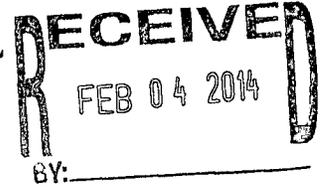


ILLINOIS INDEPENDENT TAX TRIBUNAL



JASBIR ENTERPRISES, INC.)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Respondent.)

Docket No.

14 TT 13

PETITION

The Petitioner, Jasbir Enterprises, Inc. (sometimes hereinafter referred to as the "Taxpayer") hereby petitions for redetermination of the liability set forth by the Respondent, the Illinois Department of Revenue (sometimes hereinafter referred to as the "Department") as set forth in the Notice of Tax Liability dated December 4, 2013 (the "Notice") and as basis for the Taxpayer's case alleges as follows:

1. The Taxpayer is a corporation organized and existing under the laws of the State of Illinois, located at 732 E. Main Street, Danville, Illinois, where the Taxpayer owns and operates a liquor store. The Taxpayer's Illinois identification number is 3481-8871.

2. The Notice, a copy of which is attached and marked Exhibit A, was mailed to the Taxpayer on December 4, 2013 and was issued by the Department.

3. The liabilities as determined by the Department are in retailer's occupation taxes for the periods beginning January 1, 2010 and ending December 31, 2011.

4. The Taxpayer filed a timely Protest with the Department of Revenue on January 16, 2014 (the "Department Protest"). Copy enclosed and marked Exhibit B.

5. The Taxpayer's Department Protest was dismissed for lack of jurisdiction in a letter from the Department dated January 24, 2014 ("Dismissal Letter"). Copy enclosed and marked Exhibit C.

6. The Dismissal Letter extended the deadline to timely file this Petition to 60 days from the date of the Department's letter, or March 26, 2014.

7. Pursuant to the Department letter the Taxpayer timely submits this Petition.

8. The determination of the tax set for in the said Notice is based upon the following errors:

A. The Department was unreasonable when it estimated the Taxpayer's revenues despite the Taxpayer's production of books and records as required by 35 ILCS 120/7 and 86 Ill. Admin. Code 130.805. The Taxpayer maintains books and records including: daily/ monthly spreadsheets, register tapes (including transactional tapes, daily Z tapes, and credit card tapes), purchase invoices, bank statements, receipts of purchase and inventory lists. The Taxpayer's records were made available to the Department during the audit. The Department disregarded the use of the Taxpayer's records when conducting its audit and instead opted to apply an average mark-up against purchases.

B. The Department was unreasonable in its mathematical basis for conducting its audit of the Taxpayer in the Original Audit Report. The Department calculated a deficiency in taxable sales and applied an average mark-up to the deficiency.

C. The Department was unreasonable in its mathematical basis for conducting its audit of the Taxpayer in the Revised Audit Report. The Department calculated a deficiency in taxable sales and applied an average mark-up to all sales for the entire audit period.

D. The Department was unreasonable in its calculation of a mark-up rate. The Department calculated a mark-up rate and applied it to the Taxpayer's sales despite the Taxpayer's records being made available to the auditor.

9. The facts upon which the Taxpayer relies, as the basis of the Taxpayer's case, are as follows:

A. The Taxpayer was first audited by the Department for the period beginning January 1, 2007 and ending December 31, 2009 and when the audit was completed, the Taxpayer filed a Protest with the Department of Revenue and the Department settled the case before it came to administrative hearing.

B. In 2012 the Department commenced the follow-up compliance audit of the Taxpayer for the period beginning January 1, 2010 and ending December 31, 2011.

C. On February 6, 2013 the Taxpayer received a report from the auditor (the "Original Audit Report") reflecting tax adjustments in the amount of \$9,092. Copy enclosed and marked Exhibit D.

D. The Original Audit Report based its deficiency on an alleged discrepancy between purchases, from purchase invoice requests, and sales reported by the Taxpayer on its sales tax returns.

