ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

PetMed Express, Inc.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 23 TT 04
	)	
Illinois Department of Revenue,	)	
	)	
Respondent.	)	

PETITION

Petitioner, PETMED EXPRESS, INC. ("PetMeds" or "Petitioner"), hereby petitions the Illinois Independent Tax Tribunal ("Tribunal") to vacate and dismiss, as appropriate, Notices of Tax Liability ("NTLs"), issued by Respondent, the ILLINOIS DEPARTMENT OF REVENUE ("Department") for Illinois Retailer's Occupation Tax ("ROT") and Use Tax ("UT") (collectively, "Tax"), as more fully stated below:

STATEMENT OF JURISDICTION

1. PetMeds brings this petition pursuant to the Illinois Independent Tax Tribunal Act of 2012. 35 ILCS 1010/1-1 *et seq*.

2. This Tribunal has jurisdiction because this matter involves NTLs issued by the Department on September 29, 2023 and October 2, 2023, and received by Petitioner on October 10, 2023, where the amount at issue exceeds $15,000, exclusive of penalties and interest (35 ILCS 1010/1-45).

3. Copies of the Department's NTLs are attached hereto as Exhibit A.

BACKGROUND FACTS AND LAW

4. PetMeds is a Florida corporation with its principal place of business at 420 South Congress Avenue, Delray Beach, Florida 33445; its telephone number is (561) 526-4444; and its Taxpayer Account number is 4373-2641.

5. PetMeds' attorneys are David Blum and Lauren Ferrante, Akerman LLP, 71 S. Wacker Drive, 47th Floor, Chicago, IL 60606; (312) 870-8018 and (312) 870-8072; and Stefi George, Akerman LLP, 1251 Avenue of the Americas, 37th Floor, New York, NY 10020; (212) 259-6441. The attorneys' email addresses are david.blum@akerman.com; lauren.ferrante@akerman.com and stefi.george@akerman.com, respectively.

6. The Department issued NTLs, dated September 29, 2023 and October 3, 2023, and received by PetMeds on October 10, 2023, for the audit period October 1, 2018 through June 30, 2021 ("Audit Period"), assessing $1,149,099.00 in Tax and $191,463.31 in interest, less payments/credits applied in the amount of $32,770.79, in the total amount of $1,340,562.52.

7. The Department alleged that Petitioner is a remote retailer.

PetMeds' Business Operations

8. PetMeds operates as a pet pharmacy in the United States. It sells prescription and non-prescription medications, food, supplements, treats, tangible personal property, and certain veterinary services.

9. PetMeds markets and sells directly to consumers throughout the United States, including Illinois, through its website, television advertising, direct mail, toll-free number, and mobile app.

The Supreme Court's Decision in Wayfair

10. On June 21, 2018, the United States Supreme Court issued its Opinion in *South Dakota v. Wayfair, Inc.*, 585 U.S. ___, 138 S. Ct. 2080 (June 21, 2018) ("*Wayfair*"). *Wayfair*

overturned the physical presence standard for sales tax collection by out-of-state sellers.

11. *Wayfair* upheld the validity of South Dakota's law requiring tax collection when specific dollar or transaction thresholds are met, observing that the state's new tax system has three "features that appear designed to prevent discrimination against or undue burdens upon interstate commerce:" (1) safe harbor threshold; (2) prospective, and not retroactive, effective date; and (3) the state's adoption of the Streamlined Sales and Use Tax Agreement ("SSUTA"). *Id*. at 2099.

12. The Court repeatedly emphasized South Dakota's membership and adoption of the SSUTA, which it observed "standardizes taxes to reduce administrative and compliance costs: It requires a single, state level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules. It also provides sellers access to sales tax administration software paid for by the State." *Id*. at 2100.

13. Thus, South Dakota's adoption of the SSUTA appears to have weighed heavily in the Supreme Court's determination that South Dakota's law did not discriminate or impose an undue burden on interstate commerce.

14. The Court in *Wayfair* further observed that "two principles guide the courts in adjudicating cases challenging state laws under the Commerce Clause." *Id*. at 2091 (citations omitted); *see* U.S. Const. art. I, § 8, cl. 3. "First, state regulations may not discriminate against interstate commerce; and second, States may not impose undue burdens on interstate commerce. State laws that discriminate against interstate commerce face 'a virtually *per se* rule of invalidity.'" *Id*. at 2091 (citation omitted).

