



**CLAIR
BROTHERS**

PROFESSIONAL
SOUND REINFORCEMENT
INNOVATORS

October 29, 2020

To: Illinois Independent Tax Tribunal

Caption: Clair Brothers Audio Systems, Inc. (the "Company")

Petition:

The Company hereby petitions the Illinois Independent Tax Tribunal to review and reverse the Notice of Tax Liability (Letter ID: CNXXXX91478X1684) "Notice" issued by the Illinois Department of Revenue (the "Department"), for the reasons stated below:

Introduction:

The Company received the Notice from the Department on September 4, 2020 stating a tax liability due of \$132,603 and penalties and interest due of \$36,101.07 totaling \$168,704.07 for the reporting period from July 01, 2016 through June 30, 2019. A copy of the Notice is attached to this Petition.

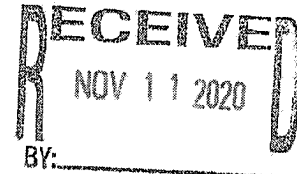
The Company is a corporation with its principal place of business in Manheim, PA. The Company's address is 1 Clair Blvd., Manheim, PA and its telephone number is 717-665-4000. The Company's Account ID is 3959-7067.

The Department assessed sales tax on a sales transaction to our customer whose project was in an Enterprise Zone and exempt from sales tax. The Retailers' Occupation Tax provides that sales such as these are not subject to tax.

Background and Relevant Facts:

1. Our offices are headquartered in Manheim, Pennsylvania, and we were contracted to supply materials for a project taking place in Chicago, IL during the spring and summer of 2019. Upon initiating our agreement, as is accustomed with all our agreements, we issued a standard deposit invoice solidifying our intention to draft up legal documents and begin remote work with the customer which was dated February 22, 2019 (see Exhibit A). Our contract was a construction contract for permanent improvement of real property for our customer.
2. Our down payment invoice did not include sales and use tax estimates as we were aware that our customer was in an Enterprise Zone, which would provide an exemption from sales tax on building materials.
3. Our customer supplied us with the appropriate sales tax exemption certificate dated March 11, 2019 (see Exhibit B).
4. Our first delivery to our customers location was on April 23, 2019, subsequent to the receipt of the sales tax exemption certificate. As such, we did not charge, collect, and remit sales tax on this transaction to the State of Illinois (see Exhibit C for proof of initial delivery).
5. The Department asserted that given the down payment invoice was dated prior to the formal issuance of the exemption certificate, the entire transaction was subject to tax.

Applicable Law:



2077124

Part 130 of the Retailers Occupation Tax section 130.101 (a)1 states:

For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property.....

Section 130.101 (c) goes on to further state:

When something that has been exempted becomes taxable as to sales that are made on and after some particular date, the date of sale for this purpose shall be deemed to be the date of the delivery of the property.

We requested from our auditor/the Department the relevant tax law supporting the Department's position that the date on a down-payment invoice (and not the delivery date) was the requisite date in which sales tax was to be charged. The response we received was "there is nothing in the Illinois tax code to support down payment on an invoice" (see exhibit D).

Error 1:

The Department did not accept the exemption certificate as well as the supporting documents provided (i.e. proof of delivery date documentation) as sufficient to provide that the entire transaction was non-taxable. The Department's denial of such tax-exempt transaction is contrary to the Departments Regulations (section 130.101).

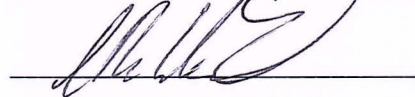
Error 2:

Given the denial by the Department, the Company moved to contest the finding to the Informal Conference Board, under the guidance of our auditor. We made the requisite notification and filing with our auditor on May 21, 2020. Upon response from the Informal Conference Board, we were notified that the filing with the board was outside of the statute of limitations, even though it was within the filing requirements supplied by the auditor, and therefore they were unable to process a response (see Exhibit E and F)

Conclusion and Relief Requested:

The Company's position is that although the down payment invoice was dated prior to the issuance of the exemption tax certificate, sales use tax should not be charged on this transaction until the date of delivery (as described in Section 130 of the Illinois Retailers' Occupation Tax Code). As the date of delivery was subsequent to the issuance of the exemption tax certificate, the entire transaction should be exempt from sales tax. We respectfully request that the tax liability of \$132,603 and interest and penalties of \$36,101.07 (totaling \$168,704.07) be abated completely. We appreciate your consideration and attention to this matter.

