

ILLINOIS INDEPENDENT  
TAX TRIBUNAL

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MICROSOFT CORPORATION,  
Petitioner,

v.

ILLINOIS DEPARTMENT  
OF REVENUE,  
Respondent.

RECEIVED  
JUN 10 2019  
BY: \_\_\_\_\_

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**NOTICE OF FILING OF PETITION**

TO: Illinois Department of Revenue  
Office of Legal Services  
100 West Randolph St. 7-900 (7th Floor of the Thompson Center)  
Chicago, IL 60601

PLEASE TAKE NOTICE that on June 10, 2019, Microsoft Corporation (“Microsoft”), through its attorneys of record, Morgan, Lewis & Bockius LLP, filed with the Clerk of the Illinois Independent Tax Tribunal, Cook County, Illinois, its Petition, a copy of which is attached hereto and herewith served upon you.

Date: June 10, 2019

**MICROSOFT CORPORATION**

Illinois Account ID: 13118-53824

Taxpayer Phone: 425-882-8080

Tax Type: Corporate Income Tax

Tax Years: 2014 & 2015

By: 

Adam P. Beckerink, one of its attorneys

Adam P. Beckerink

Matthew S. Mock

Laura Grace Mezher

Morgan, Lewis & Bockius LLP

77 West Wacker Drive, Fifth Floor

Chicago, IL 60601

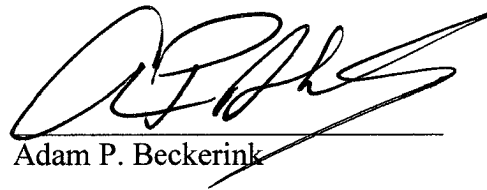
312-324-1495 (Direct)

312-324-1001 (Fax)

**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, hereby certify that I caused to be served upon the Illinois Department of Revenue, at the address listed below, a copy of the Petition by messenger on this 10th day of June, 2019, before 5:00 p.m.

Illinois Department of Revenue  
Office of Legal Services  
100 West Randolph St. 7-900 (7th Floor of the Thompson Center)  
Chicago, IL 60601



Adam P. Beckerink

Adam P. Beckerink  
Morgan, Lewis & Bockius LLP  
77 West Wacker Drive, Fifth Floor  
Chicago, IL 60601  
312-324-1495 (Direct)  
312-324-1001 (Fax)

ILLINOIS INDEPENDENT  
TAX TRIBUNAL

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MICROSOFT CORPORATION,                    )  
  )  
  Petitioner,                    )  
  )  
  v.                                    )  
  )  
ILLINOIS DEPARTMENT                    )  
OF REVENUE,                                )  
  )  
  Respondent.                    )

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**PETITION**

Petitioner, Microsoft Corporation (“Microsoft”), by its attorneys of record, Morgan, Lewis & Bockius LLP, pursuant to Section 1-50 of the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010/1-5 *et. seq.*], hereby petitions the Illinois Independent Tax Tribunal to review and reverse the Notice of Deficiency (the “Notice”) issued by the Illinois Department of Revenue (the “Department”) for the following reasons:

**JURISDICTION AND VENUE**

1. On April 9, 2019, the Department issued Microsoft the Notice, which assesses \$4,204,993.00 of tax, \$840,998.60 of penalties, and \$610,304.91 of interest for reporting period ending on June 30, 2015. A copy of the Notice is attached as Exhibit A. Pursuant to 35 ILCS 1010/1-45, the Tax Tribunal has original jurisdiction over the Notice.

2. Microsoft accepts the Tax Tribunal's designation of its office in Cook County to conduct the hearing on this matter.

### **THE PARTIES**

3. Microsoft is a Washington corporation with its principal headquarters located at 1 Microsoft Way, Redmond, Washington 98052.

4. Microsoft's telephone number is 425-882-8080.

5. Microsoft's Illinois Account ID is 13118-53824.

6. Microsoft is engaged in the development, production, and license of a wide range of computer software products, services, and devices.

7. The Department of is an executive agency of the State of Illinois (the "State") responsible for administering and enforcing the revenue laws of the State.

### **FACTUAL BACKGROUND**

8. The Department audited Microsoft's Form IL-1120, Corporation Income and Replacement Tax Return, for the tax years ending on June 30, 2015 and June 30, 2016 (collectively, the "Audit Period").

