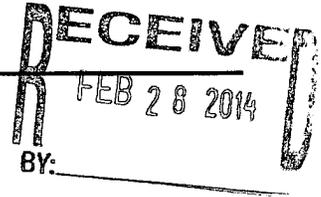


ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

JAMES E. & DOROTHY J. CORBIN)
)
) 14-TT-9
)
STATE OF ILLINOIS)
DEPARTMENT OF REVENUE)



ANSWER

NOW COMES THE Department of Revenue of the State of Illinois
("Department") through its attorney, Lisa Madigan, Attorney General of and for the State
of Illinois, and for its answer to Taxpayer's Petition respectfully pleads as follows:

PARTIES

1. Name, address and telephone number of Petitioner:
James E. and Dorothy C. Corbin
1410 Galloway Drive
Woodstock, IL 60098
(815) 338-0240

ANSWER: The information contained in Paragraph 1 is required by Illinois
Independent Tax Tribunal Regulations ("Rule") 310(a)(a)(A) (86 Ill. Admin. Code §
5000.310) and is not a material allegation of fact, and therefore does not require an
answer pursuant to Rule 310(b)(2). Department admits the factual allegation contained in
paragraph 1.

2. Name, address, telephone number and email address of Petitioner's attorney:
Eugene B. Levin
425 Huehl Rd., Bldg. #7
Northbrook, IL 60062
(847) 205-5479
Genel@thethinkers.com

ANSWER: The information contained in Paragraph 2 is required by Rule 310(a)(a)(A) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department admits the factual allegation contained in paragraph 2.

3. Taxpayer's tax identification number:

[REDACTED]

ANSWER: The information contained in Paragraph 3 is required by Rule 310(a)(a)(A) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department admits the factual allegation contained in paragraph 3.

4. Copy of statutory notice:
See Notice of Deficiency dated April 9, 2013 attached,

ANSWER: Department admits that the copy of the "Notice of Deficiency" attached to Petitioner's Petition is a true and correct copy of the statutory notice sent to Petitioner on April 9, 2013.

5. The year or periods involved:
December 2001

ANSWER: Department admits that the year or periods involved in this case is the tax year ending December 2001, more precisely December 31, 2001.

6. A summary of the errors of fact or law which the Petitioner alleges have been made by the Illinois Department of Revenue:
The Illinois Department of Revenue ("Department") erroneously concluded that Petitioner's Florida residence changed to Illinois residence on May 1, 2001. The facts show that Petitioner was a resident of Florida for the entire year of 2001. There was no evidence to support the Department's determination.

ANSWER: The information contained in Paragraph 6 is required by Rule 310(a)(a)(A) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department denies the factual allegation contained in paragraph 6.

7. A statement of facts upon which Petitioner relies to establish said errors:

A) The Petitioners sold their only home in Illinois on 10/15/1999.

ANSWER: Department admits the factual allegations contained in Paragraph 7 A).

- B) The Petitioners had previously purchased a residence in Florida on 09/27/1999, and moved into that residence on 10/01/1999.

ANSWER: Department admits the factual allegations contained in Paragraph 7 B).

- C) The Petitioners filed a 2000 Florida Intangible Tax Return which stated, "Established Florida residency on 10/01/1999."

ANSWER: Department admits the factual allegations contained in Paragraph 7 C).

- D) The Department has accepted that Petitioners were Florida residents in 2000, as the Illinois auditor's report (EDA-122) states, "The taxpayer's claim for non-residency status for the 2000 tax year has been accepted".

ANSWER: Department admits the factual allegations contained in Paragraph 7 D).

- E) The Petitioners registered to vote in Florida on 10/05/1999 and maintained Florida voter registration throughout 2001.

ANSWER: Department admits that Petitioner registered to vote in Florida on 10/05/1999. Department denies that Petitioner maintained Florida voter registration throughout 2001 and demands strict proof that Petitioner voted in Florida during 2001 after May 1, 2001.

- F) Petitioners obtained Florida drivers licenses in 1999 and maintained them throughout 2001.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 F).

- G) Petitioners purchased an additional home in Florida on 07/15/1999 in which Jim's parents live. His father is now deceased, and his mother continues to live in the Florida home to this day.

ANSWER: Department admits the factual allegations contained in Paragraph 7 G)

- H) Petitioners were physically present in Florida for most of 2001. They were temporarily in Illinois for vacation and medical visits.

ANSWER: Department denies the allegations contained in Paragraph 7 H) and requires strict proof thereof.

- I) Petitioners executed a Sworn, Notarized Declaration of Domicile in Florida on 02/28/2000.

ANSWER: Department admits the factual allegations contained in Paragraph 7 I).

J) Petitioners sold their Florida residence on 09/14/01 and purchased a new Florida residence on 12/28/01. During the interim period, they stayed part of the time with Jim's parents in their other Florida residence and part of the time in an Illinois house that they purchase as a summer/vacation home.

ANSWER: Department admits that Taxpayer sold a residence in Florida on 09/14/01 and purchased another residence in Florida on 12/28/01, but Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding where Petitioner stayed during 2001 contained in Paragraph 7 J).

K) Petitioner Jim Corbin also had a medical condition in 2001 (which continues today) which required frequent treatment. He visited Illinois several times during 2001 for treatment, as he felt the treatments he received in Illinois were better than the treatments he received in Florida.