Clair Brothers Audio Systems, Inc.



J. THOMAS WOODSON COO

Notice of Tax Liability



#BWNKMGV
#CNXX XX91 478X 1684#
CLAIR BROTHERS AUDIO SYSTEMS INC
1 CLAIR BLVD
MANHEIM PA 17545-1699

September 4, 2020



Letter ID: CNXXXX91478X1684
Account ID: 3959-7067
Reporting period: June 30, 2019

We have audited your Sales/Use Tax & E911 Surcharge account for the reporting periods July 01, 2016, through June 30, 2019, and the liability has been processed on Form EDA-105-R, ROT and E911 Surcharge Audit Report. As a result, we have assessed the amounts shown below.

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

If you do not agree, you may protest this notice within specific time periods. See the "Protest Rights" section on the following page of this notice for additional information and instructions.

If you do not protest this notice or pay the assessment total 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 to satisfy your liability.

Note: If you are under bankruptcy protection, see the "Bankruptcy Information" section on the following pages of this notice for additional information and instructions.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	132,603.00	0.00	132,603.00
Late Payment Penalty Increase	26,521.00	0.00	26,521.00
Interest	9,580.07	0.00	9,580.07
Assessment Total	\$168,704.07	\$0.00	\$168,704.07

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

**AUDIT BUREAU
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012**

217 785-6579

Exhibit "A"



Clair Brothers Audio Systems, Inc.
 One Clair Boulevard
 Manheim, PA 17545 U.S.A.
 (Phone) 717.665.4000

Invoice

Date: 2/22/2019
 Invoice #: 231541L

PAID
 03/01/2019

Bill To:

United Center Joint Venture
 1901 West Madison Street
 Chicago, IL 60612-2459

Ship To

United Center
 1901 West Madison Street
 Chicago, IL 60612-2459

P.O. No. Signed LOI	Authorization Joe Myhra	Project C9428PA219 - United Center ...	Terms Due on receipt
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Description	Total Contract	Total This Invoice
Arena Seating Bowl Sound System - Clair Equipment	2,121,654.00	
Arena Seating Bowl Sound System - Clair Labor & Expenses	606,137.29	
Demo Existing Speakers, Racks & Wire Removal - Labor & Expenses	56,715.29	
Temporary System Rental (4x Corner Clusters)	172,375.68	
Arena Sound System Grand Total:	2,956,882.26	
Terms: 35% Deposit Monthly Progress Billings 10% Upon Completion		
This Billing 35% Deposit		1,034,908.79

Thank you for your business	Total USD	\$1,034,908.79
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Payments/Credits	-\$1,034,908.79
Balance Due	\$0.00

Exhibit "B"

- ✓ Verify that the information printed on this certificate is correct. If the information is not correct, contact the person responsible for submitting the original application for this certificate.
- ✓ If you are a certificate holder with multiple, ongoing exempt projects, be certain to use the certificate that matches the project for which you are purchasing materials.
- ✓ You must have your certificate number and project information at the time of sale when making exempt purchases. Form EZ-1, Building Materials Exemption Certification, has been created as an easy resource for you to use to ensure that all pertinent information has been provided to the retailer.

Building Materials Exemption Certificate

Certificate holder:

UNITED CENTER JOINT VENTURE
1901 WEST MADISON STREET
CHICAGO IL 60612

Certificate number:

19EZC000000854

Expiration date:

03/31/2020

Project:

1901 W. MADISON - UNITED CENTER PHASE 4 IMPROVEMENTS
1901 WEST MADISON STREET
CHICAGO IL 60612

Name of Zone or High Impact Business:

CHICAGO IV (2016)

NOTICE: This certificate may be used only in conjunction with the purchase of building materials by the certificate holder identified on this certificate and for the project identified on this certificate. Any misuse of this certificate will result in the assessment of taxes and penalties on the purchase and an additional monetary penalty equal to the local sales taxes on the purchase.

The holder identified on the certificate must by law report annually to the Department of Revenue the amount of building materials purchased under the certificate. Please go to the "Business Incentives Reporting" tab at tax.illinois.gov for reporting deadlines.



Illinois Department of Revenue

EZ-1 Building Materials Exemption Certification

Step 1: Identify the seller

The seller must keep this certificate.

