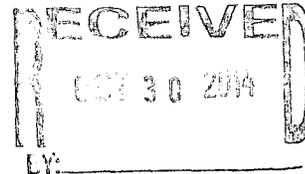


IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

T-MOBILE USA, INC.)
)
 Petitioner,)
)
 v.)
)
 THE ILLINOIS DEPARTMENT OF REVENUE,)
)
 Defendant.)

No. 14-TT-91



NOTICE OF FILING

TO: See attached Certificate of Service.

PLEASE TAKE NOTICE THAT on October 30, 2014, Petitioner, T-Mobile USA, Inc., filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, Illinois, a copy of the **PETITIONER'S FIRST AMENDED PETITION**, a copy of which is attached and served upon you herewith.

Respectfully submitted,

T-MOBILE USA, INC.
Petitioner

By: Breen M. Schiller
One of Its Attorneys

Marilyn A. Wethekam (mwetheka@hmbllaw.com)
Breen M. Schiller (bschiller@hmbllaw.com)
Christopher T. Lutz (clutz@hmbllaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

T-MOBILE USA, INC.

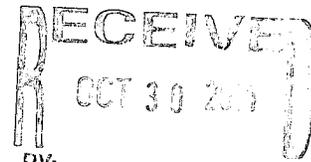
Petitioner,

v.

THE ILLINOIS DEPARTMENT OF REVENUE,

Defendant.

No. 14-TT-91



PETITIONER'S MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION

Petitioner, T-Mobile USA, Inc. ("Petitioner"), by its attorneys Horwood Marcus & Berk Chartered, hereby respectfully moves this Tribunal for leave to file instant the attached amended petition for the tax year ending December 31, 2009 and December 31, 2010 (the "Years at Issue"). In support of its motion, Petitioner states the following:

1. The Code of Civil Procedure provides that a pleading may be amended at any time before final judgment. 735 ILCS 5/2-616(a).
2. The Illinois Independent Tax Tribunal Act of 2012 provides that either party may amend a pleading with written consent of the adverse party or with the permission of the Tax Tribunal after the time for responding to the original pleading has expired. The Tax Tribunal shall freely grant consent to amend upon such terms as may be just. 35 ILCS 1010/1-50(c).
3. There is no final judgment in this action.
4. The Illinois Department of Revenue ("Department") audited Petitioner and concluded that Petitioner should have included in its Illinois taxable income interest and royalty payments made to foreign related parties.

5. In its original Petition, Petitioner claimed that the interest and royalty payments should not have been included in its Illinois taxable income because those payments were made to two foreign related parties that were subject to net income tax on the interest and royalty income in foreign jurisdictions.
6. In its First Amended Petition, Petitioner alleges that Petitioner is not unitary with DT Parent or DTIF and therefore, Petitioner is not subject to the 80/20 Add-Back Rule Contained in 35 ILCS §5/203(b)(3)(E-12 and E-13).
7. In its First Amended Petition, Petitioner alleges that the interest payments made to the two foreign parties should not be included in its Illinois taxable base because the payments were made at arm's length rates and terms and were not for the principal purpose of tax avoidance.
8. Petitioner's First Amended Petition also alleges that the royalty payments should not be included in its Illinois taxable base because the add back of the payments is unreasonable.
9. The amended petition will not prejudice Defendants.
10. This is Petitioner's first request for leave to amend its petition for the tax years ending 2009 and 2010.
11. This motion is not brought for purposes of delay.

WHEREFORE, Petitioner respectfully requests leave to file instanter the amended petition attached as Exhibit A to this motion.

Respectfully Submitted,
T-MOBILE USA, INC.,
Petitioner

By: Breen M. Schiller
One of Petitioner's Attorneys

Marilyn A. Wethekam (mwetheka@hmblaw.com)
Breen M. Schiller (bschiller@hmblaw.com)
Christopher T. Lutz (clutz@hmblaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

T-MOBILE USA, INC.)	
)	
Petitioner,)	
)	
v.)	No. 14-TT-91
)	
THE ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant.)	

