

ILLINOIS INDEPENDENT
TAX TRIBUNAL

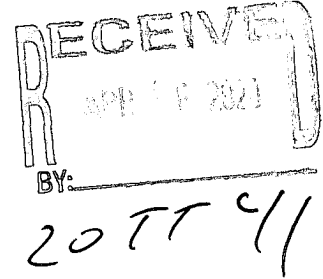
CONCORD ENERGY LLC,

Petitioner.

v.

ILLINOIS DEPARTMENT
OF REVENUE,

Respondent.



PETITION

Petitioner, Concord Energy LLC (“Petitioner” or “Concord”), by and through its attorneys, Eversheds Sutherland (US) LLP, hereby petitions the Illinois Independent Tax Tribunal to review and reverse the Notices of Tax Liability (“Notices”) issued by the Illinois Department of Revenue (the “Department”), for the reasons stated below:

INTRODUCTION

1. On February 25, 2020, the Department issued a Notice of Tax Liability (Letter ID CNXXXXX9374424X3) for the December 2019 reporting period to Concord Energy LLC assessing Motor Fuel Tax as a receiver for \$1,829.54, plus a late payment penalty of \$182.95 and interest of \$8.75, for a total assessment of \$2,021.24.
2. Also on February 25, 2020, the Department issued a Notice of Tax Liability (Letter ID CNXXX1X7X5799528) for the December 2019 reporting period to Concord Energy

LLC assessing Motor Fuel Tax as a distributor for \$63,202.36, plus a late payment penalty of \$6,320.24 and interest of \$302.19, for a total assessment of \$69,824.79.

3. Also on February 25, 2020, the Department issued a Notice of Tax Liability (Letter ID CNXXX1167486X645) for the January 2020 reporting period to Concord Energy LLC assessing Motor Fuel Tax as a receiver for \$4,404.39, plus a late payment penalty of \$88.09 and interest of \$3.01, for a total assessment of \$4,495.49.
4. Also on February 25, 2020, the Department issued a Notice of Tax Liability (Letter ID CNXXX21443217768) for the January 2020 reporting period to Concord Energy LLC assessing Motor Fuel Tax as a distributor for \$152,151.62, plus a late payment penalty of \$3,043.03 and interest of \$103.93, for a total assessment of \$155,298.58.
5. Copies of the Notices are attached *en globo* as **Exhibit A**.
6. Concord is limited liability company organized and existing under the laws of Colorado.
7. Petitioner maintains its principal place of business at 1401 17th Street, Suite 1500, Denver, Colorado 80202.
8. Petitioner's telephone number is (303) 468-1900.
9. Petitioner's Illinois Account IDs are 43447333 and 43447341.
10. Petitioner is represented by Eversheds Sutherland (US) LLP attorneys Justin B. Stone, who is located at The Grace Building, 40th Floor, 1114 Avenue of the Americas, New York, NY 10036-7703 and can be reached at (212) 389-5086 or JustinStone@eversheds-sutherland.com and Open Weaver Banks who is located at The Grace Building, 40th Floor, 1114 Avenue of the Americas, New York, NY 10036-7703 and can be reached at (212) 389-5081 or OpenWeaverBanks@eversheds-sutherland.com.

11. Respondent, the Department, is an agency of the state of Illinois responsible for administering and enforcing the revenue laws of the state of Illinois.
12. This Tribunal has original jurisdiction over all Department determinations reflected in Notices where the amount at issue exceeds, in the aggregate, \$15,000.00, exclusive of penalties and interest. 35 ILCS 1010/1-45.

BACKGROUND AND RELEVANT FACTS

13. Concord is an energy commodities marketing, logistics, and trading company based in Denver, Colorado.
14. During December 2019 and January 2020 (the “Relevant Periods”), Concord did not hold a valid Illinois Motor Fuel Tax license.
15. During the Relevant Periods, Concord sold C-5 natural gasoline condensate (hereinafter “C5 condensate”) that was not blended or compounded, and not sold for use as or classified as motor fuel.
16. C5 condensate is not commonly or commercially sold as gasoline and is classified under the American Society of Testing and Materials (“ASTM”) D8011, Standard Specification for Natural Gasoline as a Blendstock in Ethanol Fuel Blends or as a Denaturant for Fuel Ethanol.
17. C5 condensate cannot be used as fuel in the engine of a motor vehicle or watercraft.
18. During the Relevant Periods, Concord sold C5 condensate to only one customer in Illinois. The customer exported the C5 condensate on a natural gas pipeline to Canada to be used as a diluent in crude oil in Canada.
19. Concord’s customer was licensed as a distributor and receiver of motor fuel with the Department.