Name _____

Address _____
Number and street

Phone _____

City _____ State _____ ZIP _____

Step 2: Identify the certificate holder

Name UNITED CENTER JOINT VENTURE

Address 1901 WEST MADISON STREET
Number and street

Date of purchase _____
(month, day, and year)

CHICAGO IL 60612
City State ZIP

Building materials exemption certificate number
19EZC000000854

Phone 312-455-4513

Step 3: Location or address of the real estate into which building materials will be permanently incorporated

Name of Zone or High Impact Business CHICAGO IV (2016)

Project Name 1901 W. MADISON - UNITED CENTER PHASE 4 IMPROVEMENTS

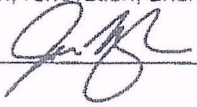
Location or address 1901 WEST MADISON STREET CHICAGO IL 60612

Step 4: Identify the building materials you are purchasing

Description of building materials purchased _____

Step 5: Sign below

I certify that the building materials described above will be permanently incorporated into real estate in the location indicated above as rehabilitation, renovation, and/or new construction for this project.

Purchaser's signature 

3 / 11 / 19
Date

Note: It is the seller's responsibility to verify that the certificate holder's building materials exemption certificate number is valid and active. You can confirm this by using the "Verify Building Materials Exemption Certificates" tool at our website at tax.illinois.gov. Click on the "Business Incentives and Building Materials Exemption Certification" link for access to all tools and information regarding these exemptions, including Informational Bulletin FY 2013-16.

Exhibit "C"

Invoice Date 4/24/2019

AIT
 WORLDWIDE LOGISTICS
 BOX 775379 • Chicago, IL 60677-5379
 CT 800-669-4248 • Local 630-766 8300

INVOICE
 Thank You for all you do
 TERMS NET 15 DAYS
 www.aitworldwide.com

SHIP DATE	STATION	AIRBILL
4/19/2019	HARRISBURG	19847776
ORIGIN	VIA	DESTINATION
MDT-B	ORD	ORD-A
LEVEL OF SERVICE	FORM OF PAYMENT	
02A - Second Day AM (By Noon)	PRE PAID	

INVOICE TO	ACCOUNT CLAIRMANHE	CUSTOMER CLAIRMANHE	ACCOUNT CLAIRMANHE	SHIPPER'S NUMBER C9428PA	SHIPPER
	CLAIR BROTHERS AUDIO SYSTEMS ONE CLAIR BLVD MANHEIM PA 17545		CLAIR BROTHERS AUDIO SYSTEMS ONE CLAIR BLVD MANHEIM PA 17545		
	SHIPPING	717 665-4000	SHIPPING	717-665-4000	
	SPECIAL INSTRUCTIONS DIRECT TO CONSIGNEE DELIVER BY 8 00am PU& DEL MUST BE STRAP IN TRK	ACCOUNT UNITED5	P.O. NUMBER UNITED CENTER 5 S DAMEN AVE CHICAGO IL 60612		
	SHIPPING	7176654000			

PIECES	DESCRIPTION	WEIGHT	CHARGABLE WEIGHT	DECLARED VALUE	C.O.D. AMOUNT
7	AUDIO EQUIP	4054	4054	0	0.00
FREIGHT CHARGE					1625 00
PAY THIS AMOUNT IN U.S. DOLLARS					1,625 00

1 31 X 70 X 60 1 45 X 31 X 30 1 45 X 44 X 30 2 48 X 33 X 44 1 48 X 36 X 44
 1 34 X 44 X 34

REMIT TO: AIT WORLDWIDE LOGISTICS
 P.O. BOX 775379
 CHICAGO, IL 60677-5379
 FEDERAL TAX ID #36-3033973

ARFO
 C9428PA

For additional assistance, please contact AR@aitworldwide.com or call (630) 766-8300 ext 4770
 For payments via credit card pay.aitworldwide.com

United Center



19847776

SEARCH

Shipment Information

19847776

Delivering To

 CHICAGO

Shipment Progress


Delivered

Delivered

Tuesday

April



@ 08:26 AM

Signed for by

DAVE WALKER

Questions on this shipment? Call us at +18005339995

Subject: United Center Documentation:

From: Lane, Donald <Donald.Lane@Illinois.gov>

Sent: Wednesday, May 20, 2020 10:30 AM

To: Steve Rucks <srucks@unitedcenter.com>; J Thomas Woodson III <TWoodson@clairglobal.com>; Teresi, Louis <Louis.Teresi@Illinois.gov>

Cc: Mallory D'Arco <MDarco@clairglobal.com>; Joe Myhra <jmyhra@unitedcenter.com>

Subject: RE: United Center Documentation:

Steve,

There is nothing in the Illinois tax code to support down payments on an invoice.