FIRST AMENDED PETITION

Petitioner, T-Mobile USA Inc. (“Petitioner”), by and through its attorneys, Horwood Marcus & Berk Chartered, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

PARTIES

1. For the tax years ending 2009 – 2010 (“Years in Issue”), Petitioner, a Delaware corporation, was a wholly owned subsidiary of Deutsche Telekom AG, a German company. During the Years in Issue Deutsche Telekom AG indirectly owned 100% of the Petitioner through foreign holding companies. Petitioner’s principal business address is 12920 SE 38th St., Bellevue, WA, 98006-1350.

2. Petitioner is represented by Marilyn A. Wethekam, Breen M. Schiller, and Christopher T. Lutz of Horwood Marcus & Berk Chartered, located at 500 West Madison St., Suite 3700, Chicago, Illinois 60661, who can be reached at 312-606-3240 or mwetheka@hmblaw.com; 312-606-3220 or bschiller@hmblaw.com; and clutz@hmblaw.com or 312-606-3222, respectively.

3. Petitioner’s FEIN is 91-1983600.

4. Petitioner provides wireless voice, messaging, and data services in the United States.

5. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

NOTICES

6. On March 31, 2014, the Department issued two Notices of Deficiency (“Notices”) for tax, penalties, and interest totaling \$4,638,710.05 for the Years in Issue. The Notices are attached hereto as Exhibits A and B respectively. Unless otherwise stated, the following paragraphs relate to the Years in Issue.

JURISDICTION

7. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100 and the Illinois Income Tax Act (“Income Tax Act”), 35 ILCS 5/101 et. seq.

8. This Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this petition within 60 days of the Notices.

BACKGROUND

9. Petitioner is engaged in the business of providing wireless voice, messaging, and data services in the United States, Puerto Rico, and the U.S. Virgin Islands through various operating subsidiaries.

10. Petitioner is the United States wireless operation that is a part of the Deutsche Telekom telecommunications group (“DT Group”). The ultimate parent of the DT Group is

Deutsche Telekom AG (“DT Parent”). Deutsche Telekom AG is also the parent company of Deutsche Telekom International Finance B.V., a Netherlands financing company (“DTIF”).

11. For the Years in Issue, Petitioner made interest and royalty payments to DT Parent and interest payments to DTIF.

12. On audit, the Department disallowed the expense deductions, contending that Petitioner failed to provide proof that tax was paid by DT Parent and DTIF.

13. During the audit, the Department indicated that it required Petitioner to provide copies of the German and Dutch tax returns (translated into English) showing that tax was paid on the interest and royalty income.

14. Petitioner provided the Department a number of documents proving that its Parent paid tax on its net income in Germany, including a Declaration on Registration of Taxpayers issued by the Federal Central Tax Office in Bonn, Germany for the Years in Issue 2009 and 2010.

15. On March 31, 2014, the Department issued to Petitioner the Notices based on, among other things, the disallowance of the expense deductions.

COUNT I

**Petitioner is not unitary with either DT Parent or DTIF and therefore,
Petitioner is not subject to the 80/20 Add-Back Rule contained in
35 ILCS §5/203(b)(2)(E-12 and E-13).**

16. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 15, inclusive, hereinabove.

17. The Illinois Income Tax Act requires an add-back for Illinois purposes of interest and intangible expenses paid to a foreign company which would be included in the Illinois combined unitary group, if not for the fact that the company conducts eighty-percent (80%) of its

business activity outside the United States (“80/20 Add-Back Rule”). 35 ILCS §§5/203(b)(2)(E-12) and (E-13).

18. In Illinois, a “unitary business group” is defined as a “group of persons related by common ownership whose business activities are integrated with, dependent upon, and contribute to each other.” 35 ILCS §5/1501(a)(27); 86 Ill. Admin. Code §100.9700.