20. The Department did not conduct an audit of Concord for the Relevant Periods; instead, the Department issued the Notices based on information received from Concord's customer.
21. Since C5 condensate does not constitute motor fuel, Concord did not believe it was required to be licensed as a distributor in Illinois. However, based on the Department's apparent position, in October 2019, Concord had applied with the Department to become licensed as a Distributor and Receiver for purposes of the Illinois Motor Fuel Tax.
22. Concord's application was pending during the Relevant Periods and Concord was fully cooperating with the Department's processing of the application.

APPLICABLE LAW

23. Illinois imposes a tax on the privilege of operating a motor vehicle on the public highways of Illinois and recreational-type watercraft upon the waters of Illinois, which is the Motor Fuel Tax. 35 ILCS 505/2.
24. The tax is imposed at a rate "per gallon on all motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State." 35 ILCS 505/2(a).
25. A pre-collection regime has been adopted to implement the Motor Fuel Tax that requires distributors of motor fuel to collect the Illinois Motor Fuel Tax ("Motor Fuel Tax-Distributors") from customers, subject to certain exemptions, on all sales of motor fuel sold and distributed that are required to be reported. 35 ILCS 505/6.
26. A distributor is "a person who either (i) produces, refines, blends, compounds or manufactures motor fuel in this State, or (ii) transports motor fuel into this State, or (iii) exports motor fuel out of this State, or (iv) engages in the distribution of motor fuel

primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he or she has active bulk storage capacity of not less than 30,000 gallons for gasoline.”

35 ILCS 505/1.2.

27. Illinois also requires receivers of motor fuel to pay the Environmental Impact Fee, 415 ILCS 125, and Underground Storage Tank Tax, 35 ILCS 505/2a (collectively, the “Motor Fuel Tax-Receivers”), on the first sale or use of fuel in the state.
28. A receiver is “a person who either produces, refines, blends, compounds or manufactures fuel in this State, or transports fuel into this State or receives fuel transported to him from without the State or exports fuel out of this State, or who is engaged in distribution of fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active fuel bulk storage capacity of not less than 30,000 gallons.” 35 ILCS 505/1.20.
29. Motor fuel is defined as “all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles.” 35 ILCS 505/1.1.
30. The Motor Fuel Tax-Distributors law also refers to motor fuel to include “[a]ll products commonly or commercially known or sold as gasoline (including casing-head and absorption or natural gasoline), gasohol, motor benzol or motor benzene regardless of their classification or uses.” 35 ILCS 505/5.
31. A Distributor is not required to collect and a Receiver is not required to pay Motor Fuel Tax on certain sales of motor fuel. *See* 35 ILCS 505/2a, 35 ILCS 505/6, and 414 ILCS 125/310.

32. Among the tax-free sales of motor fuel are those sales (i) made to a licensed distributor or supplier and (ii) where delivery is made to a purchaser outside of Illinois. *See* 35 ILCS 505/2a, 35 ILCS 505/6, and 414 ILCS 125/310.