E. This alleged discrepancy is explained by the Taxpayer's inventory. The Taxpayer keeps an extensive inventory and hires a third party inventory company for inventory reports, all of which were made available to the auditor. No allowance was made for the Taxpayer's inventory throughout the Department's audit.

F. As opposed to using the Taxpayer's inventory to explain the discrepancy, the auditor took the difference between purchases on the Taxpayer's income tax returns and purchases determined by the audit to determine unreported taxable sales.

G. The auditor then applied an unsupported average mark-up to the deficiency and arrived at the liability.

H. On May 9, 2013, before the Department's issuance of a Notice of Tax Liability on the Original Audit Report, the Taxpayer received a letter from the auditor informing that the Original Audit Report had been disregarded in favor a new revised audit report (the "Revised Audit Report") reflecting tax adjustments in the amount of \$68,938. Copy enclosed and marked Exhibit E.

I. The Department issued the Revised Audit Report to the Taxpayer basing its deficiency on an alleged discrepancy found between purchases, from purchase invoice requests, and sales reported by the Taxpayer on its sales tax returns.

J. Different from the Original Audit Report, where the auditor's calculated average mark-up rate was applied to the alleged unreported sales, the auditor applied the Department's calculated average mark-up rate against all sales in the Revised Audit Report.

K. The audit, as it was conducted in the Original Audit Report or the Revised Audit Report did not reveal an issue with the Taxpayer's mark-up rate.

L. No explanation was given as to why the Department's average mark-up rate was applied to all taxable sales.

M. The Department applied its mark-up rate on an item by item basis of almost exclusively high mark-up items.

- N. This method does not give any effect to loss leader items.
- O. This method does not give effect to the quantity of items sold.
- P. This method assumes that an equal amount was sold of each item and thus vastly overstates the average mark-up.
- Q. The Department applied its average mark-up calculation despite having the Taxpayer's actual books and records reflecting the Taxpayer's true mark-up rate.
- R. The use of an average mark-up to calculate sales artificially inflates sales.

WHEREFORE, Petitioner prays that this Court may try this case, determine there is no liability in sales tax or penalties or any other addition to tax due from petitioner, determine if any overpayments have been made and render such further relief as this Court may deem appropriate.

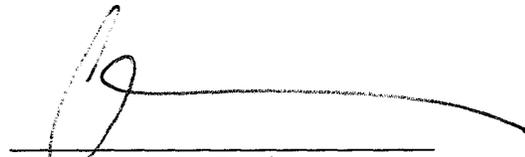
DATED: January 29, 2014

Respectfully submitted,



Counsel for Petitioner

Theodore A. Sinars
Madden, Jiganti, Moore & Sinars
190 South LaSalle Street
Chicago, Illinois 60603
(312)346-4101



Counsel for Petitioner

Claire L. McMahon
Madden, Jiganti, Moore & Sinars
190 South LaSalle Street
Chicago, Illinois 60603
(312)346-4101

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWNKMGV
#CNXX XX25 886X 8965#
JASBIR ENTERPRISES INC
MAIN PACKAGE LIQUOR STORE
732 E MAIN ST
DANVILLE IL 61832-6316

December 4, 2013



Letter ID: CNXXXX25886X8965

Account ID: 3481-8871



We have audited your account for the reporting periods January 01, 2010, through December 31, 2011. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	71,068.00	0.00	71,068.00
Late Payment Penalty Increase	14,214.00	0.00	14,214.00
Negligence Penalty	5,485.00	0.00	5,485.00
Fraud Penalty	21,822.00	0.00	21,822.00
Interest	4,618.87	0.00	4,618.87
Assessment Total	\$117,207.87	\$0.00	\$117,207.87

If you do not agree, you may file a protest and request an administrative hearing within 60 days of the date of this notice, which is February 03, 2014. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. If you do not file a protest within the time allowed, you will waive your right to a hearing and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are listed below.