19. Common ownership, while necessary to the existence of a unitary business group, is not sufficient in itself to establish the existence of a unitary business group. *Id.*

20. Whereas according to Illinois law, “no group of persons can be a unitary business group unless they are functionally integrated through the exercise of strong centralized management.” 86 Ill. Admin. Code §100.9700(g).

21. It is this exercise of strong centralized management that is the primary indicator of mutual dependency, mutual contribution and mutual integration between persons that is necessary to constitute them members of the same unitary business group. *Id.*

22. The exercise of strong centralized management will be deemed to exist where authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member. *Id.*

23. Here, although Petitioner, DT Parent and DTIF are indirectly related by ownership, they are not functionally integrated through the exercise of strong centralized management.

24. Each company operates separate and distinct businesses which are not dependent upon each other.

25. Petitioner does not share management or operational resources such as purchasing, financing, tax compliance, or personnel, with either DT Parent or DTIF,

26. Petitioner has its own management, structure, and systems located within the United States that is separate and distinct from those of both DT Parent and DTIF.

27. Petitioner operates independently of and without direction from either DT Parent or DTIF.

28. As such, neither DT Parent nor DTIF are unitary with Petitioner and properly includible in Petitioner's Illinois unitary combined group.

29. Accordingly, Petitioner is not subject to the 80/20 Add-Back Rule because it is not unitary with either DT Parent or DTIF.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner is not unitary with either DT Parent or DTIF;
- (b) finds and declares that neither DT Parent or DTIF are properly includible in Petitioner's Illinois unitary combined group;
- (c) finds and declares that Petitioner is not subject to the 80/20 Add Back Rule;
- (d) enters judgment in favor of Petitioner and against the Defendants and orders Defendants to withdraw the Notices; and
- (e) grants such further relief as the Tribunal deems appropriate under the circumstances.

COUNT II

Further, Petitioner has demonstrated that DT Parent and DTIF were subject to net income tax on the interest and royalty income.

30. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 29, inclusive, hereinabove.

31. Illinois law requires that taxable income include, in addition to base income reported on a taxpayer's federal return, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly under certain circumstances. 35 ILCS 5/203(b)(2)(E-12).

32. However, this addition modification shall not apply in instances where an item of interest is paid, accrued, or incurred, directly or indirectly, to a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest. 35 ILCS 5/203(b)(2)(E-12)(i).

33. Although the Department did not refer to the statute in its Explanation of Adjustments, 35 ILCS 5/203(b)(2)(E-13) provides for an identical addition modification and exception to the modification in the case of royalty expenses.

34. In order for a domestic subsidiary to deduct interest and royalty expenses from its Illinois taxable income, it need only demonstrate that the income-recipient entity is subject to a foreign tax on or measured by net income with respect to such interest and royalty income.

35. DT Parent was subject to tax measured by net income in Germany.

36. Petitioner is not required to prove anything other than the fact that its Parent was subject to tax measured by net income with respect to income earned in the foreign jurisdiction.

37. Petitioner provided documentation proving that DT Parent was subject to such a tax, including a Declaration on Registration of Taxpayers issued by the Federal Central Tax Office in Bonn, Germany for the Years in Issue 2009 and 2010.

38. DTIF was subject to tax measured by net income in the Netherlands.

39. DTIF complied with its income tax filing obligations in the Netherlands.

40. Petitioner is not required to prove anything other than the fact that DTIF was subject to tax measured by net income with respect to income earned in the foreign jurisdiction.

41. Because DT Parent was subject to tax on its income, including its interest and royalty income, in Germany; and DTIF was subject to tax on its interest income in the Netherlands, the Department's addition modification to Petitioner's base income for the Years in Issue was in error.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (f) finds and declares that DT Parent was subject to tax measured by net income with respect to the interest and royalty income at issue;
- (g) finds and declares that DTIF was subject to tax measured by net income with respect to the interest income at issue;
- (h) finds and declares that Petitioner's interest and royalty expenses should be deducted from its Illinois base income;
- (i) enters judgment in favor of Petitioner and against the Defendants and orders Defendants to withdraw the Notices; and
- (j) grants such further relief as the Tribunal deems appropriate under the circumstances.

