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July 31, 2014

Department of Treasury
Internal Revenue Service
1973 N Rulon White Blvd.
Ogden, UT 84201-0021

Sent by Certified Mail 7012 0470 0000 1946 [REDACTED]

RE: [REDACTED]
323-[REDACTED]
1040 - 2012
CP-2000

PROTEST

Receipt is hereby acknowledged of IRS Notice CP2000 dated July 14, 2014 informing the taxpayer of a proposed increase to income tax for the year 2012. The CP-2000 proposes to assess the taxpayer addition income tax in 2012 of \$21,899.

Protest is hereby made against the proposed assessment for the tax year 2012. In support thereof, the following facts and contentions are submitted:

- 1) **APPELLATE CONFERENCE REQUESTED**
A conference is requested with the Appeals Office to discuss the proposed assessment of tax. The taxpayer disagrees with the proposed assessment and requests an Appeal conference.

- 2) **THE TAXPAYER INVOLVED**
[REDACTED]
[REDACTED]
Street Address |
City, ST ZIP
323-[REDACTED]

POWER OF ATTORNEY

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3) DATE AND SYMBOL OF LETTERS

CP2000 dated 7/14/2014
AUR Control #5005 [REDACTED]

4) TAX and YEAR INVOLVED

1040-2012

5) SCHEDULE OF UNAGREED ITEMS

1. Proposed increase in nonemployee compensation
2. Substantial tax understatement penalty

6) FACTS AND CIRCUMSTANCES

**ISSUE 1 – PROPOSED INCREASE IN NONEMPLOYEE COMPENSATION-
\$56,608**

During the 2012 tax year [REDACTED] was working as an independent contractor for two trucking companies, [REDACTED] Trucking Inc. and [REDACTED] Transportation Corp. Both companies are operating from the same address.

██████ does not recall receiving 1099's from either company. ██████'s 1040 was prepared based on weekly settlement reports which provide detailed listings of the income received less any expenses incurred for each trip he made throughout the year.

Gross receipts reported on ██████'s Schedule C was \$138,025 and expenses were deducted relative to the income reported.

The income reported on both 1099-Misc's was greater than the gross receipts from ██████'s weekly settlement reports. We contacted the accounting departments of ██████ Transportation Corp and ██████ Trucking Inc. We are in the process of reconciling the amounts reported on the 1099-MISC's to the settlement reports that the companies issued to ██████ ██████. It appears that expenses were paid on behalf of ██████ ██████ by ██████ Transportation Corp and ██████ Trucking Inc.

The expenses paid by ██████ Transportation Corp and ██████ Trucking Inc. appear to be the difference between the gross receipts reported on the Schedule C of ██████ ██████ and the 1099-MISC's issued by ██████ Transportation Corp. and ██████ Trucking Inc., in the amount of \$56,608. The \$56,608 consists of expenses paid by both companies on behalf of ██████ ██████.

ISSUE 2 – SUBSTANTIAL TAX UNDERSTATEMENT PENALTY- \$3,507

The substantial tax understatement penalty of \$3,507 should not be asserted.

Section 6662(a) imposes a 20% penalty on the portion of an underpayment attributed to:

- 1) Negligence or disregard of the rules or regulations
- 2) Substantial understatement of income tax

Negligence includes any failure to make a reasonable attempt to comply with the provisions of the revenue laws or to exercise ordinary and reasonable care in the preparation of a tax return. It also includes any failure to keep adequate books and records or to substantiate items properly. "Disregard" includes any careless, reckless or intentional disregard of the rules and regulations.

The substantial understatement penalty under Section 6662(d) does not apply to any position of an underpayment if it is shown that there was reasonable cause for such a position and that the taxpayer acted in good faith. The determination of whether the taxpayer acted in good faith and with reasonable cause depends upon the facts and circumstances. The current law rule under Section 6664(c) (1) prohibits the imposition of the penalty if reasonable cause and good faith are

shown. The most important factor is the extent of the taxpayer's efforts to assess his proper tax liability for the year.

Reasonable cause and good faith exists where:

- 1) Recharacterization is based upon a complex concept – (Kraus, TC Memo 2003-10)
- 2) Taxpayer was able to substantiate most of the expenses claimed on their return and the expenses were disallowed by IRS. (Kim, TC 1999-261)
- 3) Honest misunderstanding of fact or law that's reasonable in light of the experience, knowledge and education of the taxpayer could indicate reasonable cause and good faith. Reg. 1.6664-4(b)(1)

██████████ did not act negligent and did not intentionally disregard the rules and regulations of the Internal Revenue Code. ██████████ took reasonable actions in attempt to comply with the rules and regulations and exercised ordinary and reasonable care in the preparation of his return. ██████████ attempted to report the correct tax liability by providing the necessary weekly settlement reports and tax documents.

IRM 20.1.5.6.2 states: generally, the most important factor in determining whether the taxpayer has reasonable cause and acted in good faith is the extent of the taxpayer's effort to report the proper tax liability. The taxpayer has attempted to report the correct liability and also cooperated with the IRS throughout the examination process.

The taxpayers had the return prepared by a CPA and attempted to report the correct amount of tax. The Taxpayer have complex matters associated with their return and require the assistance of a professional to prepare an accurate return.

The Internal Revenue Service has provided no explanation how they determined that the taxpayer failed to make a reasonable attempt to comply or that the taxpayer actions were a careless, reckless or intentional disregard of rules and regulations.

It is because of the reasons listed above that the taxpayer does not owe the additional tax assessed.

Respectfully submitted,

Larry J. Wolfe
Enclosures
██████████

PREPARER'S STATEMENT

Under penalties of perjury, I declare that the facts presented in my written protest, which are set out in the accompanying statement of facts, schedules, and other statements are, to the best of my knowledge and belief, true, correct, and complete.

Date