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

217 785-6579

Taxpayer Statement



December 4, 2013

TDD 1 800 644-6304



Letter ID: CNXXXX7X748592X7

Account ID: 3481-8871

Total amount due: \$117,207.87

#BWNKMGV

#CNXX XX7X 7485 92X7#
JASBIR ENTERPRISES INC
MAIN PACKAGE LIQUOR STORE
732 E MAIN ST
DANVILLE IL 61832-6316



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.
A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge

Account ID: 3481-8871

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2011	80,307.00	41,521.00	4,618.87	-	(9,239.00)	117,207.87

* \$117,207.87 of this amount is subject to protest.

SOA

Retain this portion for your records.

P-000414

Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)



Letter ID: CNXXXX7X748592X7
JASBIR ENTERPRISES INC

Total amount due: \$117,207.87

Write the amount you are paying below.

\$ _____

Write your Account ID on your check.

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19006
SPRINGFIELD IL 62794-9006

\$117,207.87 is subject to protest.
Do not pay any Income Tax liability that you intend to protest.

Illinois Department of Revenue

IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney. **Do not send this form separately.**

Step 1: Complete the following taxpayer information

<p>1 <u>Jasbir Enterprises, Inc.</u> Taxpayer's name</p> <p>2 <u>32-0073257</u> Taxpayer's identification number(s)</p>	<p><u>3732 E. Main Street</u> Taxpayer's street address</p> <p><u>Danville</u> <u>IL</u> <u>61832</u> City State ZIP</p>
---	--

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

<p><u>Claire L. McMahon</u> Name</p> <p><u>Madden, Jiganti, Moore & Sinars</u> Name of firm</p> <p><u>190 S. LaSalle St., Ste. 1700</u> Street address</p> <p><u>Chicago</u> <u>IL</u> <u>60603</u> City State ZIP</p> <p><u>(312) 346-4101</u> Daytime phone number</p> <p><u>cmcmahon@mjms.com</u> E-mail address</p> <p>Sales Tax <u>01/2010-12/2011</u> Specific tax type Year or period</p>	<p><u>Theodore A. Sinars</u> Name</p> <p><u>Madden, Jiganti, Moore & Sinars</u> Name of firm</p> <p><u>190 S. LaSalle St., Ste. 1700</u> Street address</p> <p><u>Chicago</u> <u>IL</u> <u>60603</u> City State ZIP</p> <p><u>(312) 346-4101</u> Daytime phone number</p> <p><u>tasinars@mjms.com</u> E-mail address</p> <p>Sales Tax <u>01/2010-12/2011</u> Specific tax type Year or period</p>	<p>_____ Name</p> <p>_____ Name of firm</p> <p>_____ Street address</p> <p>_____ City State ZIP</p> <p>_____ Daytime phone number</p> <p>_____ E-mail address</p> <p>_____ Specific tax type Year or period</p>
--	---	---

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above do not have the power to - *Check only the items below you do not wish to grant.*

- _____ endorse or collect checks in payment of refunds.
- _____ receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- _____ execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- _____ execute consents extending the statutory period for assessments or collection of taxes.
- _____ delegate authority or substitute another representative.
- _____ file a protest to a proposed assessment.
- _____ execute offers in compromise or settlement of tax liability.
- _____ represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- _____ obtain a private letter ruling on behalf of the taxpayer.
- _____ perform other acts (explain) _____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

<p>_____ Name</p> <p>_____ Street address</p> <p>_____ City State ZIP</p> <p>_____ Daytime phone number</p> <p>_____ Date granted</p>	<p>_____ Name</p> <p>_____ Street address</p> <p>_____ City State ZIP</p> <p>_____ Daytime phone number</p> <p>_____ Date granted</p>	<p>_____ Name</p> <p>_____ Street address</p> <p>_____ City State ZIP</p> <p>_____ Daytime phone number</p> <p>_____ Date granted</p>
---	---	---