We have provided to everyone everything that was provided to us by our Technical Team.

Don

Donald.Lane@illinois.gov

From: Steve Rucks <srucks@unitedcenter.com>

Sent: Wednesday, May 20, 2020 10:18 AM

To: Lane, Donald <Donald.Lane@Illinois.gov>; J Thomas Woodson III <TWoodson@clairglobal.com>; Teresi, Louis <Louis.Teresi@Illinois.gov>

Cc: Mallory D'Arco <MDarco@clairglobal.com>; Joe Myhra <jmyhra@unitedcenter.com>

Subject: [External] RE: United Center Documentation:

Don,

I just received a duplicate message from your so I'll repost my response below.

Please provide me with the tax code that supported their original position then. The sections you provided during our call (130.2155, 130.1940, 130.2075, and Letter Issuance ST19-0002) do not make a reference that sales tax is based on a down payment invoice date and not the date of delivery. There has got to be something your team can provide to support your position am I incorrect?

-Steve

From: Lane, Donald <Donald.Lane@Illinois.gov>

Sent: Wednesday, May 20, 2020 8:48 AM

To: Steve Rucks <srucks@unitedcenter.com>; J Thomas Woodson III <TWoodson@clairglobal.com>; Teresi, Louis <Louis.Teresi@Illinois.gov>

Cc: Mallory D'Arco <MDarco@clairglobal.com>; Joe Myhra <jmyhra@unitedcenter.com>

Subject: United Center Documentation:

Good Morning Everyone,

After we submitted your additional documentation on Monday, May 18, 2020, the Technical Team responded yesterday to Lou & I, stating they have not changed their position with the additional information provided. If you are going to go to ICB, the Informal Conference Board, please respond to us with an email.

Thank you,

Don
Donald.Lane@illinois.gov
(201) 788-4525

From: Steve Rucks <srucks@unitedcenter.com>
Sent: Tuesday, May 19, 2020 5:58 PM
To: Lane, Donald <Donald.Lane@Illinois.gov>; J Thomas Woodson III <TWoodson@clairglobal.com>; Teresi, Louis <Louis.Teresi@Illinois.gov>
Cc: Mallory D'Arco <MDarco@clairglobal.com>; Joe Myhra <jmyhra@unitedcenter.com>
Subject: [External] RE: United Center Invoice:

Don,
Please send me the Illinois Tax Code (section and subsection) to support the State's position that use tax is based on a down payment invoice date and not the date of delivery. I have thumbed much of the tax code and have been unable to come across anything that supports that view. Without something explicit to support that position in the code, it will be difficult to sign off on an audit finding, especially considering the fact that your team confirmed that proof of delivery should get us over that hurdle during our call yesterday.

-Steve

From: Lane, Donald <Donald.Lane@Illinois.gov>
Sent: Tuesday, May 19, 2020 4:36 PM
To: J Thomas Woodson III <TWoodson@clairglobal.com>; Teresi, Louis <Louis.Teresi@Illinois.gov>
Cc: Steve Rucks <srucks@unitedcenter.com>; Mallory D'Arco <MDarco@clairglobal.com>
Subject: United Center Invoice:

Good Afternoon Everyone,

Our Technical Team has responded to our request to review your additional documentation regarding the United Center Project you forwarded on Monday, May 18th. They have again denied relief to you on the invoice dated 02/11/2019. Lou & I were informed only purchase invoices dated between 3/11/2019 – 7/1/2019 are entitled the exemption. Tomorrow I have to generate the EDA-105-R, Audit Report. The labor/expense portions of the invoice will be removed from the taxable exception.
After you review and make your decision with going to ICB, Informal Conference Board, I will need a short email with your decision. The sooner I receive your email, then your audit will be submitted for processing.