9. Microsoft responded to all audit information requests in a timely and sufficient manner.

10. The Department concluded its corporate income tax audit of Microsoft for the Audit Period.

11. On April 3, 2019, Microsoft received a Notice of Audit Results and an IL-1120 Auditor's Report, both of which provide that Microsoft is entitled to a refund of \$318,969.00 for the tax year ending June 30, 2016 ("2015 Tax Year"). The Notice of Audit Results and IL-1120 Auditor's Report are attached as Exhibit B and Exhibit C, respectively.

12. On April 9, 2019, Microsoft received the Notice, which assesses \$4,204,993.00 of tax, \$840,998.60 of penalties, and \$610,304.91 of interest for the tax year ending on June 30, 2015 (“2014 Tax Year”).

13. Microsoft never received a Notice of *Proposed* Deficiency, as required under Illinois law, prior to the Department issuing the Notice with respect to the 2014 Tax Year. *See* 86 IAC § 215.115(a).

14. Along with the Notice, on April 9, 2019, the Department provided Microsoft an “Explanation of Audit Adjustments” for the 2014 Tax Year. *See* Exhibit A.

15. The Department adjusted Microsoft’s sales factor by removing from the denominator \$11,290,853,647.00 in receipts, the bulk of which are: (i) sales receipts of Microsoft Online, Inc. (“MOI”), a member of the Illinois combined group; and (ii) “miscellaneous other income”, as reflected in other income on line 10 of Microsoft’s consolidated Federal Form 1120.

16. Additionally, the Department removed receipts from the denominator of Microsoft’s sales factor that were already excluded from the denominator on the original return filed with the State for the 2014 Tax Year.

17. The Department provided no written basis or explanation for the adjustments to Microsoft’s sales factor denominator, except for the following statement provided for in the Explanation of Audit Adjustments: “[The Department] adjusted the sales factor to properly apportion income based upon [Microsoft’s] unitary group separate filing method. The numerator reflects the separate entity’s Illinois sales. The denominator reflects the unitary group’s sales everywhere. [35 ILCS 5/1501(a)(27) and 86 IL Adm. Code 100.5215]”.

18. Beyond the Explanation of Audit Adjustments, the Department failed to provide any further written explanation or legal or factual basis for the adjustments it made during the Audit Period, which, ultimately, led to the Notice for the 2014 Tax Year.

19. A significant amount of the “miscellaneous other income” that the Department removed from the denominator of Microsoft’s sales factor consisted of receipts paid to Microsoft (or a disregarded entity owned by Microsoft) by foreign affiliates operating in foreign countries that are *not members of the Illinois combined group*.

20. MOI makes sales worldwide, i.e., in the United States and in foreign jurisdictions.

### **COUNT 1**

#### **The Notice violates the Illinois Taxpayer Bill of Rights.**

21. Microsoft restates and incorporates by reference the allegations in paragraphs 1 through 20 hereof, and realleges each paragraph as though fully set forth below.

22. The Illinois Taxpayer Bill of Rights requires that the Department “provide in writing to the taxpayer (i) the audit findings and (ii), unless the taxpayer declines, the audit methods and procedures . . . .” 20 ILCS 2520/4(k).

23. Additionally, the Illinois Taxpayer Bill of Rights also requires the Department “[t]o include on all tax notices an **explanation** of tax liabilities and penalties.” 20 ILCS 2520/4(b) (emphasis added).

24. In addition to Microsoft never receiving a Notice of Proposed Deficiency for the 2014 Tax Year, the Department also failed to provide in writing sufficient information to explain the adjustments that generated the Notice for the 2014 Tax Year; thus, the Department’s Notice is improper and violates the Illinois Taxpayer Bill of Rights.

**WHEREFORE**, Microsoft requests that the Tax Tribunal issue judgement that the Notice is invalid under Illinois law; and therefore, abate the assessment in full for the 2014 Tax Year, or, in the alternative, rule that the Notice does not establish the Department's *prima facie* case such that the burden of proof remains on the Department.

### **COUNT 2**

**The Department improperly removed receipts, which were already excluded from the denominator on the original return filed with the State for the 2014 Tax Year.**

25. Microsoft restates and incorporates by reference the allegations in paragraphs 1 through 20 hereof, and realleges each paragraph as though fully set forth below.

26. The Department removed from the denominator of Microsoft's sales factor receipts, which Microsoft already removed prior to filing its original return with the State for the 2014 Tax Year.

