

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

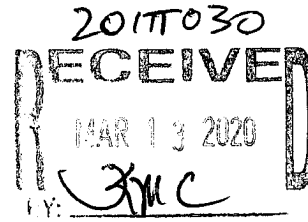
OPTUMRX, INC.

Petitioner,

vs.

ILLINOIS DEPARTMENT OF REVENUE

Respondent.



Case No. \_\_\_\_\_

**PETITION**

OptumRx, Inc. (referred to herein as “Petitioner”) by and through its attorneys, Baker & McKenzie LLP, who are duly authorized to represent Petitioner in this regard pursuant to the Power of Attorney attached hereto as **Exhibit A**, hereby petitions the Illinois Independent Tax Tribunal (the “Tribunal”) to review and reverse the Notices of Tentative Audit Denial of Claim issued by the Illinois Department of Revenue (the “Department”) as follows:

**PARTIES**

1. Petitioner is a multistate business enterprise that engages in business in Illinois.
2. Petitioner maintains its corporate headquarters at 11000 Optum Circle, Eden Prairie, Minnesota, 55344.
3. Petitioner’s telephone number is 888-445-8745 and its mailing address is 9900 Bren Road East, Minnetonka, Minnesota, 55343-9664.
4. Petitioner’s federal identification number is 33-0441200.
5. The Department is an agency of the State of Illinois and is responsible for administering and enforcing the revenue laws of the State of Illinois.

## JURISDICTION

6. On or about January 15, 2020, the Department issued two Notices of Tentative Audit Denial of Claim (the “Notices”) to Petitioner denying Petitioner’s claims for refund on Form ST-1-X Amended Sales and Use Tax and E911 Surcharge Return, letter IDs CNXXX18794758887 & CNXXX13X33289440, respectively. Copies of the Notices are attached hereto as **Exhibit B**.
7. The Notices refer to the Audit Periods January 2013 to December 2014, and January 2015 to March 2018 (the “Periods at Issue”).
8. Petitioner filed a refund claim for the period January 2009 through and including December 2012 in the amount of \$2,662,613.18 on the same grounds as those set forth in this Petition (“2009 – 2012 Claim”). Petitioner is currently awaiting a determination from the Department on its 2009 – 2012 Claim. Given the identity of issues presented in its claims, Petitioner expects any decision here to apply equally to its 2009 – 2012 Claim.
9. This Tribunal has original jurisdiction over all Department determinations reflected on Notices of Claim Denial, among other notices, where the amount at issue exceeds \$15,000, exclusive of penalties and interest. 35 ILCS 1010/1-45.
10. The amount at issue in this matter exceeds \$15,000 exclusive of penalties and interest such that this Tribunal has original jurisdiction over the matter.

## BACKGROUND

11. Petitioner is a pharmacy benefits manager (“PBM”) that specializes in providing PBM services, such as establishing and maintaining a pharmacy network, providing administrative and general support, operating a claims processing system, adjudicating and processing prescription claims, developing and managing a formulary, negotiating and collecting rebates for pharmacy transactions, and operating a mail order pharmacy.

12. United HealthCare Services, Inc. (“UHS”) provides healthcare benefits to customers across various markets, including to Medicare Part D beneficiaries.
13. UHS submits bids and contracts with the Centers for Medicare and Medicaid Services (“CMS”) to operate Medicare Advantage (“MA”) and/or Medicare Voluntary Prescription Drug (“PDP”) Plans.
14. CMS makes monthly payments to UHS for its operation of MA and PDPs, and UHS provides the Medicare beneficiary with access to medical care and prescription drugs approved by CMS.
15. Petitioner provides PBM services to UHS, including prescription drug benefits associated with MA and PDPs, pursuant to an agreement with UHS, hereinafter the “Administration Agreement.”
16. Under the Administration Agreement, Petitioner adjudicates and processes prescription drug claims, develops and manages a formulary, negotiates and collects rebates for pharmacy transactions, establishes network pharmacies, provides administrative and general support, and operates a mail-order pharmacy in return for administrative fees.
17. Under the Administration Agreement, Petitioner manages Medicare Part D benefits of Medicare beneficiaries, among other things.
18. As a part of its PBM and mail-order pharmacy services under the Administration Agreement, Petitioner delivers prescription medications to Medicare Part D beneficiary-customers in Illinois. These deliveries were shipped into Illinois, via common carrier, from out-of-state locations.
19. When a Medicare beneficiary in Illinois purchases prescriptions drugs from Petitioner, the Medicare beneficiary pays Petitioner a co-payment, which is a partial payment for the cost of the prescription drugs.
20. Petitioner thereafter processes and submits a claim to UHS for reimbursement of the remaining balance of the cost for prescription drugs under Medicare Part D prescription drug plans, and UHS reimburses Petitioner.

