



# This Week in State Tax (TWIST)

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## Illinois: Taxpayer Established Amended Return was Timely Filed During COVID-19

The Illinois Independent Tax Tribunal recently addressed whether an amended return was timely filed during the height of the COVID-19 pandemic. The amended return was received at the Springfield, Illinois Payment Center four business days and six calendar days after the due date. The taxpayer asserted it was timely mailed the day before the October 16, 2020 due date by an employee. However, the return was not sent via certified mail because the employee was concerned with entering the post office due to the severity of the COVID-19 pandemic and the risk of exposing her four children. The Department of Revenue did not have the mailing envelope in the file and asserted that the amended return was not timely filed.

Under Illinois law, a taxpayer can provide competent evidence to prove the date a return was mailed if the postmark is absent, illegible, or erroneous. The taxpayer wished to offer an affidavit identifying the steps she took to have the amended return signed and mailed with sufficient postage as evidence that the return was filed in a timely manner. The Department, on the other hand, asserted that the taxpayer could offer evidence of timely mailing only in instances when the return was not received or there was a mailing envelope without a legible postmark, which was not the case here. The Tribunal determined that the Department's interpretation of the statute was absurd, and that there was no prohibition on introducing other evidence as proof of timely mailing when the envelope was absent and was most likely last possessed by the government. The Department also claimed that only evidence of certified mail was permitted if evidence other than a postmark was considered as proof of mailing. The Tribunal again rejected this notion, observing that the dispute at issue did not involve certified mail and that the language relied on by the Department did not bar additional types of evidence. Because the taxpayer was not prohibited from introducing the affidavit in support of its position, the Department was required to produce other evidence to rebut the taxpayer's position that the return was timely filed. The Department failed to do so, and the Tribunal concluded that the taxpayer had "presented un rebutted evidence of timely mailing that was reasonable and credible in the context of the highly unusual circumstances surrounding business and governmental operations during the height of the COVID-19 pandemic." Please contact [Brad Wilhelmson](#) with questions on *Mitutoyo America Corp. v. Illinois Department of Revenue*.



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