**WHEREFORE**, Microsoft requests that the Tax Tribunal reverse the Department's duplicative removal of receipts from the denominator of Microsoft's sales factor for the 2014 Tax Year.

### **COUNT 3**

**The Department erroneously removed sales receipts of MOI from the denominator of Microsoft's sales factor.**

27. Microsoft restates and incorporates by reference the allegations in paragraphs 1 through 20 hereof, and realleges each paragraph as though fully set forth below.

28. Based on information and belief, the Department excluded MOI's foreign (non-US) sales receipts under the "throw out" rule under 35 ILCS 5/304(a)(3)(C-5)(iv).

29. The throw-out rule under 35 ILCS 5/304(a)(3)(C-5)(iv) provides:

If the taxpayer is **not taxable** in the state in which the services are received, the sale must be excluded from both the numerator and the denominator of the sales factor.



Emphasis added. *See also* 86 IAC § 100.3373(d)(4).

30. Under the economic nexus standard advanced by the Department, MOI is *taxable* in the foreign jurisdictions where it has sales. *See e.g., Capital One Financial Corp. v. Hamer*, 2012-TX-0001/02 (Ill. Cir. Ct. 2015).

31. The throw-out rule under 35 ILCS 5/304(a)(3)(C-5)(iv) does not operate to remove MOI's foreign sales receipts from the denominator of Microsoft's sales factor.

32. To the extent the Department is using the throw-out rule under 35 ILCS 5/304(a)(3)(C-5)(iv) to remove MOI's foreign sales receipts from the denominator of Microsoft's sales factor, whether pursuant to 86 IAC § 100.3200(a)(2) or otherwise, the Department's application of the throw-out rule is unconstitutional and exceeds the authority of the statute. *See e.g., Whirlpool Props., Inc. v. Div. of Tax'n*, Case No. 066595 (N.J. July 28, 2011).

33. The Department improperly threw-out MOI's foreign sales receipts from the denominator of Microsoft's sales factor.

**WHEREFORE**, Microsoft requests that the Tax Tribunal reverse the throw-out of MOI's foreign sales receipts from the denominator of Microsoft's sales factor for the 2014 Tax Year.

#### **COUNT 4**

#### **The Department erroneously computed the denominator of Microsoft's sales factor.**

34. Microsoft restates and incorporates by reference the allegations in paragraphs 1 through 20 hereof, and realleges each paragraph as though fully set forth below.

35. Under 35 ILCS 5/304(a)(3), the denominator of the sales factor must include the "**total sales** of the person everywhere during the taxable year" (emphasis added).

36. No exception applies under Illinois law to support the Department's removal of "miscellaneous other income" paid to Microsoft by foreign affiliates that are *not members of the Illinois combined group* from the denominator of Microsoft's sales factor.

37. The Department improperly adjusted Microsoft's sales factor denominator.

**WHEREFORE**, Microsoft requests that the Tax Tribunal reverse the adjustment to Microsoft's sales factor for the 2014 Tax Year.

### **COUNT 5**

#### **The Department failed to satisfy the burden for invoking alternative apportionment under Illinois law.**

38. Microsoft restates and incorporates by reference the allegations in paragraphs 1 through 20 hereof, and realleges each paragraph as though fully set forth below.

39. The Department's regulation, 86 IAC § 100.3390, implementing 35 ILCS 5/304(f) provides that

**(c) . . . The party (the Director or the taxpayer) seeking to utilize an alternative apportionment method has the burden of going forward with the evidence and proving by clear and cogent evidence that the statutory formula results in taxation of extraterritorial values and operates unreasonably and arbitrarily in attributing to Illinois a percentage of income out of all proportion to the business transacted in this State. In addition, the party seeking to use an alternative apportionment formula must go forward with the evidence and prove that the proposed alternative apportionment method fairly and accurately apportions income to Illinois based upon the business activity in this State.**

Emphasis added.

40. The Department provided no evidence or explanation to support that the statutory apportionment formula, which mandates the inclusion of miscellaneous other income in the sales factor denominator, results in taxation of extraterritorial values and operates unreasonably and arbitrarily in attributing income to Illinois.

41. The Department has not established the right to invoke alternative apportionment under 35 ILCS 5/304(f) and 86 IAC § 100.3390(c), because the Department, as the proponent of the alternative method, has failed to carry its burden to prove by clear and cogent evidence that the statutory formula applied by Microsoft does not fairly and accurately apportion income to Illinois.