Continued on Page 2



7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

Name	Name	Name
Street address	Street address	Street address
City State ZIP	City State ZIP	City State ZIP
Daytime phone number	Daytime phone number	Daytime phone number

Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

<i>[Signature]</i>	<i>President</i>	<i>1/9/13</i>
Taxpayer's signature	Title, if applicable	Date
Spouse's signature	Title, if applicable	Date
If corporation or partnership, signature of officer or partner	Title, if applicable	Date

Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

I declare that I am not currently under suspension or disbarment and that I am

- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
- duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
- enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

Attorney	IL	<i>[Signature]</i>	<i>1/11/13</i>
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date
Attorney	IL	<i>[Signature]</i>	<i>2/1/13</i>
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date

Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

_____ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness	Date
Signature of witness	Date

_____ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary	Date
---------------------	------

Notary seal

This form is authorized by the Illinois Tax Act. Disclosure of this information is REQUIRED. Failure to provide information could result in a penalty. This form has been approved by the Forms Management Center IL-492-0058

ID: 0YY
IL-2848 back (R-12/09)



MADDEN, JIGANTI, MOORE & SINARS LLP

ATTORNEYS AT LAW

SUITE 1700

190 SOUTH LA SALLE STREET

CHICAGO, ILLINOIS 60603

TELEPHONE
(312) 346-4101

FACSIMILE
(312) 346-4885

EM731190198US

P R O T E S T

VIA EXPRESS MAIL

Illinois Department of Revenue
Office of Administrative Hearings MC 5-500
101 W. Jefferson Street
P.O. Box 19014
Springfield, Illinois 62794-9014

Re: Jasbir Enterprises, Inc
Main Package Liquor Store
Notice Number: #CNXX XX25 886X 8965#
3481-8871
Retailers' Occupation Tax

Dear Sir or Madam:

Jasbir Enterprises, Inc. (the "Taxpayer") hereby protests the proposed assessment against it as set forth in the Notice of Tax Liability from the Illinois Department of Revenue (the "Department") dated December 4, 2013 (the "Notice"). A copy of the Notice is attached to this protest as Exhibit A. Additionally, a power of attorney is attached to this protest. In support of its protest, the Taxpayer submits the following information:

1. **Name and Address of Taxpayer.**

Jasbir Enterprises, Inc.
Main Package Liquor Store
732 E. Main Street
Danville, IL 61832-6316

2. **Tax Periods Involved.**

<u>Tax Period</u>	<u>Proposed Liability</u>
01/2010 - 12/2011	\$117,207.87

3. **Findings With Which The Taxpayer Disagrees.**

The Taxpayer disagrees with the Notices of Tax Liability amounts and the penalties proposed.

4. **Statement of Facts and Authorities.**

A. **Facts.**

The Taxpayer, an Illinois corporation, owns and operates a liquor store in Danville, Illinois. The Taxpayer was audited for the period beginning January 1, 2007, and ending December 31, 2009. This Protest stems from adjustments made during the follow-up audit for the period beginning January 1, 2010, and ending December 31, 2011 (the "Audit Period").

B. **Adjustments Which the Taxpayer Disagrees.**

The Taxpayer disagrees with all of the proposed adjustments set forth in the Notices for the following reasons:

1. **Business Records.** The Taxpayer provided the Department with all records required under 35 ILCS 120/7 and 86 Ill. Admin. Code §130.805. However, the Department's work papers fail to show any analysis of these business records. The Department is justified in using other reasonable methods to estimate the Taxpayer's revenues only if these records are not maintained. Masini v. Department of Revenue, 60 Ill. App. 3d 11 (1st Dist. 1978).