15. *Wayfair* also reaffirmed the Constitutional prohibitions of discrimination and undue burden:

> [a]lso animate the Court's Commerce Clause precedents addressing the validity of state taxes. The Court explained the now-accepted framework for state taxation in [*Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977)]. … The Court will sustain a tax so long as it (1) applies to an activity with a substantial nexus with the taxing state, (2) is fairly apportioned, (3) does not discriminate against interstate commerce, and (4) is fairly related to the services the State provides.

Id. (citations omitted).

16. Further, in explaining the Constitutional prohibition under the Commerce Clause that state taxation cannot discriminate against or impose undue burdens on interstate commerce, the Court reasoned that certain features of modern life can play a role in mitigating the undue burden and additional administrative costs imposed on out-state-sellers for having to comply with sales and use tax obligations in thousands of different taxing jurisdictions, including "Internet technology" and "[e]ventually, software that is available *at a reasonable cost*…may well become available…either from private providers or from state taxing agencies themselves." *Id*. at 2090-01, 2093, 2098 (citations omitted and emphasis added).

17. While the Supreme Court only addressed South Dakota's specific taxing provisions and relevant facts, *Wayfair* prompted states, including Illinois, to enact legislation requiring an out-of-state seller to collect sales or use tax on its sales delivered into the state when specific dollar and/or transaction thresholds are met.

Illinois' Post-*Wayfair* ROT and UT Statutes

18. Following *Wayfair,* Illinois enacted laws requiring out-of-state sellers to begin collecting and remitting Tax once their annual sales to Illinois customers exceeded $100,000, or the seller entered into 200 or more separate transactions in a year with Illinois customers. *See* Public Act 100-0587 (amending UT nexus provisions for time periods beginning Oct. 1, 2018); *see also* Public Acts 101-0031 & 101-0604 (similarly amending ROT provisions for time periods beginning Jan. 1, 2021).

19. From October 1, 2018 through December 31, 2020, Illinois law required out-of-state sellers with nexus to collect and remit the state Use Tax, imposed at a rate of 6.25%, on sales made to Illinois customers. Note, the October 1, 2018 effective date also created an undue burden for certain out-of-state retailers as they did not have sufficient time to properly register and implement systems to enable timely collection and remittance of Illinois Tax.

20. Under Illinois' Leveling the Playing Field legislation ("Leveling the Playing Field" or "Legislation") Public Acts 101-0031 & 101-0604, remote retailers, in lieu of a 6.25% state Use Tax rate, were now subject to both the state ROT at a 6.25% rate *plus* local ROT administered by the state at rates that vary widely across almost a thousand different local taxing jurisdictions within the state.

21. For remote retailers (*i.e.,* retailers that do not maintain a physical presence within Illinois), the Legislation and its implementing regulations impose local ROT based on where the sale is shipped or delivered ("destination sourcing"). *See* Public Act 101-0604; 35 ILCS 120/2-12(6); 86 Ill. Admin. Code § 131.107.

22. For other types of retailers, such as those physically located in Illinois (*e.g.,* a storefront or in-state inventory to fulfill in-state sales), local ROT is imposed based on the location where the retailer does business or maintains its inventory ("origin sourcing"). *See* 35 ILCS 120/2-12(6); 86 Ill. Admin. Code § 131.105.

23. Still other types of retailers with an Illinois physical presence but for which goods are shipped from out-of-state, pay only the state Use Tax at a 6.25% rate. *See, e.g.,* 86 Ill. Admin. Code § 131.107(a)(4) ("Out-of-State sellers with a physical presence in Illinois incur[] a Use Tax collection obligation for sales they make outside Illinois and ship or deliver to Illinois purchasers …. ").

24. In all, there are seven different ways Illinois ROT and UT could apply to the sale of the same item by similarly situated retailers, but just with slightly different facts.

25. Importantly, Leveling the Playing Field imposed additional local ROT complexity solely upon out-of-state "remote" retailers, where such requirements are not imposed on Illinois-based retailers. That is, remote retailers are deemed to be engaged in the business of selling in each of the Illinois locations to which the tangible personal property is shipped or deliver or at which possession is taken by the purchaser, known as "destination-based sourcing." While in-state retailers enjoy "origin-based sourcing."