42. Further, the Department provided no evidence and proof that the alternative apportionment formula used by the Department produces a fair and accurate apportionment of income to Illinois.

43. Therefore, the Department improperly invoked alternative apportionment to calculate Microsoft's Illinois taxable income without first satisfying its burden under 35 ILCS 5/304(f) and 86 IAC § 100.3390(c).

**WHEREFORE**, Microsoft requests that the Tax Tribunal (i) reverse the adjustment to Microsoft's sales factor denominator for the 2014 Tax Year, or in the alternative, (ii) require the Department to carry its burden to use alternative apportionment.

### **COUNT 6**

#### **The imposition of penalties is improper.**

44. Microsoft restates and incorporates by reference the allegations in paragraphs 1 through 20 hereof, and realleges each paragraph as though fully set forth below.

45. Under Illinois law, no penalties may be imposed on a taxpayer if the failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

46. Under Illinois regulations, "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." 86 IAC § 700.400(b).

47. A taxpayer is considered to have made a good faith effort to determine, file, and pay its tax liability if the taxpayer “exercised ordinary business care and prudence in doing so.” 86 IAC § 700.400(c).

48. Microsoft made a good faith effort to determine its proper tax liability and to file and pay its proper tax liability in a timely fashion.

49. Microsoft exercised ordinary business care and prudence in determining its proper tax liability and filing and paying its proper tax liability in a timely fashion.

50. Microsoft has a long history of timely filing Illinois corporate income tax returns and paying Illinois corporate income tax in a timely manner.

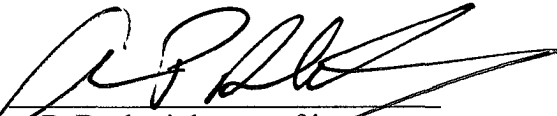
51. The penalties imposed by the Department must be abated for reasonable cause.

**WHEREFORE**, Microsoft requests that the Tax Tribunal abate all penalties in full.

**CONCLUSION AND RELIEF REQUESTED**

**WHEREFORE**, Microsoft respectfully requests that the Tax Tribunal abate the entirety of the Notice in full and grant any other relief the Tax Tribunal deems appropriate for the reasons contained herein.

**MICROSOFT CORPORATION**

By:   
Adam P. Beckerink, one of its attorneys

Adam P. Beckerink  
Matthew S. Mock  
Laura Grace Mezher  
Morgan, Lewis & Bockius LLP  
77 West Wacker Drive, Fifth Floor  
Chicago, IL 60601  
312-324-1495 (Direct)  
312-324-1001 (Fax)

# EXHIBIT A

**Notice of Deficiency**  
**for Form IL-1120, Corporation Income and Replacement Tax Return**



#BWNKMGV  
#CNXX X17X 7X16 X161#  
MICROSOFT CORP  
ATTN: TAX DEPT  
1 MICROSOFT WAY  
REDMOND WA 98052-6399

April 9, 2019



Letter ID: CNXXX17X7X16X161

**Taxpayer ID:** 91-1144442  
**Audit ID:** A906767360  
**Reporting period:** June 2015  
**Total Deficiency:** \$5,656,296.51  
**Balance due:** \$5,656,296.51

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](http://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](http://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,

David Harris  
Director

ILLINOIS DEPARTMENT OF REVENUE  
AUDIT BUREAU  
PO BOX 19012  
SPRINGFIELD IL 62794-9012  
(217) 782-8064

## **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: April 9, 2019  
Name: MICROSOFT CORP  
Taxpayer ID: 91-1144442  
Letter ID: CNXXX17X7X16X161