21. UHS, in turn, passes on these charges by Petitioner for the costs of prescription drugs sold to Medicare Part D beneficiaries to CMS.
22. CMS reimburses UHS for these costs/charges through payments made from CMS to UHS, pursuant to an agreement.
23. Pursuant to section 17 of the Illinois Service Occupation Tax (“SOT”) and section 17 of the Service Use Tax (“SUT”), Petitioner filed Form ST-1-X, Amended Sales and Use Tax and E911 Surcharge Return, seeking a refund of \$1,813,432.00 for tax that was paid in error during the January 2013 to December 2014 period.
24. Pursuant to section 17 of the Illinois SOT and section 17 of the SUT, Petitioner filed Form ST-1-X, Amended Sales and Use Tax and E911 Surcharge Return, seeking a refund of \$3,818,595.00 for tax paid in error for the January 2015 to March 2018 period.
25. Pursuant to section 17 of the Illinois SOT and section 17 of the SUT, Petitioner filed a claim seeking a refund of \$2,662,613.18 for tax paid in error for the January 2009 to December 2012 period and is currently awaiting a determination from the Department on its claim.
26. The claimed refunds relate to Illinois SOT / SUT that was paid in error on sales of prescription drugs under Medicare Part D prescription drug plans.
27. The Department issued Notices denying Petitioner’s claims for refund during the Period at Issue, and this appeal followed.

#### **COUNT I**

#### **ILLINOIS SOT / SUT IS PREEMPTED BY FEDERAL LAW AND MAY NOT BE IMPOSED ON PRESCRIPTION DRUGS PROVIDED UNDER A MEDICARE PART D PLAN**

28. Petitioner hereby restates and realleges the allegations contained in paragraphs 1 through 27 as if fully set forth herein.

29. The Department has erroneously denied Petitioner's claims for refund during the Periods at Issue for Illinois SOT / SUT paid in error.
30. Illinois imposes either SOT or SUT upon all tangible personal property transferred as an incident to the sale of a service. 35 ILCS § 115/3; 35 ILCS § 110/3.
31. Illinois imposes a reduced SOT rate of 1% on the sale of prescription drugs. 35 ILCS § 115/3-10.
32. Pursuant to Illinois regulations, Petitioner calculates its SOT liability based on the cost price of the prescription drugs transferred incident to its sales of service. Ill. Admin. Code 140.101.
33. The cost price of Petitioner's prescription drugs is greater than 75% of the selling price. Accordingly, and pursuant to Illinois regulation, Petitioner calculates tax based on the greater of 50% of the entire bill or the actual cost price of the drugs. Ill. Admin. Code 140.105(a); Ill. Admin. Code 140.106(a).
34. Petitioner calculates its SOT liability based on the actual cost price of pharmaceuticals, and is not required, and in fact does not, separately state the amount of tax charged on bills issued to UHS. Ill. Admin. Code 140.106(e).
35. Through operation of Illinois law under the SOT and SUT, Illinois SUT is included in the price Petitioner charges UHS for prescription drugs. *Id.*
36. Any sales, use, or other tax imposed on items dispensed under Medicare Part D by Petitioner is the responsibility of UHS and CMS, per contract, and as an operation of Illinois law.
37. UHS' cost price of prescription drugs includes the Illinois SUT charged by Petitioner.
38. The incidence of the SUT imposed on the prescription drugs at issue is borne and paid by CMS through the Medicare Part D Fund.
39. The Supremacy Clause of the United States Constitution makes federal law the supreme law of the land, and provides that Congress may preempt state law by statute. U.S. Const., Art. VI, Cl. 2.

