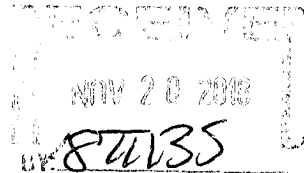


ILLINOIS INDEPENDENT
TAX TRIBUNAL

PARTIPILO FAMILY LP,)
Petitioner,)
v.)
ILLINOIS DEPARTMENT)
OF REVENUE,)
Respondent.)



PETITION

Petitioners, Partipilo Family LP, by and through his attorneys, THOMAS J. DWYER & ASSOCIATES, LLC, hereby petition for a redetermination of the deficiencies set forth by the ILLINOIS DEPARTMENT OF REVENUE (the “Department”) in the Department’s Notice of Deficiency letters dated September 26, 2018. As the basis for Petitioner’s case, Petitioner alleges as follows:

1. Petitioner is a limited partnership, Partipilo Family LP, with legal address currently at 1930 N. Mannheim Rd, Melrose Park, Illinois 60160-1013, and phone number (630) 460-1416.
2. A copy of the Notice of Deficiency for reporting period December 2014 is attached as Exhibit A.
3. A copy of the Notice of Deficiency for reporting period December 2015 is attached as Exhibit B.
4. A copy of the Notice of Deficiency for reporting period December 2016 is attached as Exhibit C.

JURISDICTION

5. Pursuant to 35 ILCS 1010/1-45(a), the Illinois Independent Tax Tribunal has “original jurisdiction over all determinations of the Department reflected on a ... Notice of Deficiency ... issued under the Illinois Income Tax Act” where the aggregate amount at issue exceeds \$15,000, exclusive of penalties and interest. 35 ILCS 1010/1-45(a)
6. The deficiencies, as determined by the Department, are as follows:

Tax Year Ending	Tax Amount at Issue	Type of Tax
12/31/2014	\$26,427	Income
12/31/2015	\$28,398	Income
12/31/2016	\$39,109	Income
TOTAL	\$93,934	

7. The entire amount of the deficiency, penalties, and statutory interest thereon are in dispute.
8. The aggregate tax at issue is **\$93,934**. Therefore, the Illinois Independent Tax Tribunal has original jurisdiction in this case.

TIMELINESS

9. The due date for filing this Petition based on the dates of the Notice of Deficiency in the years at issue is **November 26, 2018**

ERRORS OF FACT OR LAW MADE BY THE DEPARTMENT

10. The determination of taxes and penalties set forth in the Notice of Deficiency for the tax year ending December 31, 2014 is based upon the following errors:
 - A. The Department erroneously disallowed the subtraction modifications for the amount of income of the partnership which constitutes personal service income or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership for the period ending December 31, 2014.
 - B. The Department erroneously determined that Petitioner is subject to a UPIA-5 late-payment penalty for the period ending December 31, 2014 in the amount of \$5,285.40.
11. The determination of taxes and penalties set forth in the Notice of Deficiency for the tax year ending December 31, 2015 is based upon the following errors:
 - A. The Department erroneously disallowed the subtraction modification for the amount of income of the partnership which constitutes personal service income or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership for the period ending December 31, 2015.
 - B. The Department erroneously determined that Petitioner is subject to a UPIA-5 late-payment penalty for the period ending December 31, 2015 in the amount of \$5,679.60.
12. The determination of taxes and penalties set forth in the Notice of Deficiency for the tax year ending December 31, 2016 is based upon the following errors:
 - A. The Department erroneously disallowed the subtraction modification for the amount of income of the partnership which constitutes personal service income or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership for the period ending December 31, 2016.
 - B. The Department erroneously determined that Petitioner is subject to a UPIA-5 late-payment penalty for the period ending December 31, 2016 in the amount of \$7,431.10.

FACTUAL BACKGROUND

13. The facts upon which Petitioner rely as the basis of its case are as follows:
 - A. During all years at issue, Petitioner was a limited partnership located in Illinois.
 - B. Petitioner's main trade or business is managing the real estate for a multimillion dollar real estate business.
 - C. During all years at issue, Petitioner paid its members a reasonable compensation for professional services rendered by the members to the Petitioner.
 - D. All members are actively involved in the day-to-day operations of the business.