ERROR 1

C5 Condensate is Not a Taxable Motor Fuel

33. Concord hereby restates and realleges the allegations contained in paragraphs 1 through 32 as if set forth fully herein.
34. As stated above, taxable motor fuel is “all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles.” 35 ILCS 505/1.1.
35. Furthermore, the tax is imposed only on “motor fuel used in motor vehicles operating on the public highways and recreational type watercraft operating upon the waters of this State.” 35 ILCS 505/2(a).
36. C5 condensate is not produced, blended, or compounded for the purpose of, or which is suitable or practicable for, operating motor vehicles.
37. C5 condensate cannot be used to operate a motor vehicle or watercraft and, in fact, will be used as a diluent in crude oil in Canada.
38. The use of gasoline in motor vehicles in all states except California is governed by the U.S. Environmental Protection Agency (“EPA”) pursuant to the Clean Air Act Section 211 and EPA’s Regulation of Fuels and Fuel Additives. 42 USC § 7545 and 40 C.F.R. Part 80.
39. Illinois’ Motor Fuel and Petroleum Standards Act sets forth this regime by stating that “[a]ll gasoline products shall meet the most recently adopted ASTM standards for spark-

ignition motor fuel, and those standards adopted under the provisions of the federal Clean Air Act by the U. S. Environmental Protection Agency shall be the standards of this State in those areas in which the federal Clean Air Act fuel standards apply.” 815 ILCS 370/4(d).

40. EPA regulations require gasoline to be certified as having met certain specifications, and the ASTM standards for spark-ignition motor fuel in ASTM D4814 set forth these requirements and the testing procedures.
41. C5 condensate does not satisfy the complex requirements necessary to be certified as gasoline. If C5 condensate is intended for use in a motor vehicle, blending the C5 condensate with various blendstocks would be necessary to produce a motor fuel that meets certification requirements. 40 C.F.R. Part 80, Subpart D Reformulated Gasoline and Subpart E Anti-Dumping.
42. EPA regulations also require explicit designation of fuel as a gasoline for use in a motor vehicle, and EPA-prescribed wording must appear on contracts, bills of lading, invoices and/or other commercial documentation. 40 C.F.R. § 80.77.
43. C5 condensate received and sold by Concord is not designated as gasoline for use in a motor vehicle and used none of the EPA-prescribed wording.
44. C5 condensate received and sold by Concord is clearly identified on shipping and commercial documents as product other than gasoline for use in a motor vehicle. Such identification includes the use of numeric identifiers that are required by law and used globally to identify the chemical properties of the product for health and safety purposes. For example, the U.S. Occupational Safety and Health Administration’s Hazard Communication Standard requires the issuance of a Safety Data Sheet whenever a

chemical is distributed upstream of the end-user, and the Safety Data Sheet requires the use of the chemical name, common name and synonyms, and a Chemical Abstracts Service (CAS) number and other unique identifiers. 29 CFR 1910.1200(g). In no instances has the C5 condensate been identified as a motor fuel or gasoline, or have the CAS numbers or other unique identifiers used been the identifiers for motor fuel or gasoline.

45. Therefore, C5 condensate is not a taxable motor fuel.

WHEREFORE, the Petitioner demands judgment as follows:

- (a) That Concord's C5 condensate is not a taxable motor fuel;
- (b) That the Notices be vacated, reversed, and set aside in their entirety; and
- (c) Such other and further relief as the Tribunal may deem just and appropriate.

ERROR 2

C5 Condensate is Not Taxable Gasoline

46. Concord hereby restates and realleges the allegations contained in paragraphs 1 through 32 as if set forth fully herein.

47. As stated above, motor fuel includes those products commonly or commercially known or sold as gasoline.

48. C5 condensate is a product of natural gas processing plants and crude oil refineries and is considered to be a heavy petrochemical feedstock.

49. Specifically, C5 condensate is classified under ATSM D8011, Standard Specification for Natural Gasoline as a Blendstock in Ethanol Fuel Blends or as a Denaturant for Fuel Ethanol. Products classified under ASTM D8011 are not commonly or commercially known or sold as gasoline.

50. C5 condensate does not fall in the ASTM classification for gasoline, which is ASTM D4814.

51. Therefore, C5 condensate is not taxable gasoline.

WHEREFORE, the Petitioner demands judgment as follows:

- (a) That Concord's C5 condensate is not taxable gasoline;
- (b) That the Notices be vacated, reversed, and set aside in their entirety; and
- (c) Such other and further relief as the Tribunal may deem just and appropriate.

ERROR 3

Even if C5 Condensate is a Taxable Motor Fuel, the Sale of C5 Condensate to a Licensed Distributor is Tax-Free

52. Concord hereby restates and realleges the allegations contained in paragraphs 1 through 32 as if set forth fully herein.

