

ILLINOIS INDEPENDENT TAX TRIBUNAL

DONALD McNEIL,)	
)	
v.)	14-TT-48
)	
ILLINOIS DEPARTMENT OF REVENUE)	
)	

ANSWER

1. On or about January 27, 2014, IDOR mailed to Taxpayer the Notice and an EDA-131 Examiner’s Report (the “Report”) (copy attached as Exhibit B).

ANSWER: Department admits the factual allegations contained in Paragraph 1.

2. The Notice alleged a deficiency for the 2009 tax year of \$22,883.00 and interest of \$1,918.00, for a total amount allegedly due of \$24,801.00.

ANSWER: The Notice speaks for itself.

3. In the column entitled “Current Figures,” the Report listed “0” on every line, thus indicating that IDOR had never received Taxpayer’s 2009 return.

ANSWER: The EDA-131 Examiner’s Report speaks for itself.

4. Taxpayer is without information or knowledge sufficient to form a belief as to why IDOR did not receive the return.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 4.

5. The 2009 return (attached as Exhibit C) was prepared and sent in May 2012.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 5.

6. Taxpayer’s tax preparer died on June 22, 2012.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 6.

7. To the best of Taxpayer's knowledge and belief, the 2009 return did not contain any factual or legal errors at the time it was prepared.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7.

8. On Line 17 of the 2009 return, there is a credit of \$16,437.00 for income tax paid to other states, principally Indiana (see Schedule CR).

ANSWER: Department admits Taxpayer's Exhibit C, Form IL-1040, page 2, Line 17 shows \$16,437.00. However, Department denies that it received this return and denies that Taxpayer is eligible for a credit for taxes paid to other states in the amount of \$16,437.00. Department denies any remaining factual allegations in Paragraph 8.

9. The total amount owed to Illinois after the credit for income tax paid to other states was \$3,388.00.

ANSWER: Department denies the factual allegations contained in Paragraph 9.

10. However, in December 2013, I received Notices of Levy from my bank stating that the Indiana Department of Revenue ("Indiana") had tax judgments entered against me effective December 31, 2008, for unspecified tax years.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 10.

11. Prior to receiving these notices from my bank, I was unaware of any claim by Indiana that I owed any Indiana income tax.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 11.

12. I subsequently received a Proposed Assessment (copy attached as Exhibit D) claiming I owed \$8,008.33 in taxes, penalty and interest for the 2009 tax year).

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 12.

13. On January 21, 2014, I sent Indiana a letter protesting the Proposed Assessment (copy attached as Exhibit E (exhibits to protest omitted)).

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 13.

14. I have not received a response to the protest.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 14.

15. The attached 2009 Illinois return (Exhibit C) is free of factual or legal error and thus establishes the amount I would owe (\$3,388.00) but for the amounts Indiana has proposed to assess.

ANSWER: Department denies the factual allegations contained in Paragraph 15.

16. The amount proposed by Indiana would increase the credit on Line 17 of the return to an amount greater than \$3,388.00.

ANSWER: Department denies the factual allegations contained in Paragraph 16.

17. IDOR will not suffer any material prejudice if this proceeding is stayed pending resolution of the Indiana protest.

ANSWER: Department denies the factual allegations contained in Paragraph 17.

WHEREFORE, Department requests that the Tribunal enter an Order

- a. finding that the Notice of Deficiency correctly reflects the tax, interest, and penalties due from Taxpayer as of January 27, 2014;
- b. granting judgment in favor of the Department and against Taxpayer; and
- c. any further relief this Tribunal deems just.

Respectfully Submitted,

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State of Illinois

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AFFIDAVIT OF MARTHA A. HENEGHAN
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)

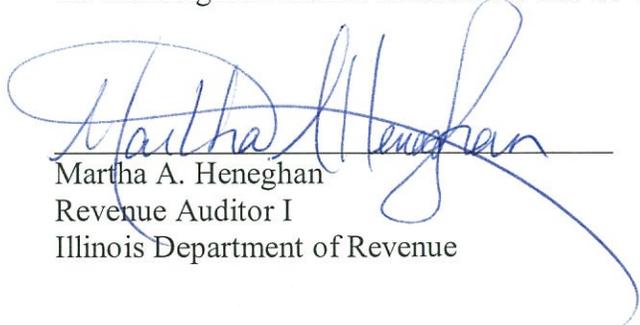
STATE OF ILLINOIS

COUNTY OF SANGAMON

Under penalties as provided by Section 1-109 of the Code of Civil Procedure, 735 ILCS §5/1-109, I, Martha A. Heneghan, being first duly sworn on oath, depose, and state as follows:

1. I am currently employed by the Illinois Department of Revenue.
2. My current title is Revenue Auditor I.
3. I reviewed Taxpayer's Illinois individual income tax account for the tax year ending December 31, 2009.
4. I lack the requisite knowledge to either admit or deny the allegations alleged in Taxpayer's Petition paragraphs 4, 5, 6, 7, 10, 11, 12, 13, and 14.
5. I am an adult resident of the State of Illinois and can truthfully and competently testify to the matters contained herein based upon my own personal knowledge.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Martha A. Heneghan
Revenue Auditor I
Illinois Department of Revenue

Date: April 10, 2014