40. The preemption provided for in Medicare Part D preempts state taxes on premium payments to Medicare Part D plans as well as all other non-premium payments made from CMS to Medicare Part D plans (e.g., direct subsidy, reinsurance payments, and risk corridor payments. *See e.g.*, 42 C.F.R. 422.404(b) (“No premium tax, fee, or other similar assessment may be imposed by any State . . . for any payment [CMS] makes on behalf of Part D plan enrollees under this part (including the direct subsidy, reinsurance payments, and risk corridor payments) [i.e. non-premium payments from CMS]; or for any payment made to Part D plans by a beneficiary or by a third party on behalf of a beneficiary [e.g., premium payments]. (emphasis added)).
41. The reference to direct subsidies, reinsurance payments, and risk corridor payments addressed in 42 C.F.R. 422.404(b)(1) indicate that federal preemption of state and local taxes under Medicare Part D is not limited to taxes imposed on premiums. *Id.*
42. The controlling Medicare Part D federal statute expressly incorporates, references, and provides that the preemption provisions provided for in Medicare Part C shall also apply in the context of Medicare Part D. 42 U.S.C. § 1395w-112(g).
43. The Medicare Part C preemption provides that “No State may impose a premium tax or similar tax with respect to payments to Medicare + Choice [i.e. Medicare Advantage] organizations under section 1395w-23 of this title or premiums paid to such organizations under this part.” 42 U.S.C. § 1395w-24(g) (emphasis added).
44. The preemption in Medicare Part C, and incorporated by reference in Medicare Part D, indicates that state taxation of both premium and non-premium payment streams are preempted by Medicare Part C and under Medicare Part D
45. The Federal Employee Health Benefits Act (“FEHBA”) preempts state taxation of *any* payment made from the Federal Employee Health Benefits Fund, including payments made for prescription drugs. 5 U.S.C. §§ 8909(f)(1) & (2); *see also HealthPartners, Inc. v. Commissioner of Revenue*, 199 Minn. Tax

LEXIS 6 (Minn. T.C. 1999) (a Minnesota tax on a provider's or hospital's gross revenues was preempted by FEHBA); United State Office of Personnel Management, OPM Letter No. 1998-54 (FEHBA preempts state tax imposed on hospitals in Kentucky); United State Office of Personnel Management, OPM Carrier Letter No. 2003-17 (Missouri taxes on licensed retail pharmacies were preempted by FEHBA); *and Shalala v. Guernsey Memorial Hospital*, 84 U.S. 87 (1995) (courts must defer to OPM interpretation of FEHBA, unless plainly erroneous or inconsistent with the language of the Act.).

46. Specifically, the FEHBA preemption statute provides that “(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, . . . or other governmental authority thereof, with respect to any payment made from the Fund. 5 U.S.C. § 8909(f) (emphasis added).
47. The only state taxes permitted under FEHBA are state taxes measured by net income. 5 U.S.C. § 8909(f)(1).
48. FEHBA and its related regulations have been interpreted repeatedly to preempt state taxes, fees, and any other monetary payment from impacting the Federal Employees Health Benefits Fund, directly or indirectly. *See e.g., Travelers Insurance Co. v. Cuomo*, 14 F.3d 708 (2nd Cir. 1993), *rev'd on other grounds*; *Health Maintenance Org. of New Jersey Inc. v. Whitman*, 72 F.3d 1123 (3rd Cir. 1995); *Group Health Cooperative v. Wash. Dep't of Rev.*, 438 P.3d 158 (App. Div. 1 2019); *Group Health Cooperative v. City of Seattle*, 189 P.3d 216 (2008).
49. The intent of Congress in creating preemption of state taxes in Medicare Advantage and Medicare Part D was to replicate the preemption provided under FEHBA. 63 FR 3498, 35014 (“[t]he current law on federal pre-emption of state premium taxes or fees on Federal payments from the FEHBP to health plans will be extended to Federal payments to Medicare + C [Medicare Advantage] plans and other health plans receiving capitated payments from Medicare Trust Funds.”).