26. Further, for purposes of ROT compliance, the Department requires a remote retailer to separately: (1) determine, (2) register and (3) report *each* Illinois location to which a sale is delivered. *See* https://tax.illinois.gov/research/taxinformation/sales/destination-based-sales-tax-assistance-effective-january-1-2021.html.

a. Determination: For each separate address in Illinois to which a remote retailer makes a sale, the retailer must determine the Location Code by manually entering the delivery address, including the nine-digit zip code, into the Department's MyTax Illinois Tax Rate Finder available on its website. Next, selecting "Conduct Inquiry" will yield a ROT rate (including state and local components), eleven-character Location Code and Local Government name. The Department requires this process for each separate sale location.

b. Registration: For each individual location as determined above, the eleven-character Location Code must be added to a taxpayer's MyTax Illinois account. Each Location Code must be added individually, in

addition to the start date for each location. The Department cautions that:

> NOTE: There are two separate tables on the "Add Changing Locations Sites" tab labeled "Municipalities" and "Counties". The location code for most addresses in the state will be listed in the "Municipality" table. If the "Local Government" name listed on the Tax Rate Finder has the word "County" in it, use the 'county' table to find the location. All others will use the 'Municipalities' table.
> You may filter through locations by using the filter line on either table. Enter the "Location code" or the "Local Government" name from the Tax Rate Finder to narrow the search.
>
> NOTE: Some municipalities will have more than one taxing jurisdiction (business districts, mass transit districts, or multi-county municipalities), be sure to use the location code provided in the tax rate finder for the address of your sale. (If you have previously added a location, it will not show as available to add again.)

c. Reporting: Only once a Location Code is registered can it be reported to the Department. The Department requires each Location Code be separately reported on a form separate from the Form ST-1 Tax Return. Each Location Code must be entered into Form ST-2 Multiple Site Form where the specific ROT rate (including state and local) will be populated.

27. In contrast, the Department's compliance process for retailers *other than* remote retailers, including retailers with an Illinois physical presence that utilize ROT origin sourcing or pay Use Tax, does not require utilization of Location Codes or the compliance process described immediately above.

28. The requirement to determine, register and report such transactions applies *only* to remote retailers, imposing a significant administrative burden on such retailers that does not apply to in-state businesses.

29. Unlike South Dakota, Illinois has never been and is not a member of the SSUTA.

PetMeds' Compliance With Illinois' Complex Collection ROT and UT Obligations

30. Prior to *Wayfair,* and in accordance with the law then in effect, PetMeds collected and remitted state sales tax only where it had a physical presence.

31. Following *Wayfair*, PetMeds sought to register and comply with applicable laws and engaged a national third party tax software provider, in certain circumstances, to assist with its multi-state sales/use compliance obligations, including Illinois, to enable it to calculate and remit the proper rate of Tax.

32. During the Audit Period, PetMeds delivered goods *to over 900 destinations* in Illinois.

33. As a result of such detailed compliance resulting from "Leveling the Playing Field" destination-based sourcing, in particular, its third-party tax software compliance costs rose significantly and substantially.

34. Notably, if the playing field was actually "level," then destination sourcing would apply equally to in-state retailers. But it does not. Non-remote retailers have a much simpler Illinois taxing scheme.

The Department's Audit and Delays

35. Throughout the Audit, PetMeds fully cooperated and timely complied with the Department's requests for documentation.

36. The Department initially sent preliminary workpapers to PetMeds' representative by email on August 19, 2022. The Department asserted in such email that PetMeds should review and provide any additional information, and that a Notice of Proposed Tax Liability would follow "soon thereafter."

37. PetMeds responded by requesting support for some of the adjustments so that PetMeds could review the detailed computations, and by notifying the Department of PetMeds'

disagreement and options to appeal.

38. By email dated October 18, 2022, PetMeds' representative again requested a final appealable assessment, and was informed by the Department several days later that Department system conversions were causing delays, and that a Notice of Proposed Tax Liability would probably be issued in a few weeks.

39. Despite repeated requests, the Department was unable to provide any additional documentation, nor did it issue the Notice of Proposed Tax Liability at this time.

40. Instead, the Department alleged that its computer system was still undergoing substantial upgrades that resulted in repeated Department's delays in processing the Audit workpapers and completing the Audit.

41. Despite the fact that the Department initially sent PetMeds representative preliminary workpapers on August 19, 2022, the Department did not issue its Preliminary Audit Results until April 6, 2023, following multiple requests by PetMeds dating back to August 2022. The Preliminary Audit Results contained audit workpapers dated March 30, 2023.