COUNT III

The interest payments should not be added back to Petitioner's taxable income because the payments were made at arm's length and the principal purpose of the payments was not tax avoidance.

42. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 41, inclusive, hereinabove.

43. If a taxpayer can establish, based on clear and convincing evidence, that the interest paid relates to a contract or agreement entered into at arm's length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance, the interest payments should not be added back to its Illinois taxable income. 35 ILCS 5/203(b)(2)(E-12)(iii).

44. Petitioner engaged a third party to perform a transfer pricing study with respect to its interest payments to DT Parent and DTIF during the Years at Issue ("2009-10 Study").

45. The transfer pricing study concluded that all payments made to DT Parent and DTIF were made at arm's-length rates and terms.

46. The Internal Revenue Service (IRS) is currently auditing Petitioner for tax years ending December 31, 2011 and December 31, 2012.

47. As part of its audit, the IRS has reviewed Petitioner's transfer pricing study for the tax years ending December 31, 2011 and December 31, 2012 ("2011-12 Study") (Collectively with the 2009-10 Study referred to herein as the "Studies").

48. The IRS has made no adjustments to the interest payments petitioner made to DT Parent and DTIF.

49. Petitioner's debt for the tax years ending December 31, 2011 and December 31, 2012 was the same as Petitioner's debt in both 2009 and 2010.

50. Both the 2009-10 and 2011-12 Studies included a review of Petitioner's outstanding debt and royalty payments for those years.

51. The IRS reviewed the 2011-12 Study, and confirmed that the payments were made at arm's length and proposed no changes.

52. Petitioner made the interest payments to DT Parent and DTIF at arm's length rates and terms.

53. Petitioner made the interest payments to DT Parent and DTIF for legitimate business purposes, not the avoidance of tax.

54. Petitioner's interest payments made to DT Parent and DTIF should not be added to Petitioner's taxable income pursuant to 35 ILCS 5/203(b)(2)(E-12)(iii).

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner's interest payments to DT Parent and DTIF were made at arm's length rates and terms and the principal purpose of the payment was not tax avoidance;
- (b) finds and declares that Petitioner's interest expenses should be deducted from its Illinois base income;
- (c) enters judgment in favor of Petitioner and against the Defendants and orders Defendants to withdraw the Notices; and
- (d) grants such further relief as the Tribunal deems appropriate under the circumstances.

COUNT IV

The royalty payments should not be added back to petitioner's taxable income because such a modification is unreasonable.

55. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 54, inclusive, hereinabove.

56. If a taxpayer can establish, based on clear and convincing evidence, that adding back royalty payments to its taxable income is unreasonable, the royalty payments should not be added back to its Illinois taxable income. 35 ILCS 5/203(b)(2)(E-12)(iii).

57. Petitioner engaged a third party to perform a transfer pricing study with respect to its royalty payments to DT Parent.

58. The transfer pricing study concluded that all royalty payments made to DT Parent were made at arm's-length rates and terms.

59. The Internal Revenue Service (IRS) is currently auditing Petitioner for tax years ending December 31, 2011 and December 31, 2012.

60. As part of its audit, the IRS has reviewed Petitioner's transfer pricing study for the 2011-2012 Study.

61. Both the 2009-10 and 2011-12 Studies included a review of Petitioner's outstanding debt and royalty payments for those years.

62. The IRS has made no adjustments to the royalty payments Petitioner made to DT Parent and DTIF.

63. Petitioner made the royalty payments to DT Parent at arm's length rates and terms.

64. Petitioner made the royalty payments to DT Parent for legitimate business purposes, not the avoidance of tax.

65. Adding back the royalty payments is unreasonable because these payments constitute legitimate business expenses paid by Petitioner.

