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ILLINOIS DEPARTMENT OF REVENUE  
TAX TRIBUNAL

JOHN P. PEARL, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS DEPARTMENT OF REVENUE, )  
)  
Respondent. )  
)  
)

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**PETITION**

JOHN P. PEARL ("Petitioner"), by his attorneys Kavanagh, Scully, Sudow, White & Frederick, P.C., states as follows:

1. Petitioner resides [REDACTED]

2. Petitioner's social security number [REDACTED]

3. Illinois Department of Revenue ("Respondent") issued Notices of Claim Denial dated February 24, 2014 for Petitioner's calendar years 2010 and 2011 (attached as Exhibits A and B), which are the subject of this Petition. Both years involve the same issue.

4. Petitioner filed Federal Form 1045 to claim a carryback of his 2012 net operating loss to tax years 2010 and 2011. The Internal Revenue approved the carryback, by Notices dated December 9, 2014 (attached as Exhibits C and D). The amount of the net operating loss and the Petitioner's right to carry back the loss to year 2010 and 2011 are not in dispute.

5. Respondent denied the carryback, on the basis that it did not receive a complete copy of the federal finalization notification issued by the Internal Revenue Service stating that the Internal Revenue Service accepted the changes to Petitioner's Federal taxable income for 2010 and 2011. Respondent requested that Petitioner send Respondent copies of the notifications which Petitioner did on March 11, 2014 via facsimile (attached as Exhibit E).

6. The Notices of Claim Denial also include adjustments to the Petitioners estimated tax payments with which the Petitioner agrees.

7. Petitioner's certified public accountant contacted Respondent on March 28, 2014 to verify Respondent's receipt of the Notices of Claim Denial. A representative of Respondent verified receipt of the Notices of Claim Denial and also indicated that due to backlog he estimated it would be five months before Petitioner could expect a response from Respondent.

8. The Notices of Claim Denial states that a protest must be filed within 60 days of the Notice or the Notices of Claim Denial becomes final. The Notices of Claim Denial issued to Petitioner are dated February 24, 2014. It is unlikely that Respondent will act on this matter within the time frame within which Petitioner must file a protest if Petitioner does not agree with Respondent's decision, and as such Petitioner is filing this Petition to protect his refund claims for 2010 and 2011.

9. There are no disputes regarding application of facts or law rather this matter involves only providing documentation of Internal Revenue Service acceptance of the federal net operating loss carry back. Petitioner has provided the notifications required by Respondent to validate the net operating loss carry back claim to 2010 and 2011 and requests judgment in its favor.

9. The refund due to Petitioner for overpayment of income tax for 2010 is \$30,544 (see calculation attached as Exhibit F). The refund due to Petitioner for overpayment of income tax for 2011 is \$36,819 (see calculation attached as Exhibit G).

Wherefore, Petitioner requests a refund in the amounts noted in this Petition, plus interest as applicable.

JOHN P. PEARL  
By his attorneys  
KAVANAGH, SCULLY, SUDOW,  
WHITE & FREDERICK, P.C.

By   
Karen M. Stumpe

KAREN M. STUMPE (ARDC 3124607)  
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# Notice of Claim Denial

Form IL-1040-X, Amended Individual Income Tax Return



February 24, 2014



Letter ID: CNXXX2X922663362

Account ID: P10706147

Reporting Period: December 2010

#BWNKMGV  
#CNXX X2X9 2266 3362#  
JOHN P. PEARL  
600 E HIGH POINT RD  
PEORIA IL 61614-2240



Dear Taxpayer:

We are writing regarding your 2010 Form IL-1040-X, Amended Individual Income Tax Return, dated December 09, 2013.

Based on our review, we denied your claim for refund of overpayment of income tax. This review is not the result of an audit.

We changed Line 1 from \$178,145.00 to \$1,179,784.00.

We did not receive a complete copy of the federal finalization notification you received from the Internal Revenue Service (IRS), stating they accepted the changes on your U.S. Form 1040-X, Amended U.S. Individual Income Tax Return. This notification could be in the form of a refund check, a "Statement of Account," an agreement, or a judgment. Please send us this notification or a copy of your most recent federal account transcript. If you do not have a copy of this notification, please call the IRS or go to their website at [www.irs.gov](http://www.irs.gov) to request an account transcript. Please send us this information.

The Illinois Income Tax Act does not provide for Net Operating Loss (NOL) carrybacks or carryforwards for individual taxpayers. Instead, you are entitled to the NOL carryback or carryforward deduction allowed on your federal return.

Your NOL deduction for a tax year cannot be greater than the federal NOL available for deduction in that year minus the federal NOL available to carry to later years. This is the amount reported as "Modified taxable income" on the federal Worksheet for NOL Carryover, which is in IRS Publication 536. Using a greater NOL would allow you to claim a benefit for the same NOL in two years - this year and again when you carry it forward. Illinois law prohibits this double deduction.

An NOL carryforward will reduce federal adjusted gross income in the same manner as a carryback and, therefore, reduce Line 1 of the Illinois return by the same amount.

We changed Line 22 from \$12,187.00 to \$0.00.

We changed the amount of previous overpayments on Line 22 of your IL-1040-X to the amount shown in our records.

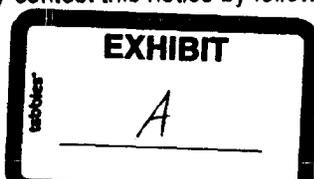
We changed Line 25 from \$17,368.00 to \$0.00.

The amount of estimated payments you claimed does not agree with our records.

We changed Line 28 from \$5,105.00 to \$11,673.69.

We changed the amount of payments to the amount shown in our records.

If you do not agree with our determination, you may contest this notice by following the instructions listed below.



If the amount of tax at issue, exclusive of penalty and interest, is more than \$15,000, or if you are not claiming an overpayment of tax 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. If you file a protest on time, we must reconsider our denial, and if requested, grant you or your authorized representative an administrative hearing. Your protest must be filed by sending us a completed Form EAR-14, Format for Filing a Protest for Income Tax. You should include with your protest all documentation supporting your refund claim, especially any documents requested in this letter. If we do not receive your protest within 60 days, this denial shall become final. A protest of this notice does not preserve your rights under any other notice.

If you do not protest this notice, the denial of your claim shall become final.

If you agree with the amount you owe on the "Form IL-1040-X Financial Details" page, send your payment to "Illinois Department of Revenue." Write your Account ID on your check and mail it to the address at the bottom of this letter. You must pay the total balance due within 30 days of the date of this notice to avoid additional penalty and interest.

If you are currently under the protection of the Federal Bankruptcy Court, please contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligation to file tax returns.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m., or visit our web site at [tax.illinois.gov](http://tax.illinois.gov). Our address and telephone number are below.

Ian Shapiro

INDIVIDUAL PROCESSING DIVISION  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19023  
SPRINGFIELD IL 62794-9023

217 524-4303  
217 557-5353 fax

Enclosures: EAR-14, Format for Filing a Protest for Income Tax



