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

## Computation of deficiency

Reporting period: 30-Jun-2015

Income or loss	
Federal taxable income	\$7,217,925,902.00
Net operating loss deduction	\$63,769,445.00
State Municipal and other interest excluded	\$15,689,562.00
Income tax and replacement tax deduction	\$16,046,675.00
Illinois bonus depreciation addition	\$1,229,614,809.00
Other additions	\$0.00
Base income or loss	
Foreign dividends subtraction	\$1,539,973,831.00
Illinois bonus depreciation subtraction	\$559,908,611.00
Total subtractions	\$2,099,882,442.00
Base income or net loss	\$6,443,163,951.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$0.00
Business income or loss	\$6,443,163,951.00
Apportionment formula	
Total sales everywhere	\$52,947,816,662.00
Total Illinois sales	\$1,431,197,808.00
Apportionment factor	0.027030
Business income/loss apportionable to IL	\$174,158,722.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$0.00
Base income or net loss allocable to IL	\$174,158,722.00
Net income	
Base income or net loss	\$174,158,722.00
IL net loss deduction (NLD)	\$1,074,136.00
Income after NLD	\$173,084,586.00
Net income	\$174,158,722.00
Net replacement tax	
Replacement tax	\$4,353,968.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$4,353,968.00
Net replacement tax	\$4,353,968.00
Net income tax	
Income tax	\$10,679,761.00
Recapture of investment credits	\$0.00

# Statement

Date: April 9, 2019  
Name: MICROSOFT CORP  
Taxpayer ID: 91-1144442  
Letter ID: CNXXX17X7X16X161

<b>Computation of deficiency</b>	<b>Reporting period: 30-Jun-2015</b>
Income tax before credits	\$10,679,761.00
Income tax investment credits	\$0.00
Net income tax	\$10,679,761.00
Refund or balance due	
Net replacement tax	\$4,353,968.00
Net income tax	\$10,679,761.00
Medical Cannabis Act Surcharge	\$0.00
Total net income and replacement tax due	\$15,033,729.00
Minus tax previously assessed	-\$10,828,736.00
Total tax deficiency	\$4,204,993.00
UPIA-5 late-payment penalty (Audit)	\$840,998.60
Plus interest on tax through April 9, 2019	\$610,304.91
Total deficiency	* \$5,656,296.51

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

<b>Computation of balance due</b>	<b>Reporting period: 30-Jun-2015</b>
Balance due	* \$5,656,296.51

# Explanation of Audit Adjustments

## Income Tax



#BWNKMGV  
#CNXX X153 9659 6962#  
MICROSOFT CORP  
ATTN: TAX DEPT  
1 MICROSOFT WAY  
REDMOND WA 98052-6399

April 9, 2019



Letter ID: CNXXX15396596962

Taxpayer ID: 91-1144442  
Account ID: 13118-53824  
Audit ID: A906767360  
Reporting period: June 2015

### Explanation of adjustments for tax period ending 06/30/2015

### Return Impact

### Tax impact

We obtained information from the Internal Revenue Service under authorization of the Internal Revenue Code, Section 6103(d), and computed your Illinois Tax liability based on that information.

We adjusted your addition modifications to reflect the correct addback of the federal bonus depreciation, or the correct reversal of the Illinois depreciation for bonus depreciation assets in the last year you are allowed a federal depreciation deduction, as required to be shown on the Form IL-4562. [35 ILCS 5/203(b)(2)(E-10), (b)(2)(E-11), (c)(2)(G-10), (c)(2)(G-11), (d)(2)(D-5), (d)(2)(D-6)]	\$1,229,614,809.00	\$33,236,488.00
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We adjusted your subtraction modifications to reflect the correct amount of Illinois depreciation related to bonus depreciation, assets, and the reversal of the bonus depreciation addback for an asset in the last year you are allowed a federal depreciation deduction for that asset, as required to be shown on Form IL-4562. [35 ILCS 5/203(b)(2)(T), (c)(2)(R), (d)(2)(O)]	\$559,908,611.00	\$15,134,330.00
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We adjusted your sales factor by including in the numerator sales to the U. S. government originating in Illinois. [86 IL Adm. Code 100.3370(c)(2)]	\$28,395,562.00	\$767,532.00
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We adjusted your sales factor to properly apportion income based upon your unitary group separate filing method. The numerator reflects the separate entity's Illinois sales. The denominator reflects the unitary group's sales everywhere. [35 ILCS 5/1501(a)(27) and 86 IL Adm. Code 100.5215]	-\$11,290,853,647.00	-\$44,933,357.00
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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 the auditor's report issued with the EDA-143-I-APT, Notice of Audit Results, has resulted in this penalty increasing to 20 percent. [35 ILCS 735/3-3(b-20)(2)]



Illinois Department of Revenue

# EAR-14 Format for Filing a Protest for Income Tax

Do not use this form for hearing requests that are under the Independent Tax Tribunal jurisdiction.

## General information

You may use this form to file a written protest and request an administrative hearing for all income taxes against our

- Notice of Deficiency, or
- Notice of Claim Denial of a claim for refund of Illinois Income Tax.