ANSWER: Department admits that Jim Corbin had a medical condition and received medical treatment in Illinois during 2001 but denies the remaining allegations contained in Paragraph 7 K).

L) Petitioners were also physically present more in Florida in 2002 than they were in Illinois.

ANSWER: Department denies the allegations contained in Paragraph 7 L) and requires strict proof thereof.

M) Petitioners were active members of a country club in Florida in 2001.

ANSWER: Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 M).

N) Petitioners intended to remain Florida residents throughout 2001.

ANSWER: Paragraph 7 N) contains a statement of opinion, not a material allegation of fact, and therefore does not require an answer pursuant to rule 310(b)(2). To the extent an answer is required, Department denies the allegations contained in Paragraph 7 N).

8. A statement of the law:

Under Illinois law an individual ceases to be a resident if he or she leaves Illinois for other than temporary or transitory purposes. IL Admin Code Title 86, Section 100.3020(b). This regulation also provides that a person is presumed to be an Illinois resident if he is physically present in Illinois more than 9 months in a tax year. Even if someone is physically present in Illinois for more than 9 months, IL Admin Code Title 86, Section 100.3020(g) provides that the presumption can be overcome by submitting the following types of evidence: Voter registration; Driver's License; Filing income tax return as resident of other state; Home ownership; and Club membership.

See also, Dods v. Hammer, Circuit Court of Cook County No 07 L 050695 (08/24/09), where the Court held that a person with homes in both Florida and

Illinois was a Florida resident, and a “mere seasonal visitor to Illinois” were the taxpayer made clear that he intended to remain in Florida each time he left.

ANSWER: Paragraph 8 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department denies any factual allegations contained in Paragraph 8 and demands strict proof thereof.

WHEREFORE, the Department respectfully requests this Tribunal

- a. Deny Petitioner’s prayer for relief;
- b. Find that Petitioner was a resident of Illinois during the period May 1, 2001 through December 31, 2001;
- c. Find that the Notice of Deficiency correctly reflects Petitioner’s 2001 Illinois income tax assessment, including penalties and interest;
- d. Order judgment in favor of the Department and against the Taxpayer/Petitioner; and
- e. Grant any further relief this Tribunal deems just and appropriate.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: 
Ralph Bassett
Special Assistant Attorney General
ARDC No. 6180788

Ralph Bassett, SAAG
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ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

RECEIVED
FEB 28 2014

JAMES E. & DOROTHY J. CORBIN)
)
) 14-TT-9
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STATE OF ILLINOIS)
DEPARTMENT OF REVENUE)

AFFIDAVIT OF CINDY GRAPES
PURSUANT TO TRIBUNAL RULE 5000.310(B)(3)

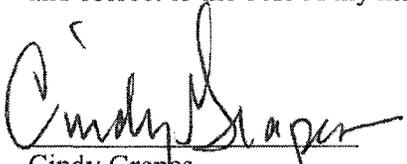
STATE OF ILLINOIS

COUNTY OF COOK

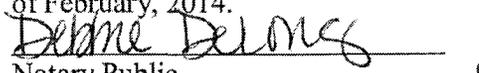
Under penalties as provided by Section 1-109 of the Code of Civil Procedures, 735 ILCS §5/1-109, I, Cindy Grapes, being first duly sworn on oath, depose, and state as follows:

1. I am currently employed by the Illinois Department of Revenue.
2. My current title is Assistant Bureau Manager.
3. I audited James E. and Dorothy J. Corbin for the tax years ending December 31, 2000 through December 31, 2005.
4. I lack the personal knowledge required to either admit or deny the allegations alleged in Taxpayer's Petition Paragraphs 7 F, 7 J and 7 M.
5. I am an adult resident of the State of Illinois and can truthfully and competently testify as to the matters contained herein based upon my own personal knowledge.

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, I hereby certify that the statement set forth in this Affidavit are true and correct to the best of my knowledge and belief.


Cindy Grapes
Assistant Bureau Manager
Illinois Department of Revenue

Subscribed and sworn t this 28 day
of February, 2014.


Notary Public
My Commission: 7-6-2014
(Stamp)

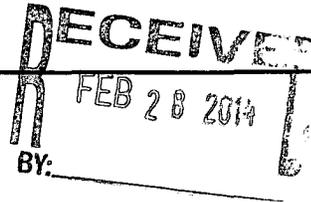
DATED: 2/28/14

OFFICIAL SEAL
DEBBIE DeLONG
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 7-6-2014

ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

JAMES E. & DOROTHY J. CORBIN)
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)
STATE OF ILLINOIS)
DEPARTMENT OF REVENUE)

14-TT-9



CERTIFICATE OF SERVICE

Ralph Bassett certifies that he is a Special Assistant Attorney General of the State of Illinois duly appointed by Lisa Madigan, Attorney General of the State of Illinois; that he is authorized to make this certificate; that on February 28, 2014, before the hour of 5:00 p.m. (C.S.T.) he serviced a true and exact copy of the foregoing instrument entitled **ANSWER** on the above Taxpayer/Petitioner by sending same as an attachment to an electronic mail message addressed to the following individual at his designated email address:

Eugene B. Levin: GeneL@thethinkers.com

A handwritten signature in cursive script that reads "Ralph Bassett".

Ralph Bassett
Special Assistant Attorney General
Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7th Floor
Chicago IL 60601
Telephone: 312-814-7039
Facsimile: 312-814-4344
Email: ralph.bassett@illinois.gov