RETURNS FILED

14. Petitioner timely filed Form IL-1065 for the calendar year ending December 31, 2014. Petitioner has copies of the return which can be produced upon request but which has not been attached pursuant to the Tribunal's rules.
15. Petitioner timely filed Form IL-1065 for the calendar year ending December 31, 2015. Petitioner has copies of the return which can be produced upon request but which has not been attached pursuant to the Tribunal's rules.
16. Petitioner timely filed Form IL-1065 for the calendar year ending December 31, 2016. Petitioner has copies of the return which can be produced upon request but which has not been attached pursuant to the Tribunal's rules.

COUNT ONE

ASSERTION THAT PETITIONER IS NOT ENTITLED TO A DEDUCTION FOR PERSONAL SERVICE INCOME OR A REASONABLE ALLOWANCE FOR COMPENSATION PAID OR ACCRUED FOR SERVICES RENDERED

17. Pursuant to 35 ILCS 5/203(d)(2)(H) (the "Statute"), a partnership (or an LLC taxed as a partnership) is allowed to deduct from its base income: 1) any income of the partnership which constitutes "personal services income," as defined in Section 1348(b)(1) of the Internal Revenue Code, or 2) a "reasonable allowance for compensation" paid or accrued for services rendered by the partners to the partnership, whichever is greater.
18. The taxpayer claimed a deduction from base income as reasonable allowance for compensation paid and accrued for services rendered by the members of the taxpayer.
19. During the taxpayer's audit, the Illinois Revenue Auditor originally agreed with the taxpayer's assessment of personal service income taken as a subtraction via an e-mail dated March 9, 2018 (Exhibit D attached). The auditor reviewed the individual members' Forms 8960 and noted that, for Federal purposes, the income reported by the members from the taxpayer was earned income not subject to net investment income tax and, therefore, should be treated as personal service income under Section 1348(b)(1).

20. The Illinois Revenue Auditor also prepared a schedule of proposed adjustments (Exhibit E attached) showing the earned income of the members taken as a subtraction in arriving at a proposed replacement tax due.
21. The taxpayer's main trade or business is managing the real estate for a multimillion dollar real estate business. All of the members are actively engaged in the operations of the company and are the only ones providing the following services on a daily basis:
 - A. Managing the continued maintenance of all properties including:
 - i. Security,
 - ii. Parking and lawn maintenance,
 - iii. Snow removal,
 - iv. Cleaning and janitorial service,
 - v. Regular service of electrical systems, HVAC, and plumbing.
 - B. Managing the repairs and development of all properties including:
 - i. Construction and remodeling;
 - ii. Repairs of electrical systems, HVAC, and plumbing;
 - iii. Exterior maintenance including roof repairs, tuck pointing, signage;
 - iv. Interior maintenance including painting, lighting, tenant improvements.
 - C. Negotiating and reinforcing all leases;
 - D. Coordinating, reviewing, and negotiating with buyers on the sale of properties;
 - E. Securing financing and providing lenders with ongoing financial reporting;
 - F. Maintaining the administrative and financial records for the property including:
 - i. Paying vendors directly and maintaining the accounts payable,
 - ii. Tracking tenant charges and recording tenant payments,
 - iii. Preparing monthly financials and ledgers,
 - iv. Preparing and maintaining bank reconciliations.
 - G. Performing all compliance work including:
 - i. Securing proper licenses with village officials;
 - ii. Securing permits with local authorities;
 - iii. Preparing and filing annual reports with the Secretary of State;
 - iv. Working with tax preparers to file tax returns for the entity.
22. The partners work continually on the duties mentioned above on a full-time basis. They do not employ a separate management company to handle these duties; they operate independently and make themselves available all day, every day to take care of the property and to ensure their business is operating efficiently. If not for the owners, there would be no one else to do the work. The partners assume all net income represents earned income from their business.
23. The Department has stated in a private letter ruling that "Compensation paid or accrued to partners' is the payment to partners for their services rendered to the partnership in carrying on the partnership's activities. Such amount may or may not include an amount equal to the guaranteed payments paid to partners of the partners' proportionate shares of partnership income." See Illinois Department of Revenue IT 91-0339-PLR (12/24/1991).