2. **Audit Methodology Discrepancy.** At the completion of audit, the Taxpayer was provided an audit report detailing a total tax due of \$9,106 (the "original audit report"). When conducting his audit, the auditor discovered a discrepancy between purchases and sales reported by the Taxpayer. Assuming that the discrepancy consisted of unreported taxable sales, the auditor used his first methodology to compute the balance owed by the taxpayer. The auditor provided workpapers reflecting that he took the difference between purchases on the Taxpayer's filed income tax returns and purchases determined by the audit to determine unreported taxable sales. The auditor then applied an average mark-up to the unreported taxable sales.

Thereafter, the auditor penned a letter to the Taxpayer advising that this report had been voided by the Department. The auditor provided the Taxpayer with a second audit report and workpapers which calculated the Taxpayer's unreported taxable sales differently (the "revised audit report"). Under the same assumption, that the discrepancy between the Taxpayer's reported purchases and

sales consisted of some minor unreported taxable sales, the auditor nevertheless applied an average mark-up to all purchases to determine a balance owed by the taxpayer. The "revised audit report" completely disregards all of the records kept by the Taxpayer pursuant to the statute. The auditor then credited the Taxpayer with tax payments per the Taxpayer's filed ST-1s. To illustrate the dramatic difference that this second methodology created, where the original audit report found a tax deficiency of \$9,106, the revised audit report found a deficiency of \$68,938.

While both methodologies are inherently flawed because neither give weight to the Taxpayer's books and records provided to the auditor, each are incorrect for a different reason. A copy of each is attached to this Protest and detailed below.

- (a) **Revised Audit Report.** The revised audit report replaced the reported and substantiated sales located on the Taxpayer's ST-1s and IL 1120s with an average markup. There was no reason to apply an average markup in the first place given the availability of the Taxpayer's books and records. Furthermore, the decision by the auditor to use an average mark-up against all purchases artificially inflates accurate sales numbers. The audit did not reveal an issue with the Taxpayer's mark-up. No explanation was given as to how the Department's average mark-up was derived. The auditor applied the average mark-up as a convenience to determine the amount of tax due on purchases the auditor found to be un-reported. If the average mark-up is a tool used for convenience, there would be no reason to apply it to sales that had already been reported and taxed.
- (b) **Original Audit Report.** The original audit report is also flawed. The "unreported sales" that the auditor located can be explained by the Taxpayer's inventory. See paragraph 3 below.

3. **Inventory.** The Taxpayer keeps an extensive inventory. The Taxpayer hires a third party company to define inventory reports, all of which were provided to the auditor during the audit. Allowance for the Taxpayer's inventory was not made when the auditor considered the discrepancy between the Taxpayer's purchases and reported sales.

4. **Excessive Markup Rate.** The Department premised its markup rate on an item by item basis of almost exclusively high markup items. This method does not give any effect to loss leader items sold at a loss or the quantity of any item purchased and sold. Thus, for

example, under the Department's projection, the greater markup of an item representing less than half of one percent of sales would be given equal or greater deference than a lesser markup or loss leader item representing ten percent of sales.

The inherent defect with this calculation is it gives no deference to the quantities sold of each item. It assumes an equal amount sold of each item and thus vastly overstates the average markup. Since less expensive items with low or no markups tended to be the best selling items, the correct average markup would trend towards these lower markups. A weighted average of a more expansive list of items must be used to find a more accurate average markup.

Additionally, the Taxpayer frequently discounted some of the best selling products. The Department's calculation did not take into account these frequent specials and discounts that would further decrease the average markup.

5. **Penalty.** The Taxpayer disagrees with the assertion of any penalty. The Taxpayer believes that the Department's projection theory is erroneous and the Department has not set forth sufficient facts to meet its burden of establishing a fraud penalty. Consequently, the Taxpayer believes that the failure to pay penalty and the fraud penalty do not apply.

C. **Request For Hearing.**

For all of the reasons set forth herein, the Taxpayer believes that the proposed assessments set forth in the Notice are erroneous. Accordingly, the Taxpayer hereby requests a hearing with the Department's Office of Administrative Hearings pursuant to 86 Illinois Administrative Code, Chapter 1, Part 200, Section 200.120.