**Note:** A Notice of Claim Denial may also be known as a Notice of Amended Status, Notice of Claim Status, or Tentative Denial of Claims.

A notice and demand for payment cannot be protested.

Your written protest must clearly outline and define the grounds upon which your protest is based. You must file your written protest within the time period specified on the notice or your right to a hearing will be forfeited, and the proposed assessment or claim denial will be final. If you file an acceptable protest on time, we must reconsider the proposed assessment or claim denial, and if requested, grant you or your authorized representative a hearing as required under Sections 908 and 910 of the Illinois Income Tax Act. To assist you in filing your

protest, we have prepared this form for your convenience. You must use this form in order to ensure all the necessary information is provided, thus expediting the process for handling unagreed income tax cases.

**Note:** If you do not respond on time, the deficiency will become a Final Assessment as authorized under Sections 903(a)(2) and 904(d), or (if applicable) the denial of your claim for refund will become final under Section 909(f).

Mail the completed EAR-14 to the Department within your specific protest period. You must mail or otherwise deliver this protest on or before the date on the notice you are protesting to the address provided on that notice.

**Include a copy of all notices  
you are protesting.**

## Step 1: Provide the following information

<p><b>1</b> _____ Identification number (FEIN or SSN)</p> <p><b>2</b> _____ Taxpayer's name</p> <p><b>3</b> _____ Street Address</p> <p>_____ P.O. Box (if applicable)</p> <p>_____ City State Zip Code</p>	<p><b>4</b> _____ Spouse's SSN (if applicable)</p> <p><b>5</b> _____ Spouse's name (if applicable)</p> <p><b>6</b> _____ Email address (if applicable)</p> <p><b>7</b> _____ Taxpayer's phone number</p> <p>_____ If taxpayer is a business, provide the name and title of contact person.</p>
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## Step 2: Complete the following - provide the following information so we can process your protest or request for a hearing.

**Note: For a protest to be valid, you must set forth the grounds on which such protest is based. [IITA Sections 908(a)/910(a) and 86 Ill. Adm. Code Sec. 200.120]**

**1** Enter the date the Notice of Deficiency or the Notice of Claim Denial was issued.

Notice of Deficiency \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_      Notice of Claim Denial \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Month    Day    Year    Month    Day    Year

**2** Complete the following (as applicable) to your protest.

Tax year ended	Date return or claim was filed	Amount of deficiency	Amount of claim disallowed
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>Totals:</b>		_____	_____

- 3 What adjustments or issues are being protested?
  
- 4 What facts are you relying on in making your protest?
  
- 5 What law(s) are you relying on in making your protest?
  
- 6 What documentation or attachments are being submitted with your protest?
  
- 7 Provide any closing remarks you would like to make regarding this matter.

If additional space is needed to answer any of these questions, you may attach additional sheets using the same format.

- 8 Do you want a hearing in the matter you have outlined in your written protest?  
 Yes \_\_\_\_\_ No \_\_\_\_\_ (If "No", see note below.)

**Note:** If you select "No," you waive your right to an administrative hearing, and the Department's determination will be reviewed based on the information submitted with this form.

**Step 3: Sign below**

The taxpayer must provide a written signature certifying that the contents and facts stated are true, correct, and complete. If the protest is being prepared by a representative for the taxpayer, the preparer must also provide a written signature certifying the contents. In addition, the taxpayer's representative must have previously provided a Form IL-2848, Power of Attorney, or must submit one with the protest.

**Execution and Certificate of Taxpayer(s) or Taxpayer's Representative**

By Taxpayer(s):

Under penalties of perjury, I hereby certify and declare that I have examined this protest and any attachments and that to the best of my knowledge the facts stated are true, correct and complete.

\_\_\_\_\_  
 Taxpayer's signature Date

\_\_\_\_\_  
 Taxpayer's signature Date

By Taxpayer's Representative:

Under penalties of perjury, I hereby certify and declare that I have prepared the protest and that to the best of my knowledge the facts stated herein and all attachments are true, correct and complete. A Power of Attorney (Form IL-2848) has been previously provided or is enclosed.