42. Almost three months later, on June 29, 2023, the Department issued a Notice of Proposed Tax Liability against PetMeds for the Audit Period, proposing that an additional $1,149,099.00 in Tax and $172,136.50 in interest, totaling $1,321,235.50, be assessed ("NPL").

43. PetMeds did not seek Informal Conference Board review of the NPL and the Department issued the NTLs, dated September 29, 2023 and October 2, 2023, which Petitioner disputes herein.

COUNT I

THE ASSESSMENT VIOLATES THE COMMERCE CLAUSE OF THE U.S. CONSTITUTION AS IT DISCRIMINATES AGAINST INTERSTATE COMMERCE AND CREATES AN UNDUE BURDEN ON OUT-OF-STATE RETAILERS

44. PetMeds incorporates and realleges paragraphs 1- 43 herein.

45. The assessment set forth in the NTLs must be vacated to the extent that it relies upon the Leveling the Playing Field, which is unconstitutional as applied to PetMeds as it violates the Commerce Clause.

46. A state may impose a tax on interstate activity to the extent that the taxpayer has substantial nexus with the taxing state, the tax is fairly apportioned, the tax does not discriminate against interstate commerce, and the tax is fairly related to the services provided by the state. *Complete Auto Transit, Inc. v. Brady,* 430 U.S. 274 (1977).

47. However, as the Supreme Court emphasized in *Wayfair*, state regulations may not discriminate against interstate commerce or impose undue burdens on interstate commerce.

48. Leveling the Playing Field Legislation violates both of these principles, and is therefore unconstitutional as applied to PetMeds.

Leveling the Playing Field Violates the Commerce Clause Because it Discriminates Against Interstate Commerce

49. Leveling the Playing Field discriminates against interstate commerce by imposing destination-based sourcing on sales by remote retailers and origin-based sourcing on sales by similarly situated retailers that maintain an Illinois presence.

50. Thus, whereas an in-state retailer may impose a single local ROT rate based on its place of business, a remote retailer is instead arbitrarily subjected to a different, unique, local ROT rate for each sale into the state.

51. This disparate treatment discriminates against remote retailers by treating two similarly situated taxpayers differently solely due to the fact that one of the taxpayers has some form of physical presence in the state (however *de minimis*), while the other is engaged in interstate commerce.

52. In fact, this was the same rationale the Supreme Court in *Wayfair* applied to justify overturning *Quill Corp. v. North Dakota*, 504 U.S. 298. The Supreme Court reasoned:

> *Quill*, in contrast, ***treats economically identical actors differently, and for arbitrary reasons***. Consider, for example, two businesses that sell furniture online. The first stocks a few items of inventory in a small warehouse in North Sioux City, South Dakota. The second uses a major warehouse just across the border in South Sioux City, Nebraska, and maintains a sophisticated website with a virtual showroom accessible in every State, including South Dakota. By reason of its physical presence, the first business must collect and remit a tax on all of its sales to customers from South Dakota, even those sales that have nothing to do with the warehouse…***This distinction simply makes no sense***.
> *Wayfair,* at 2094 (Emphasis added).

53. Leveling the Playing Field essentially creates the inverse of the same problem that *Wayfair* found untenable under *Quill*.

54. Consider this same example under Leveling the Playing Field: the remote retailer with its warehouse just beyond Illinois borders is subject to destination-based sourcing, and must apply local ROT on *every* sale in potentially hundreds of local jurisdictions every month, while the company with a small warehouse in Illinois can enjoy origin-based sourcing on all of its sales, regardless of whether such sales are tied to that warehouse, at potentially a single Tax rate. This creates a perverse result.

55. As the Supreme Court stated, "this distinction makes no sense," and there is no rational basis for upholding Leveling the Playing Field, which discriminates against remote retailers.

56. Notably, *Wayfair* was critical of *Quill*, stating "*Quill* creates rather than resolves market distortions." The same can be said of Illinois' Leveling the Playing Field. It creates market distortions.

57. In *Associated Indus. of Missouri v. Lohman*, 511 U.S. 641 (1994), the Court stated that Missouri's tax scheme "runs afoul of the basic requirement that, for a tax system to be

'compensatory,' the burdens imposed on interstate and intrastate commerce must be equal." And, "the 'common thread running through the cases upholding compensatory taxes is the equality of treatment between local and interstate commerce'" (citing Maryland v. Louisiana, 451 U.S. 725, 759 (1981)).