The Department further explains, “As a general rule, reasonable and true compensation is only such amount as would ordinarily be paid for like services by like enterprises under like circumstances.”

24. In direct accordance with the Department’s own language, the taxpayer paid its members compensation for services rendered to the taxpayer in such an amount as it would have paid to outside professionals for like services by like enterprises under like circumstances.
25. In private letter ruling IT 91-0339-PRL, the Department specifically states, “The Department will not contest deductions for compensation paid to partners unless the amount subtracted is patently unreasonable.” The fact that the taxpayer would have had to pay outside professionals similar amounts for the same services is clear and convincing evidence as to its reasonableness, thus far deviating from the level of “patently unreasonable.”
26. If the Department does not agree with the above arguments, then the taxpayer respectfully requests the Department consider that it is violating the due process clause of the Fourteenth Amendment because Section 35 ILCS 5 of the Illinois Income Tax Act is vague as to the enforcement and collection of this Tax. What the Department determines to qualify for the subtraction of personal service income or reasonable allowance for compensation of partners is the *opinion* of the Department staff, not written law provided by the Illinois legislature. Aside from one line on the partnership tax form, there are no instructions, regulations, or law to support or deny a taxpayer from taking this subtraction. Absent any law, the Department should not be able to enforce the collection of this Tax. The reason the Department has never enforced the collection of this Tax historically is because it is vague, indefinite, uncertain, and not capable of being understood without any instruction. The Department has not provided taxpayers with explicit standards for determination of this subtraction for personal services or reasonable allowance for compensation for services; therefore, the Department should not be allowed to collect this Tax because it violates the due process clause of the Fourteenth Amendment.
27. In summary, absent any statutory authority provided by the Department to the contrary, the taxpayer believes it has met its burden of proof by providing the above explanation to the Department. What the taxpayer determines to be reasonable meets the definition of “reasonable” pursuant to Webster’s and Black Laws Dictionary, which is the only authority available on this Tax. The taxpayer believes the deduction from base income was appropriate, the deduction should be considered a reasonable allowance for compensation paid and accrued for services rendered by the members of the taxpayer, and there should be no adjustment to the taxpayer’s base income reported on the originally filed F. IL-1065 for the tax years ending December 31, 2014, December 31, 2015 and December 31, 2016.

COUNT TWO
ASSERTION OF PETITIONER LIABILITY FOR PENALTIES

28. Section 3-8 of the UPIA, 35 ILCS 735/3-8 addresses the issue of when penalties can be abated. It states: No penalties if reasonable cause exists. The penalties imposed under the

provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows his failure to file a return or pay tax at the required time was due to reasonable cause.

29. The Department has promulgated rules interpreting reasonable cause at 86 Ill. Admin. Code, Ch. I, Section 700.400. These rules provide that reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department. The determination whether a taxpayer acted with reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. 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 his proper tax liability and to file and pay his proper liability in a timely fashion.
30. Petitioner engaged an experienced Certified Public Accountant to prepare and calculate the tax due on the tax returns for the reporting periods ending December 31, 2014, December 31, 2015, and December 31, 2016 based on rules and regulations provided by the Department. Petitioner timely filed the income tax returns required to be filed. Petitioner exercised the required ordinary business care and prudence in doing so. Therefore, no late-payment penalties should be assessed.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court hear this case and determine that:

- (1) The Illinois statute, 35 ILCS 5/203(d)(2)(H), which provides a deduction for a reasonable allowance for compensation paid or accrued for services rendered by the partners to the partnership is applied so accordingly;
- (2) Petitioner is entitled to a deduction for a reasonable allowance for compensation paid or accrued for services rendered by the partners to the partnership for the tax year ending December 31, 2014;
- (3) Petitioner is entitled to a deduction for a reasonable allowance for compensation paid or accrued for services rendered by the partners to the partnership for the tax year ending December 31, 2015;
- (4) Petitioner is entitled to a deduction for a reasonable allowance for compensation paid or accrued for services rendered by the partners to the partnership for the tax year ending December 31, 2016;
- (5) Petitioner is not liable for late-payment penalties for the tax year ending December 31, 2014 in the amount of \$5,285.40; and
- (6) Petitioner is not liable for late-payment penalties for the tax year ending December 31, 2015 in the amount of \$5,679.60; and
- (7) Petitioner is not liable for late-payment penalties for the tax year ending December 31, 2016 in the amount of \$7,431.10; and

give such other and further relief as the Court may deem fit and proper.

