

COPY

STATE OF ILLINOIS
INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

RECEIVED
JAN 31 2014
BY: _____

JAMES E. AND DOROTHY J. CORBIN)	
Taxpayer/Petitioner)	Doc. _____
)	
Vs.)	
)	
ILLINOIS DEPARTMENT OF REVENUE)	
Respondent)	

14119

PETITION

1) Name, address and telephone number of Petitioner:

James E. and Dorothy C. Corbin
[Redacted]

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

3) Taxpayer's tax identification number:

[Redacted]

4) Copy of statutory notice:

See Notice of Deficiency dated April 9, 2013 attached.

5) The year or periods involved:

December 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.

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

- A) The Petitioners sold their only home in Illinois on 10/15/1999.
- B) The Petitioners had previously purchased a residence in Florida on 09/27/1999, and moved into that residence on 10/01/1999.
- C) The Petitioners filed a 2000 Florida Intangible Tax Return which stated, "Established Florida residency on 10/01/1999".
- 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".
- E) The Petitioners registered to vote in Florida on 10/05/1999 and maintained Florida voter registration throughout 2001.
- F) Petitioners obtained Florida drivers licenses in 1999 and maintained them throughout 2001.
- 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.
- H) Petitioners were physically present in Florida for most of 2001. They were temporarily in Illinois for vacation and medical visits.
- I) Petitioners executed a Sworn, Notarized Declaration of Domicile in Florida on 02/28/2000.
- 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 purchased as a summer/vacation home.
- 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.
- L) Petitioners were also physically present more in Florida in 2002 than they were in Illinois.
- M) Petitioners were active members of a country club in Florida in 2001.
- N) Petitioners intended to remain Florida residents throughout 2001.

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:

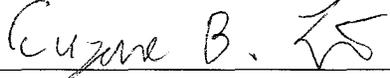
- Voter registration;
- Driver's License;
- Filing income tax return as resident of other state;
- Home ownership; and
- Club membership.

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" where the taxpayer made clear that he intended to remain in Florida each time he left.

9) The relief sought by Petitioner:

Petitioner respectfully requests that the Notice of Deficiency issued by the Department on April 9, 2013 be revoked, and all assessments, interest and penalties for 2001 be removed from Petitioner's account.

Submitted by:


Eugene B. Levin, Attorney for Petitioner

Prepared by:

Attorney's Name: Eugene B. Levin
Address: 425 Huehl Rd., Bldg. #7
City, State, Zip Code: Northbrook, IL 60062
Phone: (847) 205-5479
ARDC #: 6188157

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



April 9, 2013



Letter ID: CNXXXXXX36X5X888

#BANKMGT





Audit ID: A1322133504
Reporting period: December 2001
Total Deficiency: \$65,460.31
Balance due: \$65,460.31



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

If you agree to the deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue" and write your Social Security number on your check.

If you do not agree to the deficiency, you may file a protest **within 60 days**. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding that is conducted under the rules of evidence. An administrative law judge will preside over the hearing. You may be represented by your attorney. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your Form EAR-14 within 60 days, this deficiency will become final. Please note that a protest filed for any other tax notice does not serve as a protest for this notice. Under Section 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS Act 230/2a.1), you may instead pay the total deficiency under protest and file a petition with the circuit court for a review of our determination.

Mail a copy of this notice to us with either your payment of the deficiency or your completed Form EAR-14 to the address listed below. We may take further collection actions against you for the balance due which may include levy of your wages and bank accounts, filing of a tax lien, *etc.*

Note: 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" will not prevent us from finalizing the assessment if a protest is not timely filed, nor does it relieve your obligations to file tax returns.

If you have any questions, please contact us at the phone number shown below.

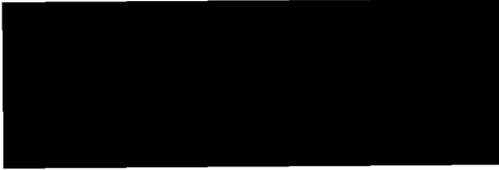
Sincerely,

Brian Hamer
Director

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

(217) 785-6711

Statement



Reasons for deficiency

We determined your correct Illinois Income Tax because you did not file Form IL-1040 as required by Illinois law.
[35 ILCS 5/502(a),904(b)]

We determined that, as a part-year resident, you received income allocable to Illinois that was not reported.
[35 ILCS 5/502(a)(1)]

We obtained information from the Internal Revenue Service under authorization of the Internal Revenue Code, Section 6103(d).

Penalties

We are imposing a late-filing or nonfiling penalty because you did not file a processable return by the due date (including any extended due date). This penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on your return, after subtracting any payments made or credits allowed by the due date of the return. This penalty is imposed the day after the original due date of your return, including any extended due date. This penalty cannot exceed \$250.
[35 ILCS 735/3-3(a-10)] (for liabilities due on or after 1/1/2001)

If this liability qualified for amnesty, and you did not pay that liability during the amnesty period held October 1, 2003, through November 17, 2003, your penalty and interest amounts may be doubled.
[86 Ill. Admin. Code 521/101(b)] (amnesty liabilities for June 1983 through July 2002 reporting periods)

interest

Interest on tax in the amount of \$34,067.31 has been computed through April 9, 2013.

Statement

[Redacted]

[Redacted]