\_\_\_\_\_  
 Taxpayer's representative (print name) Taxpayer's representative signature Date

\_\_\_\_\_  
 Taxpayer's representative (print name) Taxpayer's representative signature Date

\_\_\_\_\_  
 Taxpayer's representative (print name) Taxpayer's representative signature Date

# EXHIBIT B

# Notice of Audit Results

## Auditor's Report(s)



#BWNKMGV  
#CNXX X2X5 113X 8322#  
MICROSOFT CORP  
ATTN: TAX DEPT  
1 MICROSOFT WAY  
REDMOND WA 98052-6399

April 3, 2019



Letter ID: CNXXX2X5113X8322

**Taxpayer ID:** 91-1144442  
**Account ID:** 13118-53824  
**Audit ID:** A906767360  
**Return type:** IL-1120  
**Audit periods:** 07/2014 - 06/2016

Enclosed, find the auditor's report(s), showing the amount of tax, penalty, and interest we have determined is due for the periods shown above. If you agree with these amounts shown on the auditor's report(s), sign and return with your payment to the address shown below. By signing the auditor's report(s), you grant the Department permission to offset underpayments against overpayments, if applicable. Note, if you sign and return all enclosed auditor's report(s) or pay the net results due, you waive the right to seek review by the Informal Conference Board (ICB).

A summary of the audit results are listed below.

### Audit Results

	YEAR 1	YEAR 2	Total for audit period
Tax period ending	06/30/2015	06/30/2016	
Interest Computed through	04/03/2019	12/31/9999	
Tax	\$4,204,993.00	(\$318,969.00)	\$3,886,024.00
Penalty	\$630,749.00	\$0.00	\$630,749.00
Interest	<u>\$606,158.00</u>	<u>\$0.00</u>	<u>\$606,158.00</u>
Total Due	\$5,441,900.00	(\$318,969.00)	\$5,122,931.00

If you do not pay the amount due within 30 days from the "Date of Issuance," April 3, 2019, shown on auditor's report(s), or take advantage of your ICB rights, you may incur additional late payment penalties and interest. If you do not sign the report(s) or pay the amount shown due, 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 auditor's report(s) to:

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

If you are operating under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy 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 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.

Sincerely,

Ori Weisz  
Revenue Auditor

ILLINOIS DEPARTMENT OF REVENUE  
9511 HARRISON ST, DP-A  
DES PLAINES IL 60016-1523

217 720-7446  
847 294-4246 fax

[Ori.Weisz@Illinois.gov](mailto:Ori.Weisz@Illinois.gov)



# EXHIBIT C



EDA-25 IL-1120 Auditor's Report

Taxpayer name: MICROSOFT CORP Tax period ending: 6/30/2015
FEIN: 91-1144442 Interest through date: 4/3/2019
Account ID: 13118-53824 Earliest statute date: 4/15/2019
Audit period: 6/30/2015 through 6/30/2016

Type of change: Math error Original return receive date:
Amended change: Federal State Amended receive date:
If this is a federal change, the finalization date is

Table with 4 columns: Capital Loss, Column A (original or adjusted), Column B (net change), Column C (corrected amounts). Rows include Capital Loss Carry Back Line 1 Adjustment and Capital Loss Federal Taxable Income.

Step 1: Income or loss

Table with 4 columns: Line number, Column A, Column B, Column C. Rows 1-9 detailing income and loss items like Federal taxable income, Net operating loss deduction, etc.

Step 2: Base income or loss

Table with 4 columns: Line number, Column A, Column B, Column C. Rows 10-23 detailing base income or loss items like Interest income, River Edge Redevelopment Zone dividend subtraction, etc.

Step 3: Income allocable to Illinois (Complete this step if any amount on Line 23 is derived outside Illinois.)

Table with 4 columns: Line number, Column A, Column B, Column C. Rows 24-34 detailing income allocable to Illinois items like Nonbusiness income, Total sales inside Illinois, etc.