66. Petitioner's royalty payments made to DT Parent should not be added to Petitioner's taxable income pursuant to 35 ILCS 5/203(b)(2)(E-13)(iii).

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (e) finds and declares that adding back to Petitioner's Illinois taxable base Petitioner's royalty payments made to DT Parent is unreasonable;
- (f) finds and declares that Petitioner's royalty expenses should be deducted from its Illinois base income;

- (g) enters judgment in favor of Petitioner and against the Defendants and orders Defendants to withdraw the Notices; and
- (h) grants such further relief as the Tribunal deems appropriate under the circumstances.

COUNT V

All penalties should be abated based on reasonable cause

67. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 66, inclusive, hereinabove.

68. For the Years in Issue, the Department assessed penalties in an amount totaling \$714,071.39.

69. Illinois law provides that penalties do not apply if a taxpayer shows that its failure to pay tax at the required time was due to reasonable cause. 35 ILCS 735/3-8.

70. 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 its proper tax liability and to pay its proper tax liability in a timely fashion. 86 Ill. Admin. Code §700.400(b).

71. A taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code §700.400(b).

72. Petitioner, relying on the United States Constitution, Illinois statutes and case law, reasonably concluded that it should not add back its interest and royalty expenses paid to DT Parent; or its interest expenses paid to DTIF, since both entities were subject to tax measured by net income in a foreign jurisdiction.

73. Petitioner's decision to deduct the expenses from its base income is supported by reasonable cause.

74. The Department's determination that Petitioner owes penalties on late payment of tax is not supported by fact or law.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause; and
- (b) grants such further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,

T-MOBILE USA, INC.,
Petitioner

By: Breen M. Schiller
One of Petitioner's Attorneys

Marilyn A. Wethekam (mwetheka@hmblaw.com)
Breen M. Schiller (bschiller@hmblaw.com)
Christopher T. Lutz (clutz@hmblaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

Notice of Deficiency

for Form IL-1120, Corporation Income and Replacement Tax Return



March 31, 2014



Letter ID: CNXXX19975917763

#BWNKMGV
#CNXX X199 7591 7763#
T-MOBILE USA INC
12920 SE 38TH ST
BELLEVUE WA 98006-1350

Taxpayer ID: 91-1983600
Audit ID: A1619308544
Reporting period: December 2009
Total Deficiency: \$4,032,412.40
Balance due: \$4,032,412.30



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 this 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," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. 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 conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. 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 protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, 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 deficiency 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.

If you do not protest this notice or pay the balance due 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.

If you have questions, call us at the telephone number shown below.

Sincerely,

Brian Hamer
Director

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

(217) 524-4279

enclosures: Explanation of Adjustments

Statement

Date: March 31, 2014
Name: T-MOBILE USA INC
Taxpayer ID: 91-1983600
Letter ID: CNXXX19975917763

Reasons for deficiency

Please see enclosed Explanation of Adjustments

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%. [35 ILCS 735-13-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$322,541.61 has been computed through March 31, 2014.

Statement

Date: March 31, 2014
Name: T-MOBILE USA INC
Taxpayer ID: 91-1983600
Letter ID: CNXXX19975917763

Computation of deficiency

Reporting Period: 31-Dec-2009

Income or loss	
Federal taxable income	\$0.00
Net operating loss deduction	\$1,583,302,740.00
Income tax and replacement tax deduction	\$5,620,000.00
Related party expenses additions	\$829,212,879.00
Other additions	\$0.00
Income or loss	\$2,418,135,619.00
Base income or loss	
Illinois bonus depreciation subtraction	\$5,735,827.00
Total subtractions	\$5,735,827.00
Base income or net loss	\$2,412,399,792.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$3,828,630.00
Business income or loss	\$2,408,571,162.00
Apportionment formula	
Total sales everywhere	\$22,124,692,580.00
Total Illinois sales	\$1,117,473,462.00
Apportionment factor	0.050508
Business income/loss apportionable to IL	\$121,652,112.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$240,477.00
Base income or net loss allocable to IL	\$121,892,589.00
Net income	
Base income or net loss	\$121,892,589.00
IL net loss deduction (NLD)	\$0.00
Net income	\$121,892,589.00
Net replacement tax	
Replacement tax	\$3,047,315.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$3,047,315.00
Replacement tax investment credits	\$0.00
Net replacement tax	\$3,047,315.00
Net income tax	
Income tax	\$5,850,844.00
Recapture of investment credits	\$0.00

