



Illinois residents who earned income in this state, were accordingly subject to Illinois income tax and were required to timely pay and file a return under the Illinois Income Tax Act. (35 **ILCS** 5/101 *et seq.*)

The Notice of Deficiency is *prima facie* correct so long as its proposed adjustments meet some minimum standard or reasonableness. Vitale v. Illinois Department of Revenue, 118 Ill.App.3d 210 (3rd Dist. 1983). In order to overcome this *prima facie* correctness, the taxpayer must present competent evidence that the proposed adjustments are incorrect. Masini v. Department of Revenue, 60 Ill.App.3d 11 (1st Dist. 1978). The taxpayers have not met this burden in this case.

The taxpayers presented no evidence that the computation of additional tax due was incorrect. Taxpayer's only defense was that he was a compulsive gambler.

In addition to asserting a tax deficiency, the Notice proposes penalties pursuant to 35 **ILCS** 5/1005, for failure to pay the entire tax liability by the due date. In the instant case taxpayer raised no defense to this penalty issue.

It is my recommendation that this case be decided in favor of the Department and against the Taxpayers and the Notice of Deficiency be finalized in its entirety.

Daniel D. Mangiamale  
Administrative Law Judge