58. However, "in jurisdictions where the use tax exceeds the sales tax, the discrepancy imposes a discriminatory burden on interstate commerce." *Id.*

59. The Court in *Associated Indus. of Missouri* noted that it need not inquire into the purpose or motivation behind a law. Rather, actual discrimination is unconstitutional regardless of magnitude and scope.

60. *Associated Indus. of Missouri* also stated, "To ensure the State is indeed merely imposing countervailing burdens on comparable transactions, we have required that the tax on interstate and intrastate be imposed on 'substantially equivalent event[s]'" (citing Maryland v. Louisiana 451 U.S. at 759). The Court stated further, "The end result under the theory of the compensatory tax is that, '[w]hen the account is made up, the stranger from afar is subject to no greater burdens…than the dweller within the gates'" (*quoting Henneford v. Silas Mason Co*., 300 U.S. 577, 584 (1937) (emphasis added).

61. As applied to PetMeds, Leveling the Playing Field Legislation discriminates against it by imposing a different and more onerous taxing scheme than those retailers which have a physical presence in Illinois. PetMeds is subject to greater burdens than the dweller within the gates.

62. Consequently, Leveling the Playing Field must be invalidated and deemed unconstitutional as applied to PetMeds.

Leveling the Playing Field Violates the Commerce Clause By Imposing an Undue Burden on Remote Retailers

63. Leveling the Playing Field is also unconstitutional as applied to PetMeds because it imposes an undue burden upon remote retailers that does not apply to similarly situated in-state retailers.

64. When the Supreme Court in *Wayfair* overturned *Quill,* it expressed concern that the South Dakota law would impose a significant compliance burden on remote retailers.

65. The Supreme Court in *Wayfair* believed that the risk was mitigated in part by the fact that the burden was also imposed on in-state taxpayers. The Supreme Court noted: "Complex state tax systems could have the effect of discriminating against interstate commerce…and since in-state businesses pay the taxes as well, the risk of discrimination against out-of-state sellers is avoided."

66. This illustrates the inherent problem with Leveling the Playing Field: the burden is not shared with in-state businesses, because an entirely different taxing regime applies to remote retailers.

67. The Supreme Court in *Wayfair* further considered the fact that South Dakota's law had features that mitigated against creating an undue burden upon interstate commerce, one of which was the fact that South Dakota had adopted the SSUTA. The Supreme Court explained:

> Third, South Dakota is one of more than 20 States that have adopted the Streamlined Sales and Use Tax Agreement. This system standardizes taxes to reduce administrative compliance costs: It requires a single, state level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules. It also provides sellers access to sales tax administration software paid for by the state.

68. South Dakota's adoption of the SSUTA appears to have weighed heavily on the Supreme Court's comfort in its position that overturning *Quill* would not impose an undue burden on remote retailers.

69. It is therefore notable that Illinois has not adopted the SSUTA, and to the contrary, Leveling the Playing Field legislation lacks any of the features highlighted by the Supreme Court as benefits of the SSUTA.

70. In fact, Leveling the Playing Field imposes a significant administrative burden on remote retailers, one which is not imposed on retailers with any physical presence in the state.

71. Leveling the Playing Field requires remote retailers (and not in-state retailers) to manually determine, register and report each destination to which sales are delivered, and at its specific local tax rate.

72. According to the NTLs, Leveling the Playing Field Legislation requires PetMeds to separately determine and report local ROT for **over 900 jurisdictions** in Illinois because of the diverse locations of its customers.

73. PetMeds' administrative burden to account, collect and remit under these facts and circumstances is significant and substantial, and more importantly, one which is not imposed on retailers with even the slightest presence in the state.

74. Simply put, Leveling the Playing Field imposes a costly, objectively overly burdensome and time-consuming requirement upon remote retailers that is not imposed on in-state retailers.

75. Thus, Leveling the Playing Field violates the Commerce Clause as applied to PetMeds by imposing an undue burden on remote retailers that is not imposed on similarly situated in-state retailers.

76. As *Wayfair* correctly noted, "[t]he Court's Commerce Clause jurisprudence has 'eschewed formalism for a sensitive, case-by-case analysis of purpose and effects."