Statement

Date: March 31, 2014
Name: T-MOBILE USA INC
Taxpayer ID: 91-1983600
Letter ID: CNXXX19975917763

Income tax before credits	\$5,850,844.00
Income tax investment credits	\$0.00
Net income tax	\$5,850,844.00
Refund or balance due	
Net replacement tax	\$3,047,315.00
Net income tax	\$5,850,844.00
Total net income and replacement tax due	\$8,898,159.00
Minus tax previously assessed	-\$5,806,600.00
Total tax deficiency	\$3,091,559.00
UPIA-5 late-payment penalty (Audit)	\$618,311.79
Plus Interest on tax through March 31, 2014	\$322,541.61
Total deficiency	* \$4,032,412.40

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Minus payments	-\$0.10
Balance due	* \$4,032,412.30

EXPLANATION OF ADJUSTMENTS

T-Mobile USA, Inc. & Subsidiaries

FEIN # 91-1983600

	12/31/2009	12/31/2010
1. Taxable Income	\$ 0	(\$346,869,363)
We adjusted line 1 of you IL-1120 to reflect taxable As defined by the IRC and required by Illinois Law. Ref: IITA Section 203(b).		
2. Federal NOL	0	\$346,869,363
We adjusted addition modification for federal NOL That you included in line 1 of your IL-1120. Ref: IITA Section 203(b)(2)(D).		
3. Related Party Expenses	\$829,212,879	\$122,802,893
We corrected you addition modification to addback interest and royalty paid to foreign parent and affiliate for failure to provide proof that tax was paid by the foreign parent and affiliate. Ref: IITA Sec. 203(b)(E-12).		
4. Illinois Partnership Income	\$100,252	\$247,984
We have corrected your Illinois share of partnership Income in your Illinois business income. Ref: IITA Section 305(a).		
5. Sales Everywhere	(\$102,334,810)	\$3,781,867
We have corrected computational errors in the calculation Of the sales factor. Ref: IITA Section 304(3)(A).		

Notice of Deficiency

for Form IL-1120, Corporation Income and Replacement Tax Return



March 31, 2014



Letter ID: CNXXX17468884169

#BWNKMGV
#CNXX X174 6888 4169#
T-MOBILE USA INC
12920 SE 38TH ST
BELLEVUE WA 98006-1350

Taxpayer ID: 91-1983600
Audit ID: A1619308544
Reporting period: December 2010
Total Deficiency: \$606,297.75
Balance due: \$606,297.75



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 this 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," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. 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 conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. 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 protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, 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 deficiency 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.

If you do not protest this notice or pay the balance due 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.

If you have questions, call us at the telephone number shown below.

Sincerely,

Brian Hamer
Director

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

(217) 524-4279

enclosures: Explanation of Adjustments

Statement

Date: March 31, 2014
Name: T-MOBILE USA INC
Taxpayer ID: 91-1983600
Letter ID: CNXXX17468884169

Reasons for deficiency

Please see enclosed Explanation of Adjustments

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%. [35 ILCS 735-13-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$31,740.15 has been computed through March 31, 2014.