Thank you,

Don
Donald.Lane@illinois.gov

(201) 788-4525

From: J Thomas Woodson III <TWoodson@clairglobal.com>
Sent: Monday, May 18, 2020 2:18 PM
To: Lane, Donald <Donald.Lane@Illinois.gov>; Teresi, Louis <Louis.Teresi@Illinois.gov>
Cc: Steve Rucks <srucks@unitedcenter.com>
Subject: [External] United Center Documents

Lou/Don,

Please review the attached United Center Project documentation. The freight invoices show an initial equipment delivery date of April 23, 2019. The Clair Solutions Agreement was signed March 11, 2019 (same date the Exemption Certificate was issued). UC Exhibit A shows the sell price breakdown.

Please consider asking your Technical Department to review these today so this matter may be closed.

Regards,
Tom

Tom Woodson | Chief Operations Officer
Clair | Clair Solutions
Office: 717-665-4000 | **Fax:** 717-665-8000 | **Cell:** 717-572-1518
Email: twoodson@clairglobal.com
One Clair Boulevard | Manheim, PA 17545

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Subject: Exhibit E
Attachments: ClairBrothers-EDA-105-R.pdf; ClairBrothers-EDA-143.pdf; ClairBrothers-Schedule-1.pdf;
ClairBrothers-Interest Schedule-2A.pdf; ClairBrothers-Penalty Schedule.pdf;
ClairBrothers-Projection Schedule.pdf; ClairBrothers-Taxable Schedule.pdf;
ClairBrothers-Allowed Schedule.pdf

From: Lane, Donald <Donald.Lane@Illinois.gov>
Sent: Wednesday, May 20, 2020 3:51 PM
To: J Thomas Woodson III <TWoodson@clairglobal.com>; Mallory D'Arco <MDarco@clairglobal.com>
Cc: Teresi, Louis <Louis.Teresi@Illinois.gov>
Subject: EDA-105-R (Audit Report)

Good Afternoon,

Attached are the final audit schedules for the completed sales & use tax audit assignment on Clair Brothers Audio Systems Inc.
The completed audit period is from 7/1/2016 – 6/30/2019. If you are not in agreement with the audit results, please forward a letter to my attention, stating you are disagreeing with the audit results and will complete the ICB-1 application and file it along with all applicable audit schedules with the "Informal Conference Board". When you make your decision, let me know.

Thank you,

Don
Donald.Lane@illinois.gov
(201) 788-4525

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From: Mallory D'Arco
Sent: Thursday, May 21, 2020 4:42 PM
To: Lane, Donald
Cc: J Thomas Woodson III; Teresi, Louis
Subject: ICB-1 and Supporting Documentation
Attachments: IL ICB-1.pdf; Narrative.docx; Exhibit A; Exhibit B; Exhibit C.pdf; Exhibit D.pdf; Exhibit E.pdf; Exhibit F.xlsx; Exhibit G.pdf; ClairBrothers-EDA-105-R.pdf; ClairBrothers-EDA-143.pdf; ClairBrothers-Schedule-1.pdf; ClairBrothers-Interest Schedule-2A.pdf; ClairBrothers-Penalty Schedule.pdf; ClairBrothers-Projection Schedule.pdf; ClairBrothers-Taxable Schedule.pdf; ClairBrothers-Allowed Schedule.pdf

Hello Don,

Attached is the ICB-1, supporting documentation, and your audit schedules.

Please forward this email directly to the ICB Department and CC Tom and Myself in the email.

Thank you,

Mallory D'Arco | Contract Administrator

Office: 717-665-4000 | **Fax:** 717-665-8000 | **Cell:** 717-672-6144

Email: mdarco@clairglobal.com |

One Clair Boulevard | Manheim, PA 17545

From: Lane, Donald <Donald.Lane@Illinois.gov>
Sent: Wednesday, May 20, 2020 3:51 PM
To: J Thomas Woodson III <TWoodson@clairglobal.com>; Mallory D'Arco <MDarco@clairglobal.com>
Cc: Teresi, Louis <Louis.Teresi@Illinois.gov>
Subject: EDA-105-R (Audit Report)

Good Afternoon,

Attached are the final audit schedules for the completed sales & use tax audit assignment on Clair Brothers Audio Systems Inc.

The completed audit period is from 7/1/2016 – 6/30/2019. If you are not in agreement with the audit results, please forward

a letter to my attention, stating you are disagreeing with the audit results and will complete the ICB-1 application and file it along

with all applicable audit schedules with the "Informal Conference Board". When you make your decision, let me know.

Thank you,

Don
Donald.Lane@illinois.gov
(201) 788-4525

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