50. The language of the FEHBA preemption incorporated in Medicare Part C, and specifically incorporated by reference in Medicare Part D, preempts any state tax imposed on premium or non-premium payments, other than a state tax that is measured on net income. 5 U.S.C. § 8909(f)(1); 42 U.S.C. § 1395w-112(g); 42 C.F.R. 422.404(b)(1).
51. The only state taxes permitted under Medicare Advantage and Medicare Part D are taxes on net income or profit. 42 C.F.R. 422.404(b) (“Nothing in this section shall be construed to exempt any [Medicare Advantage] organization from taxes, fees, or other monetary assessments related to net income or profit that accrues to, or is realized by, the organization from business conducted under this part, if that tax, fee, or payment is applicable to a broad range of business activity.”) (emphasis added); 42 C.F.R. 422.440(b)(2) (“Nothing in this section shall be construed to exempt any Part D Plan sponsor from taxes, fees, or other monetary assessments related to net income or profit that accrues to, or is realized by, the organization from business conducted under this part, if that tax, fee, or payment is applicable to a broad range of business activity.”) (emphasis added).
52. Through operation of Illinois law, Illinois SUT is improperly imposed on Petitioner and ultimately UHS, an insurance carrier, in direct violation of the preemption provisions provided under Medicare Part D, Part C and FEHBA.
53. UHS is currently reporting Illinois SUT that it pays on purchases of prescription drugs to CMS for reimbursement purposes.
54. Imposition of SOT on Petitioner and SUT on UHS directly results in increased reimbursements from CMS in the form of reinsurance payments and risk corridor payments to UHS, or provides decreased net payments otherwise due to CMS, in order to reimburse Petitioner for the tax.
55. These increased payments result in imposition of Illinois SUT on the CMS Medicare Part D Fund, which is expressly preempted by federal law.



## COUNT II

### **SALES OF PRESCRIPTION PHARMACEUTICALS UNDER MEDICARE PART D PLANS ARE EXEMPT AS SALES TO A GOVERNMENT CONTRACTOR ON BEHALF OF AN EXEMPT GOVERNMENTAL BODY**

56. Petitioner hereby restates and realleges the allegations contained in paragraphs 1 through 55 as if fully set forth herein.
57. The Department has not provided any binding guidance with respect to the taxation of payments made to sellers of prescription drugs when payments are made through the Medicare Part D program.
58. Contractors in Illinois are deemed to be the users of tangible personal property that they purchase for incorporation into real estate. Persons making sales of tangible personal property to construction contractors incur Retailers' Occupation Tax ("ROT") on such sales. Ill. Admin. Code 130.2075(a).
59. Contractors purchasing tangible personal property for incorporation into real estate owned by tax exempt entities, such as governmental bodies, is exempt from ROT. Ill. Admin. Code 130.2075(d).
60. Sales made directly or indirectly to governmental bodies through a government contractor are exempt from tax in Illinois. *See e.g.*, Ill. Admin. Code 130.2075(d); *and Adrian Nava v. Sears, Roebuck & Co.*, 2013 IL. App. (1st) 122063 (An Illinois appellate court ruled that a department store improperly charged sales tax on the full price of an analog-to-digital converter box that was subsidized by a \$40 voucher supplied by the federal government); *and* Ill. Admin. Code 130.2076 (Purchase of tangible personal property by a government contractor on behalf of the government are exempt from Illinois sales tax as a sale for resale to a governmental unit).
61. Sales of prescription drugs to Medicare Part D beneficiaries are sales directly or indirectly to the federal government and are therefore exempt from tax in Illinois. Ill. Admin. Code 130.2075(d); *and Adrian Nava v. Sears, Roebuck & Co.*, 2013 IL. App. (1st) 122063 *and* Ill. Admin. Code 130.2076(a).