Statement

Date: March 31, 2014
Name: T-MOBILE USA INC
Taxpayer ID: 91-1983600
Letter ID: CNXXX17468884169

Computation of deficiency

Reporting Period: 31-Dec-2010

Income or loss	
Federal taxable income	\$0.00
Net operating loss deduction	\$346,869,363.00
Income tax and replacement tax deduction	\$3,960,000.00
Illinois bonus depreciation addition	\$721,931,742.00
Related party expenses additions	\$122,802,893.00
Other additions	\$0.00
Base income or loss	
Illinois bonus depreciation subtraction	\$130,440,311.00
Total subtractions	\$130,440,311.00
Base income or net loss	\$1,065,123,687.00
Income allocable to Illinois	
Non-business income or loss	\$0.00
Non-unitary partnership bus. income or loss	\$2,251,554.00
Business income or loss	\$1,062,872,133.00
Apportionment formula	
Total sales everywhere	\$21,244,884,104.00
Total Illinois sales	\$1,093,418,794.00
Apportionment factor	0.051467
Business income/loss apportionable to IL	\$54,702,840.00
Nonbusiness income/loss allocable to IL	\$0.00
Non-unitary part. business income app. to IL	\$304,876.00
Base income or net loss allocable to IL	\$55,007,716.00
Net income	
Base income or net loss	\$55,007,716.00
IL net loss deduction (NLD)	\$0.00
Net income	\$55,007,716.00
Net replacement tax	
Replacement tax	\$1,375,193.00
Recapture of investment credits	\$0.00
Replacement tax before credits	\$1,375,193.00
Replacement tax investment credits	\$0.00
Net replacement tax	\$1,375,193.00
Net income tax	
Income tax	\$2,640,370.00
Recapture of investment credits	\$0.00

Statement

Date: March 31, 2014
Name: T-MOBILE USA INC
Taxpayer ID: 91-1983600
Letter ID: CNXXX17468884169

Income tax before credits	\$2,640,370.00
Income tax investment credits	\$0.00
Net income tax	\$2,640,370.00
Refund or balance due	
Net replacement tax	\$1,375,193.00
Net income tax	\$2,640,370.00
Total net income and replacement tax due	\$4,015,563.00
Minus tax previously assessed	-\$3,536,765.00
Total tax deficiency	\$478,798.00
UPIA-5 late-payment penalty (Audit)	\$95,759.60
Plus interest on tax through March 31, 2014	\$31,740.15
Total deficiency	* \$606,297.75
If you intend to pay under protest, you must pay this total deficiency amount.	
Balance due	* \$606,297.75

EXPLANATION OF ADJUSTMENTS

T-Mobile USA, Inc. & Subsidiaries

FEIN # 91-1983600

	12/31/2009	12/31/2010
1. Taxable Income	\$ 0	(\$346,869,363)
We adjusted line 1 of you IL-1120 to reflect taxable As defined by the IRC and required by Illinois Law. Ref: IITA Section 203(b).		
2. Federal NOL	0	\$346,869,363
We adjusted addition modification for federal NOL That you included in line 1 of your IL-1120. Ref: IITA Section 203(b)(2)(D).		
3. Related Party Expenses	\$829,212,879	\$122,802,893
We corrected you addition modification to addback interest and royalty paid to foreign parent and affiliate for failure to provide proof that tax was paid by the foreign parent and affiliate. Ref: IITA Sec. 203(b)(E-12).		
4. Illinois Partnership Income	\$100,252	\$247,984
We have corrected your Illinois share of partnership Income in your Illinois business income. Ref: IITA Section 305(a).		
5. Sales Everywhere	(\$102,334,810)	\$3,781,867
We have corrected computational errors in the calculation Of the sales factor. Ref: IITA Section 304(3)(A).		

CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that she caused a copy of the foregoing present **Petitioner's Motion for Leave to File its Amended Petition** to be served on other counsel of record by electronic mail and also by enclosing the same in an envelope, properly addressed, first-class postage prepaid and deposited in the U.S. Mail at 500 W. Madison Street, Chicago, Illinois 60661, before the hour of 5:00 p.m. on the 30th day of October, 2014, addressed as follows:

Jennifer Kieffer
Susan Bidzileni
Special Assistant Attorney General
100 West Randolph Street Level 7-900
Chicago, IL 60601
Telephone: 312-814-1716

Breen M. Schiller