Dated: January 16, 2014

Respectfully submitted,

Madden, Jiganti, Moore & Sinars LLP

By _____
Claire L. McMahon

Illinois Department of Revenue
January 16, 2014
Page 5.

The undersigned, Claire L. McMahon, on behalf of Madden, Jiganti, Moore & Sinars LLP, does hereby certify that she prepared the foregoing Protest as attorney for and on behalf of the above-named Taxpayer on the basis of information which she believes to be true and correct. A copy of the undersigned's power of attorney is enclosed along with this Protest.

Madden, Jiganti, Moore & Sinars LLP

By _____
Claire L. McMahon

Illinois Department of Revenue
IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney.
Do not send this form separately.

Step 1: Complete the following taxpayer information

1 Jasbir Enterprises, Inc. Taxpayer's name 3732 E. Main Street Taxpayer's street address
 2 32-0073257 Taxpayer's identification number(s) Danville City IL State 61832 ZIP

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

<u>Claire L. McMahon</u> Name	<u>Theodore A. Sinars</u> Name	_____
<u>Madden, Jiganti, Moore & Sinars</u> Name of firm	<u>Madden, Jiganti, Moore & Sinars</u> Name of firm	_____
<u>190 S. LaSalle St., Ste. 1700</u> Street address	<u>190 S. LaSalle St., Ste. 1700</u> Street address	_____
<u>Chicago</u> City <u>IL</u> State <u>60603</u> ZIP	<u>Chicago</u> City <u>IL</u> State <u>60603</u> ZIP	_____
<u>(312) 346-4101</u> Daytime phone number	<u>(312) 346-4101</u> Daytime phone number	_____
<u>cmcmahon@mjms.com</u> E-mail address	<u>tasinars@mjms.com</u> E-mail address	_____
<u>Sales Tax</u> <u>01/2010-12/2011</u> Specific tax type Year or period	<u>Sales Tax</u> <u>01/2010-12/2011</u> Specific tax type Year or period	<u>_____</u> Specific tax type Year or period

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above do not have the power to - Check only the items below you do not wish to grant.

- endorse or collect checks in payment of refunds.
- receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- execute consents extending the statutory period for assessments or collection of taxes.
- delegate authority or substitute another representative.
- file a protest to a proposed assessment.
- execute offers in compromise or settlement of tax liability.
- represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- obtain a private letter ruling on behalf of the taxpayer.
- perform other acts (explain) _____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

_____ Name	_____ Name	_____ Name
_____ Street address	_____ Street address	_____ Street address
_____ City State ZIP	_____ City State ZIP	_____ City State ZIP
_____ Daytime phone number	_____ Daytime phone number	_____ Daytime phone number
_____ Date granted	_____ Date granted	_____ Date granted

Continued on Page 2



7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

Name	Name	Name
Street address	Street address	Street address
City State ZIP	City State ZIP	City State ZIP
Daytime phone number	Daytime phone number	Daytime phone number

Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

<i>[Signature]</i>	<i>President</i>	<i>1/9/13</i>
Taxpayer's signature	Title, if applicable	Date
Spouse's signature	Title, if applicable	Date
If corporation or partnership, signature of officer or partner	Title, if applicable	Date

Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

- I declare that I am not currently under suspension or disbarment and that I am
- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
 - duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
 - enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 250.