77. Consequently, to the extent that the NTLs rely upon Leveling the Playing Field Legislation, such NTLs must be vacated and withdrawn.

WHEREFORE, PetMeds prays this Tribunal enter an Order that:

a. Leveling the Playing Field Legislation is unconstitutional as applied to PetMeds because it discriminates against interstate commerce in violation of the Commerce Clause.

b. Leveling the Playing Field Legislation is unconstitutional as applied to PetMeds because it imposes an undue burden on it in violation of the Commerce Clause.

c. Such NTLs be revised to reflect the reasons set forth above.

d. Such other relief as this Tribunal deems appropriate.

COUNT II
THE DEPARTMENT'S ASSESSMENT OF TAX ON PETMED'S SALES ERRONEOUSLY CONTRAVENES THE UNIFORMITY REQUIREMENTS OF THE ILLINOIS CONSTITUTION.

78. PetMeds incorporates and realleges paragraphs 1- 77 herein.

79. Section 1 of article IX of the Illinois Constitution provides that a tax must be "uniform as to the class upon which it operates." Further, a tax classification must be based on real and substantial differences between taxpayers and bear a rational relationship to the object of the legislation or public policy. *Milwaukee Safeguard Ins. Co. v. Selcke*, 179 Ill. 2d 94, 98 (1997) (noting that the taxing body has the initial burden to provide a justification for the tax policy underlying the tax classification).

80. PetMeds is similarly situated to a retailer with minimal physical presence in Illinois, such as warehousing a de minimis amount of inventory. However, under Leveling the Playing Field Legislation and its implementing regulations, these similarly situated taxpayers are treated vastly differently for Tax purposes than PetMeds.

81. Additionally, this disparate treatment violates the uniformity requirements because there is no policy justification for this arbitrary treatment of retailers. *See Nat'l Pride of Chi., Inc. v. City of Chi.*, 206 Ill. App. 3d 1090 (1st Dist 1990) (holding that uniformity was violated where a valid policy was not articulated by the taxing body).

WHEREFORE, Petitioner prays that this Tribunal enter an Order that:

a. The NTLs applying Leveling the Playing Field Legislation and its implementing regulations violate the Uniformity requirements of the Illinois Constitution by arbitrarily taxing similarly situated taxpayers differently without any reasonable difference or logical explanation.

b. Such other relief as this Tribunal deems appropriate.

COUNT III
THE DEPARTMENT'S DELAY IN COMPLETING AND PROCESSING THE AUDIT CONTRAVENES THE TAXPAYER BILL OF RIGHTS AND ANY ADDITIONAL INTEREST ACCRUED AS A RESULT OF SUCH DELAY MUST BE ABATED

82. PetMeds incorporates and realleges paragraphs 1- 81 herein.

83. Taxpayers are entitled a reasonably efficient audit, timely notice and proper explanation of alleged liabilities.

84. Despite PetMeds' complete cooperation during the Audit and timely response to all of the Department's requests, the Audit dragged on for eight months following the Department's issuance of preliminary workpapers in August 2022, solely on account of the Department's delay.

85. Upon review of the preliminary workpapers, PetMeds requested further support so that it could properly analyze the adjustments, and the Department was unable to provide such detail until it finally issued the Preliminary Audit Results in April 2023.

86. Further, the NPL promised by the Department in August 2022 was not issued

until June 29, 2023 (over ten months later).

87. The Department asserted that "internal system upgrades" delayed the issuance of the Preliminary Audit Results.

88. The Department further asserted that changes in management caused further delays in finalizing the Audit workpapers.

89. The significant delays by the Department in issuing the Preliminary Audit Results and NPL represents a violation of the Taxpayer Bill of Rights, as PetMeds was forced to incur ten months of additional interest, and was denied a complete explanation for the Audit adjustments during this period.

90. Accordingly, PetMeds submits that interest should be abated for the period August 19, 2022 through June 29, 2023, as such interest was incurred solely as a result of the Department's delay.

91. Petitioner hereby reserves the right to amend or modify this Petition at any time to the extent not inconsistent with law.

WHEREFORE, Petitioner prays that this Tribunal enter an Order that:

a. Interest be abated to account for the Department's delay in completing and properly processing the Audit.

b. Such other relief as this Tribunal deems appropriate.

Respectfully submitted,
PetMed Express, Inc.

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One of the Petitioner's Attorneys

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