COUNT III

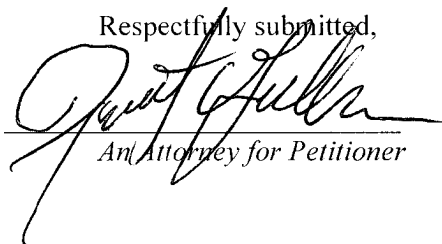
**SALES OF PRESCRIPTION PHARMACEUTICALS UNDER MEDICARE PART D PLANS ARE EXEMPT AS SALES TO GOVERNMENTAL BODIES**

62. Petitioner hereby restates and realleges the allegations contained in paragraphs 1 through 61 as if fully set forth herein.
63. The Illinois Administrative Code imposes sales tax on persons engaged in Illinois in the business of selling tangible personal property to purchasers for use or consumption. Ill. Admin. Code 130.101.
64. Sales tax does not apply to “receipts from sales . . . (i) that are made to any governmental body.” Ill. Admin. Code 130.120(i).
65. Sales of tangible personal property made to a governmental body, including the federal government, are exempt. Ill. Admin. Code 130.120(i); *and* Ill. Admin. Code 130.2080(a).
66. The Department erred in treating Petitioner’s sales to the federal government through government-contracted managed care providers as taxable sales.

WHEREFORE, Petitioner prays the Tax Tribunal enter an order reversing the Department’s denial of Petitioner’s refund claims in full and such other relief the Tax Tribunal deems appropriate in this matter.

DATED: March 13, 2020

Theodore R. Bots (Theodore.Bots@bakermckenzie.com)  
Roman Patzner (Roman.Patzner@bakermckenzie.com)  
Robert Galloway (Rob.Galloway@bakermckenzie.com)  
Baker McKenzie LLP  
300 E. Randolph, Ste. 5000  
Chicago, IL 60601  
Tel. (312)-861-8000  
Fax. (312)-698-2004

Respectfully submitted,  
  
An Attorney for Petitioner

# **EXHIBIT A**



# IL-2848 Power of Attorney



### Read this information first

Submit your completed form to [REV.POA@illinois.gov](mailto:REV.POA@illinois.gov). Do **not** attach to your tax return. You also may be required to provide a copy of this form to a representative of the Illinois Department of Revenue. This power of attorney automatically expires 10 years from the date it is signed. If you do not properly complete this form, you will be required to submit a new Form IL-2848. See the instructions for additional information. **Note:** A separate form may need to be completed for each taxpayer. An asterisk (\*) below indicates a required field.

### Step 1: Complete the following taxpayer information

OPTUMRX, INC.			33-0441200
Name of individual or business*			Identification number (i.e., FEIN or SSN)* - <b>All nine digits required.</b>
2300 MAIN STREET, MS CA134-0501			4103-4686
Street address*			Illinois Account ID (if known)
IRVINE	CA	92614	( 952 ) 936-3082
City*	State*	ZIP*	Daytime phone number*

### Step 2: Identify the authorized agent or fiduciary executing this form - Signature required in Step 6

Complete the following if the taxpayer is a corporation, partnership, trust, or estate (i.e., not an individual taxpayer) or if someone other than the taxpayer is authorizing the power of attorney and the taxpayer is an individual. If you are not the taxpayer and you already have been designated by the courts as power of attorney, do **not** complete this form. Instead complete Form IL-56, Notice of Fiduciary Relationship. See instructions for who can execute this form.

DANIEL P. BARTHOLET			VICE PRESIDENT OF STATE TAXES
Name*			Title*
9900 BREN RD E, MN008-T390			( 952 ) 936-7488
Street address*			Daytime phone number*
MINNETONKA	MN	55343	DAN_BARTHOLET@UHG.COM
City*	State*	ZIP*	Email address

### Step 3: Identify the representative(s) - If more than two representatives, list the total number here: \_\_\_\_\_

Attach a copy of page one for every two additional representatives. (See instructions.) **Note:** If any representative listed is a person who is **not** an attorney, a certified public accountant, or an enrolled agent, you must complete the notary section of Step 6.

The taxpayer named above appoints the following representative as attorney-in-fact:

THEODORE R. BOTS

Name of individual\*

Check one:  Attorney  CPA  Enrolled agent

BAKER & MCKENZIE LLP

Name of firm, if applicable

6224515

Identification number (Attorney License No., PTIN, FEIN, or SSN)\* - See instr.