November 20, 2018
Date

Respectfully submitted,



Attorney for Petitioner

Thomas J. Dwyer Jr., Attorney at Law
Thomas J. Dwyer & Associates, LLC
400 Lathrop Avenue
River Forest, IL 60305
(312) 786-5959
tjd-jr@tjdwyerlaw.com

Exhibit A

Notice of Deficiency

for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV
#CNXX XX16 45X6 5764#
PARTIPILO FAMILY LP
ATTN: JAMES F SEXTON & ASSOCIATES
941 N PLUM GROVE RD STE A
SCHAUMBURG IL 60173-4778

September 26, 2018



Letter ID: CNXXXX1645X65764

Taxpayer ID: 36-4177532
Audit ID: A91283456
Reporting period: December 2014
Total Deficiency: \$35,102.69
Balance due: \$35,102.69

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

Bankruptcy Information

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 you are required to file tax returns. For those under the 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.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Statement

Date: September 26, 2018
Name: PARTIPILO FAMILY LF
Taxpayer ID: 36-4177532
Letter ID: CNXXXX1645X65764

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	\$2,697,978.00
Total unmodified base income	\$2,697,978.00
Income or loss	
Other additions	\$0.00
Total income or loss	\$2,697,978.00
Illinois base income or net loss	
Income dist. to a partner subject to rep. tax	\$935,121.00
Total subtractions	\$935,121.00
Base income or loss	\$1,762,857.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$0.00
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	\$1,762,857.00
Illinois net loss deduction (NLD)	\$24.00
Income after NLD	\$1,762,833.00
Exemption allowance	\$1,000.00
Net income	\$1,761,833.00
Base income or loss allocable to Illinois	\$1,761,833.00
Net replacement tax	
Replacement tax	\$26,427.00
Recapture of investment credits	\$0.00
Replacement tax before investment credits	\$26,427.00
Replacement tax investment credits	\$0.00
Net replacement tax due	\$26,427.00

Statement

Date: September 26, 2018
Name: PARTIPILO FAMILY LF
Taxpayer ID: 36-4177532
Letter ID: CNXXXX1645X65764

Computation of deficiency

Reporting period: 31-Dec-2014

Pass-through Withholding Payments	\$0.00
Total New Replacement Tax & Pass-Through	\$26,427.00

Total tax deficiency	\$26,427.00
UPIA-5 late-payment penalty (Audit)	\$5,285.40
Plus interest on tax through September 26, 2018	\$3,390.29

Total deficiency	* \$35,102.69
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If you intend to pay under protest, you must pay this total deficiency amount.

4

Computation of balance due

Reporting period: 31-Dec-2014

Balance due	* \$35,102.69
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Explanation of Audit Adjustments

Income Tax



#BWNKMGV
#CNXX X2X5 66X7 4X87#
PARTIPILO FAMILY LP
ATTN: JAMES F SEXTON & ASSOCIATES
941 N PLUM GROVE RD STE A
SCHAUMBURG IL 60173-4778

September 26, 2018



Letter ID: CNXXX2X566X74X87

Taxpayer ID: 36-4177532
Account ID: 11743-29344
Audit ID: A91283456
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)]

<u>Return Impact</u>	<u>Tax impact</u>
\$1,762,857.00	\$26,427.00

We adjusted your Illinois net loss deduction to the amount allowable under Illinois law. [35 ILCS 5/207]

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)]

Exhibit B

Notice of Deficiency

for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV
#CNXX XX29 8699 2167#
PARTIPILO FAMILY LP
ATTN: JAMES F SEXTON & ASSOCIATES
941 N PLUM GROVE RD STE A
SCHAUMBURG IL 60173-4778