	Column A (original or adjusted)	Column B (net change)	Column C (corrected amounts)
<b>Step 4: Net income</b>			
35 Base income or net loss from Line 23 or Line 34	35 125,445,850	48,712,872	35 174,158,722
36 Discharge of indebtedness adjustment	36 0	0	36 0
37 Adjusted base income or net loss. Add Lines 35 and 36.	37 125,445,850	48,712,872	37 174,158,722
38 Illinois net loss deduction	38 0	0	38 0
39 Net income. Subtract Line 38 from Line 37.	39 125,445,850		39 174,158,722
<b>Step 5: Replacement tax after credits</b>			
40 Replacement tax. Multiply Line 39 by applicable rate.	40 3,136,146		40 4,353,968
41 Recapture of investment credits	41 0	0	41 0
42 Replacement tax before credits. Add lines 40 and 41.	42 3,136,146	1,217,822	42 4,353,968
43 Investment credits	43 0	0	43 0
Legal settlement amount			
44 Replacement tax after credits. Subtract Line 43 from Line 42.	44 3,136,146		44 4,353,968
<b>Step 6: Income tax after credits</b>			
45 Income tax. Multiply Line 39 by applicable rate.	45 7,692,590		45 10,679,761
46 Recapture of investment credits	46 0	0	46 0
47 Income tax before credits. Add Lines 45 and 46.	47 7,692,590	2,987,171	47 10,679,761
48 Income tax credits	48 0	0	48 0
Legal settlement amount			
49 Income tax after credits. Subtract Line 48 from Line 47.	49 7,692,590		49 10,679,761
<b>Step 7: Tax, penalty, and interest</b>			
50 Replacement tax before reductions from Line 44	50 3,136,146	1,217,822	50 4,353,968
50a Foreign insurer replacement tax reduction	50a 0	0	50a 0
50b Subtract Line 50a from Line 50. This is your net replacement tax.	50b 3,136,146	1,217,822	50b 4,353,968
51 Income tax before reduction from Line 49	51 7,692,590	2,987,171	51 10,679,761
51a Foreign insurer income tax reduction	51a 0	0	51a 0
51b Subtract Line 51a from Line 51. This is your net income tax.	51b 7,692,590	2,987,171	51b 10,679,761
52 Compassionate Use of Medical Cannabis Pilot Program Act Surcharge. Fiscal filers only.	52 0	0	52 0
53 Total net income and replacement taxes and surcharge. Add Lines 50b, 51b, and 52.	53 10,828,736	4,204,993	53 15,033,729
<b>54 Penalties</b>			
a Late-filing or nonfiling penalty	54a 0		54a 0
b Underpayment of estimated tax penalty	54b 0		54b 0
c Late-payment penalty	54c 0		54c 420,499
d Audit late-payment penalty	54d 0		54d 210,250
e Fraud or negligence penalty	54e 0		54e 0
55 Total penalties. Add Lines 54a through 54e.	55 0		55 630,749
56 Interest on taxes and surcharge	56 0		56 606,158
57 Total tax, penalty, and interest. Add Lines 53, 55, and 56.	57 10,828,736		57 16,270,636

**Step 8: Payments and account balance**

<b>Column A</b> (original or adjusted)	<b>Column B</b> (net change)	<b>Column C</b> (corrected amounts)
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**58 Payments**

a	Total estimated payments (IT and RT)	58a	14,400,000
b	Form IL-505-B payments	58b	0
c	Payment with original return	58c	0
d	Subsequent payments	58d	0
e	Credit from another period	58e	3,800,728
f	Pass-through entity payments	58f	0
g	Gambling withholding	58g	0
59	Total payments and credits. Add Lines 58a through 58g.	59	18,200,728
60	Credits transferred to another period	60	0
61	Refunds and credit carryforward	61	7,371,992
62	Total credits out and refunds. Add Lines 60 and 61.	62	7,371,992
63	Net payments available. Subtract Line 62 from Line 59.	63	10,828,736
64	Amount due or refund. Subtract Line 63 from Line 57.	64	5,441,900

\* Double penalty and interest applies because the tax was eligible for amnesty and was not paid in full.  
 If applicable, additional penalty and interest will be billed at a later date when the audit is processed.

**Waiver of Restrictions - By signing and filing, the undersigned agrees to**

- waive the restriction provided in the IITA, Section 903(b);
- immediate assessment and collection of the deficiencies (increase in tax and penalties) listed above, with interest as provided by law;
- accept the overpayment (decrease in tax and penalties) shown above with interest on such overpayments as provided by law; and
- waive the right to seek review by the Informal Conference Board.

**Note:** This waiver constitutes a valid claim for refund or credit for any overpayment shown above if it is properly signed and filed within the period established by law for making such claim. A date receipted copy of it must be received from the Department as proof of filing.

Under penalties of perjury, I state that I have examined this return, and, to the best of my knowledge, it is true, correct, and complete. By signing this return, I waive the right to seek review by the Informal Conference Board.

Signature of taxpayer or authorized representative	Title	Date
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**OFFICIAL USE ONLY**

Auditor comments

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