300 E. RANDOLPH, SUITE 5000

Street address\*

CHICAGO IL 60601

City\* State\* ZIP\*

( 312 ) 861-8845 ( 312 ) 698-2004

Daytime phone number\* Fax number

THEODORE.BOTS@BAKERMCKENZIE.COM

Email address

ROMAN PATZNER

Name of individual\*

Check one:  Attorney  CPA  Enrolled agent

BAKER & MCKENZIE LLP

Name of firm, if applicable

6300525

Identification number (Attorney License No., PTIN, FEIN, or SSN)\* - See instr.

300 E. RANDOLPH, SUITE 5000

Street address\*

CHICAGO IL 60601

City\* State\* ZIP\*

( 312 ) 861-8945 ( 312 ) 698-2373

Daytime phone number\* Fax number

Roman.Patzner@bakermckenzie.com

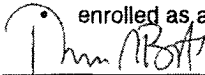
Email address

Check this box if you want to authorize the Department to send duplicate copies of notices to the representative listed above.

Check this box if you want to authorize the Department to send duplicate copies of notices to the representative listed above.

### Complete the following if a box above is checked to indicate that the representative is an attorney, CPA, or enrolled agent

- I declare that I am **not** currently under suspension or disbarment and that I am
- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
  - duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
  - enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

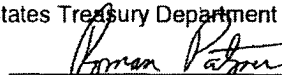


5/23/2019

Signature of representative Date

Theodore Bots IL

Print name Jurisdiction (state(s), etc.)



5/23/2019

Signature of representative Date

Roman Patzner IL

Print name Jurisdiction (state(s), etc.)

**Step 4: Revocation of power of attorney appointments**

This power of attorney revokes all powers of attorney on file with the Illinois Department of Revenue with respect to the same matters and years or periods covered. If you do not want to revoke prior powers of attorney, check this box:

**Step 5: Identify the tax matters and the type of appointment** — Designate the Tax Matters to which the power of attorney applies and the Type of Appointment.

**Tax Matters**

RETAILERS' / SERVICE OCCUPATION TAX  
Tax Type/Tax Form(s) or Notices\*

1 / 2009 - 3 / 2018  
Tax Year(s) or Filing Period(s)\*

Tax Type/Tax Form(s) or Notices

Tax Year(s) or Filing Period(s)

Tax Type/Tax Form(s) or Notices

Tax Year(s) or Filing Period(s)

**Type of Appointment** — Check either **General** or **Specific Appointment**. Do not check both boxes. See instructions.

**General Appointment**

The attorneys-in-fact named above shall have, subject to revocation, full power of attorney to perform any act that the principals can and may perform, including the authority to receive and discuss confidential information for the tax matters listed above.

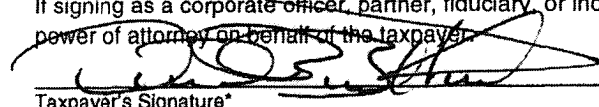
**Specific Appointment**

The attorneys-in-fact named above shall have, subject to revocation, power of attorney to receive and discuss with the Illinois Department of Revenue confidential information for the tax matters listed above and to perform only those additional acts that the principals can and may perform designated below. (Check the following, as applicable.)

- Yes** Endorse or collect checks in payment of refunds.
- Yes** Receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- Yes** Execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- Yes** Execute consents extending the statutory period for assessments or collection of taxes.
- Yes** Delegate authority or substitute another representative.
- Yes** Execute offers in compromise or settlement of tax liability.
- Yes** Represent the taxpayer before the Illinois Department of Revenue in administrative hearings or the Illinois Independent Tax Tribunal (requiring representation by an attorney).
- Yes** Represent the taxpayer before the Illinois Department of Revenue in proceedings other than administrative hearings, such as proceedings before the Informal Conference Board or the Board of Appeals.
- Yes** Obtain a private letter ruling on behalf of the taxpayer.
- Yes** Other (Please describe.) \_\_\_\_\_

**Step 6: Signature (Required)** - This form must be signed by the taxpayer listed in Step 1 or the individual listed in Step 2.

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.