September 26, 2018



Letter ID: CNXXXX2986992167

Taxpayer ID: 36-4177532
Audit ID: A91283456
Reporting period: December 2015
Total Deficiency: \$36,860.17
Balance due: \$36,860.17

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

Bankruptcy Information

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 you are required to file tax returns. For those under the 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.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Statement

Date: September 26, 2018
 Name: PARTIPILO FAMILY LF
 Taxpayer ID: 36-4177532
 Letter ID: CNXXXX2986992167

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	\$2,518,473.00
Total unmodified base income	\$2,518,473.00
Income or loss	
Illinois bonus depreciation addition	\$407,150.00
Other additions	\$0.00
Total income or loss	\$2,925,623.00
Illinois base income or net loss	
Income dist. to a partner subject to rep. tax	\$1,004,794.00
Illinois bonus depreciation subtraction	\$26,621.00
Total subtractions	\$1,031,415.00
Base income or loss	\$1,894,208.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$1,894,208.00
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	\$1,894,208.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$1,894,208.00
Exemption allowance	\$1,000.00
Net income	\$1,893,208.00
Base income or loss allocable to Illinois	\$1,893,208.00
Net replacement tax	
Replacement tax	\$28,398.00
Recapture of investment credits	\$0.00
Replacement tax before investment credits	\$28,398.00
Replacement tax investment credits	\$0.00

Statement

Date: September 26, 2018
Name: PARTIPILO FAMILY LF
Taxpayer ID: 36-4177532
Letter ID: CNXXXX2986992167

Computation of deficiency

Reporting period: 31-Dec-2015

Net replacement tax due	\$28,398.00
Pass-through Withholding Payments	\$0.00
Total New Replacement Tax & Pass-Through	\$28,398.00
Total tax deficiency	\$28,398.00
UPIA-5 late-payment penalty (Audit)	\$5,679.60
Plus interest on tax through September 26, 2018	\$2,782.57
Total deficiency	* \$36,860.17

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	* \$36,860.17
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Explanation of Audit Adjustments

Income Tax



#BWNKMGV
#CNXX XX95 6713 1362#
PARTIPILO FAMILY LP
ATTN: JAMES F SEXTON & ASSOCIATES
941 N PLUM GROVE RD STE A
SCHAUMBURG IL 60173-4778

September 26, 2018



Letter ID: CNXXXX9567131362

Taxpayer ID: 36-4177532
Account ID: 11743-29344
Audit ID: A91283456
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)]

<u>Return Impact</u>	<u>Tax impact</u>
\$1,984,314.00	\$28,398.00

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)]

Exhibit C

Notice of Deficiency

for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV
#CNXX X122 X186 X648#
PARTIPILO FAMILY LP
ATTN: JAMES F SEXTON & ASSOCIATES
941 N PLUM GROVE RD STE A
SCHAUMBURG IL 60173-4778

September 26, 2018



Letter ID: CNXXX122X186X648

Taxpayer ID: 36-4177532
Audit ID: A91283456
Reporting period: December 2016
Total Deficiency: \$48,720.99
Balance due: \$48,524.60

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,

Handwritten signature of Constance Beard in cursive.

Constance Beard
Director

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

(217) 558-4960

Bankruptcy Information

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 you are required to file tax returns. For those under the 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.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Statement

Date: September 26, 2018
Name: PARTIPILO FAMILY LF
Taxpayer ID: 36-4177532
Letter ID: CNXXX122X186X648

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

Computation of deficiency

Reporting period: 31-Dec-2016

Unmodified base income or loss	
Total unmodified base income or loss	\$4,040,224.00
Total unmodified base income	\$4,040,224.00
Income or loss	
Illinois bonus depreciation addition	\$520.00
Other additions	\$0.00
Total income or loss	\$4,040,744.00
Illinois base income or net loss	
Income dist. to a partner subject to rep. tax	\$1,383,582.00
Illinois bonus depreciation subtraction	\$48,868.00
Total subtractions	\$1,432,450.00
Base income or loss	\$2,608,294.00
Income allocable to Illinois	
Nonbusiness income or loss	\$0.00
Non-unitary partnership business income/loss	\$0.00
Business income or loss	\$2,608,294.00
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	\$2,608,294.00
Illinois net loss deduction (NLD)	\$0.00
Income after NLD	\$2,608,294.00
Exemption allowance	\$1,000.00
Net income	\$2,607,294.00
Base income or loss allocable to Illinois	\$2,607,294.00
Net replacement tax	
Replacement tax	\$39,109.00
Recapture of investment credits	\$0.00
Replacement tax before investment credits	\$39,109.00
Replacement tax investment credits	\$0.00