53. Sales of motor fuel to a licensed distributor of motor fuel are not subject to the Motor Fuel Tax. *See* 35 ILCS 505/2a, 35 ILCS 505/6, and 414 ILCS 125/310.

54. All of Concord's sales of C5 condensate were made to a licensed distributor of motor fuel in Illinois.

55. Therefore, Concord's sales of C5 condensate are not subject to the Motor Fuel Tax.

56. WHEREFORE, the Petitioner demands judgment as follows:

- (a) That Concord's sales of C5 condensate are tax-free sales to a licensed distributor of motor fuel;
- (b) That the Notices be vacated, reversed, and set aside in their entirety; and
- (c) Such other and further relief as the Tribunal may deem just and appropriate.

ERROR 4

Even if C5 Condensate is a Taxable Motor Fuel, the C5 Condensate was Ultimately Exported and Tax-Free

57. Concord hereby restates and realleges the allegations contained in paragraphs 1 through 32 as if set forth fully herein.
58. Motor Fuel Tax is not due on sales where delivery of the motor fuel is made to a purchaser outside of Illinois. *See* 35 ILCS 505/2a, 35 ILCS 505/6, and 414 ILCS 125/310.
59. All C5 condensate sold by Concord was exported to Canada by Concord's customer.
60. The C5 condensate was ultimately used as a diluent in crude oil in Canada.
61. None of the C5 condensate was used in a motor vehicle on the public highways of Illinois or in a recreational-type watercraft on the waters of Illinois.
62. Concord's customer, if Concord had collected Motor Fuel Tax, would have been entitled to a refund of such tax on motor fuel exported outside of Illinois.
63. The State of Illinois is in no different economic position because Concord did not pre-collect Motor Fuel Tax from its customer because the customer would have subsequently filed a claim for refund of that same Motor Fuel Tax on the basis the C5 condensate was exported to Canada.
64. Therefore, Concord should not owe Motor Fuel Tax now on sales of C5 condensate that was exported to Canada.
65. WHEREFORE, the Petitioner demands judgment as follows:
 - (a) That no Motor Fuel Tax is due on C5 condensate exported to Canada by Concord's customer;
 - (b) That the Notices be vacated, reversed, and set aside in their entirety; and

- (c) Such other and further relief as the Tribunal may deem just and appropriate.

ERROR 5

Penalties Must Be Abated for Reasonable Cause.

66. Concord hereby restates and realleges the allegations contained in paragraphs 1 through 32 as if set forth fully herein.
67. Any penalties must be abated for reasonable cause.
68. The Department assessed penalties in the amount of \$11,695.49.
69. Under Illinois law, no penalties shall be imposed on a taxpayer if his failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.
70. 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 the proper tax liability and to file and pay the proper liability in a timely fashion.” Ill. Admin. Code tit. 86, § 700.400(b).
71. A taxpayer is considered to have made a good faith effort to determine, file, and pay its tax liability if it “exercised ordinary business care and prudence in doing so.” Ill. Admin. Code tit. 86, § 700.400(c).
72. Concord’s sales of C5 condensate were not taxable motor fuels and/or were tax-free sales and no Motor Fuel Tax return was required to be filed and/or Motor Fuel Tax paid.
73. Concord made a good faith effort to determine its proper tax liability and to file and pay its proper tax liability in a timely fashion.
74. Concord exercised ordinary business care and prudence in determining its proper tax liability and filing and paying its proper tax liability in a timely fashion.
75. Therefore, the penalties imposed by the Department must be abated for reasonable cause.

WHEREFORE, the Petitioner demands judgment as follows:


- (a) That all penalties assessed by the Department be abated in full; and
- (b) Such other and further relief as the Tribunal may deem just and appropriate.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, the Petitioner demands judgment as follows:

- (a) That the Department's Notices be vacated, reversed, and set aside in their entirety;
- (b) Alternatively, that all penalties assessed by the Department be abated in full; and
- (c) Such other and further relief as the Tribunal may deem just and appropriate.

