A. Wick



6. Pursuant to the Rule 201(k) process, in a phone call between one of Petitioners' attorneys and one of the Department's attorneys, the Department clarified that it would further reduce the number of document requests if Petitioners amended the 18 TT 30 Petition to make it more factually narrow and similar to the 18 TT 132 Petition.

7. Under 86 Ill. Admin. Code § 5000.310(c), "[t]he Tribunal shall freely grant consent to amend upon such terms as may be just."

8. It would be "just" and reasonable to narrow the factual disputes in this case, which would save both parties and the Tribunal time and expense and expedite a final disposition or settlement of the case.

9. A copy of Petitioners' proposed First Amended Petition is attached to this motion as **Exhibit B**.

**WHEREFORE**, Petitioners Michael and Jennifer Rothman pray that their Unopposed Motion for Leave to File Their First Amended Petition be granted.

Dated: July 26, 2019

Respectfully submitted

Michael and Jennifer  
Rothman

By:     /s 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 A



## Illinois Department of Revenue

100 W. Randolph, Suite 7-900  
Chicago, IL 60601

July 3, 2019

Michael J. Wynne  
Douglas Wick  
Jones Day  
77 West Wacker, Suite 3500  
Chicago, Illinois 60601-1692

*Rothman v. DOR:*     18-TT-30  
                                  18-TT-132

Dear Messrs. Wynne and Wick:

I am writing in response to your May 6, 2019, 201(k) letter. As discussed at the most recent status conference, the Department advised Judge Barov that the Department was able to eliminate a few production requests, combine some duplicative requests and further clarify some other requests. While, the Department's production contains many requests, approximately 45 (or approximately 30%) of said requests seek documentation from Petitioners to support their conclusionary statements set forth in their Petition for case 18-TT-30. Because Petitioners' conclusionary statements were not supported by allegations of fact in the Petition, the Department, now, seeks their supporting documentation. In the alternative, if Petitioners wish to amend their Petition for case 18-TT-30 and strike any and or all conclusionary statements, the Department will correspondingly amend its production request.

During the status conference, because of vacation schedules, it seemed difficult to coordinate schedules for 5 people and schedule an in-person meeting. Therefore, we went ahead and amended the Department's First Request for Production and have enclosed hereto. If you believe there are documents in the production request that Petitioner has already provided during the audit, you may refer to those documents by the bates stamp number and do not need to provide those documents a second time when responding to the Department's production request.

Very truly yours,

Susan Budzileni  
Special Assistant Attorney General  
Illinois Department of Revenue  
100 W. Randolph Street, 7<sup>th</sup> Floor  
Chicago, Illinois 60601  
Phone: 312-814-1716  
Facsimile: 312-814-4344  
Email: [Susan.Budzileni@illinois.gov](mailto:Susan.Budzileni@illinois.gov)

# **EXHIBIT B**



**IN THE ILLINOIS  
INDEPENDENT TAX TRIBUNAL**

---

Michael Rothman and Jennifer Rothman,	)	
	)	
Petitioners,	)	
	)	
v.	)	NO. 18 TT 30
	)	
Illinois Department of Revenue,	)	Individual Income Tax
	)	TYE: 12/31/2014 and 12/31/2015
Respondent.	)	

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**FIRST AMENDED PETITION**

Petitioners, Michael Rothman and Jennifer Rothman, 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”).

**Nature of the Action**

1. Petitioners contest the finding that they were residents of Illinois for income tax purposes for the 2014 and 2015 tax years, and further contest the penalties assessed in the NOD attached as **Exhibit 1** to this Amended Petition.

**Parties**

2. Michael and Jennifer Rothman 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.

### **Jurisdiction**

4. This petition is timely filed within 60 days of the issuance of the two NOD's attached hereto as **Exhibit 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. Petitioners accept 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**

6. Michael and Jennifer were married in 1981.

7. During the course of their marriage, Petitioners 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, Petitioners lived in and around the City of Chicago, Illinois.

9. At all subsequent times relevant hereto, Petitioners' children have been adults, attending college and pursuing their careers within and without Illinois.

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

11. During the tax years at issue, and at all other times relevant hereto, Petitioners 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.

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

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

14. Beginning February of 2010, through a lease by Jennifer, Petitioners had a condominium residence in Miami, Florida.

15. In February of 2013, Jennifer renewed and amended the lease of the condominium residence in Miami, Florida.
16. In November of 2013, Michael purchased a penthouse unit at the same address in Miami, Florida.
17. In 2016, through a wholly-owned entity, Petitioners purchased a condominium in Miami, Florida, for investment purposes.
18. Petitioners during the tax years at issue claimed a homestead exemption on their residence in Miami, Florida, as actual, and officially domiciled, residents of Florida.
19. Since at least 2013, Michael and Jennifer have held voter registration cards in Miami, Florida.
20. Since at least 2013, Michael and Jennifer have held Florida driver licenses.
21. During the tax years at issue, and at all times relevant hereto, Petitioners have had multiple vehicles registered in their name in Florida, valued in dollars at several hundred thousand.
22. During the tax years at issue, and at all times relevant hereto, Petitioners had a 58-foot boat and a 77-foot boat, registered in their name in Florida.
23. 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.
24. In October of 2013, Petitioners purchased a home in Aspen, Colorado.
25. Since 2013 and at all times relevant hereto, Petitioners have had multiple vehicles registered in their name in Colorado, valued in dollars at several hundred thousand.

26. Since at least 2012 and at all times relevant hereto, Petitioners, through a wholly owned limited liability company, have owned two passenger jet aircraft which are hangered and maintained in Wisconsin.

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

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

29. During the tax years at issue Michael spent approximately 220 days per year outside of Illinois.

30. Since approximately 2004 and at all times relevant hereto, among other businesses, Michael and Jennifer 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.