Statement

Date: September 26, 2018
Name: PARTIPILO FAMILY LF
Taxpayer ID: 36-4177532
Letter ID: CNXXX122X186X648

Computation of deficiency

Reporting period: 31-Dec-2016

Net replacement tax due	\$39,109.00
Pass-through Withholding Payments	\$32,604.00
Total New Replacement Tax & Pass-Through	\$71,713.00
Minus tax previously assessed	-\$32,604.00
Total tax deficiency	\$39,109.00
UPIA-5 late-payment penalty (Audit)	\$7,431.10
Plus interest on tax through September 26, 2018	\$2,180.89
Total deficiency	* \$48,720.99

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

Computation of balance due

Reporting period: 31-Dec-2016

Minus payments	-\$196.39
Balance due	* \$48,524.60

Explanation of Audit Adjustments

Income Tax



#BWNKMGV
#CNXX X172 1656 9443#
PARTIPILO FAMILY LP
ATTN: JAMES F SEXTON & ASSOCIATES
941 N PLUM GROVE RD STE A
SCHAUMBURG IL 60173-4778

September 26, 2018



Letter ID: CNXXX17216569443

Taxpayer ID: 36-4177532
Account ID: 11743-29344
Audit ID: A91283456
Reporting period: December 2016

Explanation of adjustments for tax period ending 12/31/2016

Return Impact Tax impact

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

\$2,608,293.00 \$39,109.00

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)]

Exhibit D

Kelley Ferguson

From: James Sexton <jsexton@mycpacfo.com>
Sent: Friday, May 25, 2018 3:21 PM
To: Thomas J. Dwyer Jr.
Cc: Thomas J. Dwyer Jr.; Nancy Partipilo
Subject: FW: Partipilo Family LP IDOR RESPONSE 3
Attachments: Earned Income Calculations.zip

From: Schnapp, Aaron
Sent: Friday, March 9, 2018 2:48 PM
To: James Sexton
Subject: Partipilo Family LP

Jim,

Based on the federal Form 8960's, I believe the rental income should be treated as earned income under IRC Section 911(b) and personal service income under IRC Section 1348(b)(1).

I think we can justify allowing a subtraction based on the 3 partners' K-1 rental income. Please see attachment. The password is last four digits of taxpayer's FEIN.

Please review my proposed adjustments and respond accordingly.

Regards,

Aaron P. Schnapp



Aaron P. Schnapp
Revenue Auditor

Illinois Department of Revenue
Audit Discovery & Recovery
PO Box 19020
Springfield, IL 62794-9020
(217) 785-6520 (office)
(217) 785-3251 (fax)

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Exhibit E

Partipilo Family LP
A91283456

Earned Income as Real Estate Professional

	<u>Schedule K-1 Rental Income</u>			
	<u>2014</u>	<u>2015</u>	<u>2016</u>	
Anthony Partipilo	\$514,906	\$549,897	\$600,474	
Nancy Partipilo	\$514,906	\$549,897	\$600,474	
Grace Klimes	\$514,906	\$549,896	\$600,473	
IRC Section 911(b) Earned Income (excludes capital gain and portfolio income)	\$1,544,718	\$1,649,690	\$1,801,421	
Personal Service Income subtraction	\$1,544,718	\$1,649,690	\$1,801,421	
PSI as filed	\$1,762,857	\$1,984,314	\$2,608,293	
PSI per audit	\$1,544,718	\$1,649,690	\$1,801,421	
PSI Reduction	\$218,139	\$334,624	\$806,872	
Replacement Tax Due	\$3,257	\$3,653	\$12,088	\$18,998
Loss Reduction		\$90,106		

APS 3/9/18