EVERSHEDS SUTHERLAND (US) LLP
Attorneys for Petition

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ARDC # 6238987

DATED: April 1, 2020

EXHIBIT A

Notice of Tax Liability



#BWNKMGV
#CNXX XXX9 3744 24X3#
CONCORD ENERGY LLC
1401 17TH ST STE 1500
DENVER CO 80202-1253

February 25, 2020



Letter ID: CNXXXXX9374424X3

Account ID: 43447341
License No: R-41034
Reporting period: December 2019

We have processed your Motor Fuel Tax - Receiver return for the December 2019 reporting period.

If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

If you do not agree, you may contest this notice by following the instructions on the protest rights page.

If you do not protest this notice or pay the assessment in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action

Note: If you are under bankruptcy protection, see the "Bankruptcy Information" section on the following pages of this notice for additional information and instructions.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
MF - Return Adjustment	1,829.54	0.00	1,829.54
Late-Payment Penalty	182.95	0.00	182.95
Interest	8.75	0.00	8.75
Assessment Total	\$2,021.24	\$0.00	\$2,021.24

For questions, visit our web site at tax.illinois.gov or call us weekdays between 8:00 a.m. and 4:00 p.m. at 217 782-2291.

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 a 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.*

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 that you are required to file tax returns. For those under bankruptcy protection this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

Explanation of Penalties and Fees

For more detailed information, see Publication 103, Penalties and Interest for Illinois taxes.

Are penalties ever abated?

If you were unable to either timely pay the required amount of payments, pay the tax you owe by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. A bad check or negligence penalty may also be waived due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations. A fraud penalty or cost of collection fee cannot be waived.

How is interest figured?

Interest is calculated on your tax from the day after the original due date of your return through the date you pay the tax. Interest cannot be waived.

Late-filing or Nonfiling penalty - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.

Late-payment penalty for underpayment of estimated or accelerated tax due - You owe this penalty if you were required to make estimated or accelerated tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.

Late-payment penalty for regular tax payments - You owe this penalty if you did not pay the tax you owed by the due date of the payment or the original due date of the return.

Cost of collection fee - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.

Bad check penalty - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.

Negligence penalty - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.

Fraud penalty - You owe this penalty if any part of a deficiency is due to fraud.

Audit penalty - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

Failure to disclose participation in a reportable transaction penalty - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.

Reportable transaction understatement penalty - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

100 percent interest penalty - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax avoidance shelter transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of a tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

Protest Rights

If you do not agree, you may protest this notice by following the instructions listed below.

If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability 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 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 **April 27, 2020**. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. You may not protest any amount of tax that you agreed was due when you filed your return; you may protest penalty, disallowed discount, and interest. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to 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.

Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, 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.

Notice of Tax Liability



#BWNKMGV
#CNXX X1X7 X579 9528#
CONCORD ENERGY LLC
1401 17TH ST STE 1500
DENVER CO 80202-1253

February 25, 2020



Letter ID: CNXXX1X7X5799528

Account ID: 43447333
License No: D-41034
Reporting period: December 2019

We have processed your Motor Fuel Tax - Distributor return for the December 2019 reporting period.

If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

If you do not agree, you may contest this notice by following the instructions on the protest rights page.

If you do not protest this notice or pay the assessment in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action

Note: If you are under bankruptcy protection, see the "Bankruptcy Information" section on the following pages of this notice for additional information and instructions.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
MF - Return Adjustment	63,202.36	0.00	63,202.36
Late-Payment Penalty	6,320.24	0.00	6,320.24
Interest	302.19	0.00	302.19
Assessment Total	\$69,824.79	\$0.00	\$69,824.79

For questions, visit our web site at tax.illinois.gov or call us weekdays between 8:00 a.m. and 4:00 p.m. at 217 782-2291.

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- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by a 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.

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Are penalties ever abated?

If you were unable to either timely pay the required amount of payments, pay the tax you owe by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. A bad check or negligence penalty may also be waived due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations. A fraud penalty or cost of collection fee cannot be waived.

How is interest figured?

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Late-filing or Nonfiling penalty - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.

Late-payment penalty for underpayment of estimated or accelerated tax due - You owe this penalty if you were required to make estimated or accelerated tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.