Taxpayer's Signature\*

Daniel P. Bartholet

Print name\*

VP - State Taxes

Title, if applicable

6/19/19

Date\*

Spouse's signature (required if spouse is listed in Step 1)

Print name

Date

**Complete the following if any representative listed in Step 3 is a person other than an attorney, a certified public accountant, or an enrolled agent.**

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following:

Any person signing as or for the taxpayer

- is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here, **OR**

Signature of witness Date

Signature of witness Date

- appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary Date

**Notary seal**



# **EXHIBIT B**

# Notice of Tentative Audit Denial of Claim



January 15, 2020



Letter ID: CNXXX18794758887

Taxpayer ID: 33-0441200  
Account ID: 4103-4686  
Audit ID: A1298098688  
Return type: ST-1  
Audit periods: 01/2015 - 03/2018

#BWNKMGV  
#CNXX X187 9475 8887#  
OPTUMRX INC  
ATTN: CONNIE BOWMAN MN008-T390  
9900 BREN RD E  
MINNETONKA MN 55343-9664

We have audited your claims for credit filed on Form ST-1-X, Amended Sales and Use Tax and E911 Surcharge Return, described above totaling -\$3,818,595.00 of which we are denying the entire amount because we have not established that this tax was paid in error or that issuing a credit memorandum would not result in unjust enrichment to you.

If you do not agree, you may contest this tentative denial of claim by following the instructions listed below.

- If the amount of the tax tentatively denied, exclusive of penalty and interest, is more than \$15,000, or if no tax is being denied 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is **March 15, 2020**. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). Mail Form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this tentative denial of claim will become final. 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. A protest of this notice does not preserve your rights under any other notice.

If you are currently 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.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are below.

Sincerely,

Mansoor Qureshi  
Revenue Auditor

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

217 524-4657  
217 785-3251 fax

[Mansoor.Qureshi@illinois.gov](mailto:Mansoor.Qureshi@illinois.gov)

# Notice of Tentative Audit Denial of Claim



January 15, 2020



Letter ID: CNXXX13X33289440

**Taxpayer ID:** 33-0441200  
**Account ID:** 4103-4686  
**Audit ID:** A426549248  
**Return type:** ST-1  
**Audit periods:** 01/2013 - 12/2014

\_\_\_\_\_  
#BWNKMGV  
\_\_\_\_\_  
#CNXX X13X 3328 9440#  
OPTUMRX INC  
ATTN: CONNIE BOWMAN MN008-T390  
9900 BREN RD E  
MINNETONKA MN 55343-9664

We have audited your claims for credit filed on Form ST-1-X, Amended Sales and Use Tax and E911 Surcharge Return, described above totaling ~~-\$1,813,432.00~~ of which we are denying the entire amount because we have not established that this tax was paid in error or that issuing a credit memorandum would not result in unjust enrichment to you.

**If you do not agree, you may contest this tentative denial of claim by following the instructions listed below.**

- **If the amount of the tax tentatively denied, exclusive of penalty and interest, is more than \$15,000, or if no tax is being denied 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is **March 15, 2020**.** Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at [tax.illinois.gov](http://tax.illinois.gov)). Mail Form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this tentative denial of claim will become final. 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. A protest of this notice does not preserve your rights under any other notice.

If you are currently 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.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are below.

Sincerely,

Mansoor Qureshi  
Revenue Auditor

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

217 524-4657  
217 785-3251 fax

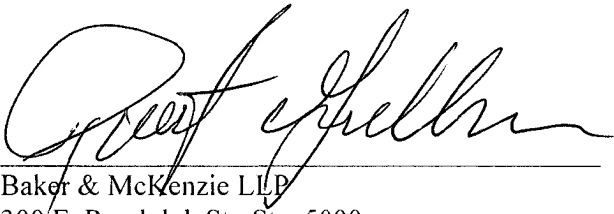
[Mansoor.Qureshi@illinois.gov](mailto:Mansoor.Qureshi@illinois.gov)



**CERTIFICATE OF SERVICE**

I hereby certify that on March 13, 2020 a copy of the foregoing Petition has been duly served by U.S. mail, first-class, postage prepaid, on the Illinois Department of Revenue at the following address:

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



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Baker & McKenzie LLP  
300 E. Randolph St., Ste. 5000  
Chicago, Illinois 60601  
312-861-8000