31. Michael and Jennifer, indirectly, have also recently founded a new business in Tampa, Florida.

**The Department's Audits of Petitioners**

32. 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.

33. 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.

34. 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.

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

36. 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. *See **Exhibit 2***.

37. 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."

38. 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.

39. 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.

40. 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.”

41. 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.

42. 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.

43. 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.

44. 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.

45. 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.

**COUNT I**  
**2014 Tax Year**

46. Petitioners by this reference incorporate and re-allege paragraphs 1 through 45 hereof as though fully set forth in this Count I.

47. 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).

48. “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.

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

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

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

52. 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.

53. 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)

54. 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.

55. 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.

56. 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.

57. 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.



58. 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.

59. Accordingly, Petitioners were not residents of Illinois during the 2014 tax year.

## **COUNT II**

### **2015 Tax Year**

60. Petitioners by this reference incorporate and re-allege paragraphs 1 through 59 hereof as though fully set forth in this Count II.

61. 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.

62. 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.

63. Accordingly, Petitioners were not residents of Illinois during the 2014 tax year.

## **COUNT III**

### **In The Alternative**

#### **Reasonable Cause for Abatement of Penalties**

64. Petitioners by this reference incorporate and re-allege paragraphs 1 through 63 hereof as though fully set forth in this Count III.

65. 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.

66. 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).

67. 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).

68. “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).

69. 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).

70. 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.

71. Petitioners demonstrated reasonable cause justifying the abatement of penalties pursuant to 35 ILCS 735/3-5(b).

\* \* \* \* \*

**WHEREFORE**, Petitioners pray that the Tax Tribunal find and determine that Petitioners were not residents of Illinois for the 2014 or the 2015 tax years, abate the penalties assessed against Petitioners for reasonable cause, and grant any such other relief as the Tax Tribunal deems just and proper under the circumstances.

Dated: July 26, 2019

**Michael Rothman and Jennifer Rothman**

By: /s Michael J. Wynne

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



#BVNKMGV  
#CNXX X2X8 4917 4246#  
MICHAEL and JENNIFER BOWMAN

January 18, 2018  
Letter ID: CNXX2X849174246

Audit ID: A1888475646  
Reporting period: December 2014  
Total Deficiency: \$7,429.23  
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", with 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 (38 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, 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.

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 Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 09012  
SPRINGFIELD, IL 62704-0012

(217) 786-6711

09-30-CRM-01-01-01

P-000001

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



#BWAKMGV  
#CNXX XXX3 8X97 X720#  
MICHAEL and JENNIFER BOYD

January 18, 2018

Letter ID: CNXXXXXXX

Audit ID:	A1886478648
Reporting period:	December 2018
Total Deficiency:	\$3,706.20
Balance due:	\$5,247.21

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 \$16,000, or if no tax deficiency is assessed but the total penalties and interest are more than \$18,000, 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, 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.

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 Beard*  
Constance Beard  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
P.O. BOX 18012  
SPRINGFIELD, IL 62794-9012

(217) 785-8711



**Taxpayer Statement**



#BWVKMGV  
 #CNXX X134 4575 X3464  
 MICHAEL and JENNIFER ROTHMAN

January 18, 2016 TDD 1 800 544-2364  
 Letter ID: CNXX1344875X246  
 Account ID: P15873261  
 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 includes withholding, estimated payments, earned income credit, and various other payments made to reduce your balance.*

IL Individual Income Tax Account ID: P15873261

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2014	75,187.00	14,079.85	3,415.89		(78,645.10)	14,037.64
31-Dec-2015	12,141.00	9,528.35	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.

Accounts  
 834

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

**Taxpayer Statement** (R-12/06) 138

Letter ID: CNXX1344875X246  
 MICHAEL and JENNIFER ROTHMAN



Total amount due: \$19,284.85

Write the amount you are paying below

\$ \_\_\_\_\_

Write your Account ID on your check.

Mail this voucher and your payment to:  
 ILLINOIS DEPARTMENT OF REVENUE  
 PO BOX 19006  
 SPRINGFIELD, IL 62787-9006

\$1,134.40 is subject to protest.  
 Do not pay any income tax liability that you intend to protest.

000 004 008120204647 733 123195 1 0000001928485

# **EXHIBIT 2**



**Notice of Audit Results**  
**Form IL-870 Information**



November 27, 2017



Letter ID: L1516073936

MICHAEL ROTHMAN  
JENNIFER ROTHMAN



Taxpayer ID: [REDACTED]  
Secondary ID: [REDACTED]  
Account ID: P16873261  
Audit ID: A1688475648  
Return type: IL-1040  
Audit periods: 01/2014 - 12/2015

Enclosed, please find Form IL-870, Waiver of Restrictions, showing the amount of tax and penalty we have determined is due for the periods shown above. If you agree with the amount shown on the Form IL-870, please sign and return it with your payment to the address shown below. Please note, if you sign Form IL-870 or pay the amount shown due, you waive the right to seek review by the Informal Conference Board.

If you do not pay the entire amount due within 30 days from the "Date of Issuance," November 27, 2017, shown on Form IL-870, or take advantage of your ICB rights, you may incur additional late payment penalty. If you do not sign the IL-870 and return it with payment, a Notice of Deficiency, explaining your rights to protest the liability and request an administrative hearing, will be issued.

Mail your payment and the signed Form IL-870 to:

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

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy case number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns. For those under bankruptcy protection, this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

Sincerely,

Greg Nelson  
Revenue Auditor

ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19020  
SPRINGFIELD IL 62794-9020

217 785-7245  
217 785-3251 fax

greg.nelson@illinois.gov