Late-payment penalty for regular tax payments - You owe this penalty if you did not pay the tax you owed by the due date of the payment or the original due date of the return.

Cost of collection fee - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.

Bad check penalty - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.

Negligence penalty - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.

Fraud penalty - You owe this penalty if any part of a deficiency is due to fraud.

Audit penalty - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

Failure to disclose participation in a reportable transaction penalty - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.

Reportable transaction understatement penalty - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

100 percent interest penalty - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax avoidance shelter transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of a tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

Protest Rights

If you do not agree, you may protest this notice by following the instructions listed below.

If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability 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 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 April 27, 2020. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. You may not protest any amount of tax that you agreed was due when you filed your return; you may protest penalty, disallowed discount, and interest. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to 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.

Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, 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.

Notice of Tax Liability



#BWNKMGV
#CNXX X116 7486 X645#
CONCORD ENERGY LLC
1401 17TH ST STE 1500
DENVER CO 80202-1253

February 25, 2020



Letter ID: CNXXX1167486X645

Account ID: 43447341
License No: R-41034
Reporting period: January 2020

We have processed your Motor Fuel Tax - Receiver return for the January 2020 reporting period.

If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

If you do not agree, you may contest this notice by following the instructions on the protest rights page.

If you do not protest this notice or pay the assessment in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action

Note: If you are under bankruptcy protection, see the "Bankruptcy Information" section on the following pages of this notice for additional information and instructions.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
MF - Return Adjustment	4,404.39	0.00	4,404.39
Late-Payment Penalty	88.09	0.00	88.09
Interest	3.01	0.00	3.01
Assessment Total	\$4,495.49	\$0.00	\$4,495.49

For questions, visit our web site at tax.illinois.gov or call us weekdays between 8:00 a.m. and 4:00 p.m. at 217 782-2291.

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 a 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.*

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 that you are required to file tax returns. For those under bankruptcy protection this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

Explanation of Penalties and Fees

For more detailed information, see Publication 103, Penalties and Interest for Illinois taxes.

Are penalties ever abated?

If you were unable to either timely pay the required amount of payments, pay the tax you owe by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. A bad check or negligence penalty may also be waived due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations. A fraud penalty or cost of collection fee cannot be waived.

How is interest figured?

Interest is calculated on your tax from the day after the original due date of your return through the date you pay the tax. Interest cannot be waived.

Late-filing or Nonfiling penalty - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.

Late-payment penalty for underpayment of estimated or accelerated tax due - You owe this penalty if you were required to make estimated or accelerated tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.

Late-payment penalty for regular tax payments - You owe this penalty if you did not pay the tax you owed by the due date of the payment or the original due date of the return.

Cost of collection fee - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.

Bad check penalty - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.

Negligence penalty - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.

Fraud penalty - You owe this penalty if any part of a deficiency is due to fraud.

Audit penalty - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

Failure to disclose participation in a reportable transaction penalty - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.

Reportable transaction understatement penalty - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

100 percent interest penalty - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax avoidance shelter transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of a tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

Protest Rights

If you do not agree, you may protest this notice by following the instructions listed below.

If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability 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 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 April 27, 2020. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. You may not protest any amount of tax that you agreed was due when you filed your return; you may protest penalty, disallowed discount, and interest. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to 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.

Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, 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.

Notice of Tax Liability



#BWNKMGV
#CNXX X214 4321 7768#
CONCORD ENERGY LLC
1401 17TH ST STE 1500
DENVER CO 80202-1253

February 25, 2020



Letter ID: CNXXX21443217768

Account ID: 43447333
License No: D-41034
Reporting period: January 2020

We have processed your Motor Fuel Tax - Distributor return for the January 2020 reporting period.

If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

If you do not agree, you may contest this notice by following the instructions on the protest rights page.

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	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
MF - Return Adjustment	152,151.62	0.00	152,151.62
Late-Payment Penalty	3,043.03	0.00	3,043.03
Interest	103.93	0.00	103.93
Assessment Total	\$155,298.58	\$0.00	\$155,298.58

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Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, 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.