Attorney	IL	<i>[Signature]</i>	<i>1/11/13</i>
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date
Attorney	IL	<i>[Signature]</i>	<i>2/11/13</i>
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date

Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

_____ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness	Date
Signature of witness	Date

_____ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary	Date
---------------------	------

Notary seal

This form is authorized by the Illinois Tax Act. Disclosure of this information is REQUIRED. Failure to provide information could result in a penalty. This form has been approved by the Forms Management Center. IL-492-0058

ID: 0YY
IL-2848 back (R-12/09)

2W1528 1 000



Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWVKMGV
#CNXX XX25 886X 8965#
JASBIR ENTERPRISES INC
MAIN PACKAGE LIQUOR STORE
732 E MAIN ST
DANVILLE IL 61832-6316

December 4, 2013



Letter ID: CNXXXX25886X8965

Account ID: 3481-8871



We have audited your account for the reporting periods January 01, 2010, through December 31, 2011. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	71,068.00	0.00	71,068.00
Late Payment Penalty Increase	14,214.00	0.00	14,214.00
Negligence Penalty	5,485.00	0.00	5,485.00
Fraud Penalty	21,822.00	0.00	21,822.00
Interest	4,618.87	0.00	4,618.87
Assessment Total	\$117,207.87	\$0.00	\$117,207.87

If you do not agree, you may file a protest and request an administrative hearing within 60 days of the date of this notice, which is **February 03, 2014**. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. If you do not file a protest within the time allowed, you will waive your right to a hearing and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are listed below.

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

217 785-6579

Taxpayer Statement



December 4, 2013

TDD 1 800 644-6304



Letter ID: CNXXXX7X748592X7

 #BWNKMGV
 #CNXX XX7X 7485 92X7#
 JASBIR ENTERPRISES INC
 MAIN PACKAGE LIQUOR STORE
 732 E MAIN ST
 DANVILLE IL 61832-6316

Account ID: 3481-8871
 Total amount due: \$117,207.87



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge

Account ID: 3481-8871

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2011	80,307.00	41,521.00	4,618.87	-	(9,239.00)	117,207.87

• \$117,207.87 of this amount is subject to protest.

SOA

Retain this portion for your records.

P-000414

Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)



Letter ID: CNXXXX7X748592X7
 JASBIR ENTERPRISES INC

Total amount due: \$117,207.87

Write the amount you are paying below.

Mail this voucher and your payment to:
 ILLINOIS DEPARTMENT OF REVENUE
 PO BOX 19006
 SPRINGFIELD IL 62794-9006

\$ _____

Write your Account ID on your check.

\$117,207.87 is subject to protest.
 Do not pay any Income Tax liability that you intend to protest.

Original Audit Report

Jasbir Enterprises

d/b/a Main Package Liquor Store

3481-8871

RHB

A/P 1/10 thru 12/11

2/6/2013

Schedule of Additional ROT due Per Audit

<u>Description</u>	<u>2010</u>	<u>2011</u>
Total Sales per FIT	1,414,094	1,572,123
Total Purchases per FIT	1,256,291	1,179,276
Mark up	1.13	1.33
Total Purchases Per FIT	1,256,291	1,179,276
Total Purchases Per Audit	<u>1,302,069</u>	<u>1,221,766</u>
Difference Unreported Purchases	<u>45,778</u>	<u>42,490</u>
Average Mark-up per Above	1.13	1.33
Unreported Taxable Sales	51,729	56,512
High Rate 98.7% *	51,057	55,777
Low rate 1.3%	672	735
Tax Rate 1%	7	7
Tax Rate 1/10-6/10 7.75%	25,528.50	
Tax rate 7/10-12/10 8.75%	25,528.50	55,777
Additional Tax Due 7.75%	1,978	
8.75%	2,234	4,880
	<u>4,212</u>	<u>4,880</u>
	7	7 9,106

Per ROT Returns as Filed

<u>2231414</u>	0.987
2260483	

Revised Audit Report

Jasbir Enterprises
d/b/a Main Package Liquor Store
3481-8871
RHB A/P 1/10 thru 12/11
5/9/2013
Schedule of Additional ROT due Per Audit

<u>Description</u>	<u>2010</u>		<u>2011</u>	
Total revised Purchases per Audit	1,302,069		1,221,766	
mark-up used from US 1120	Sales	<u>1,414,094</u>	<u>1,572,123</u>	
	Purchases	1,256,291	1,179,276	
	Mark up	1.1256	1.3331	
Revised Taxable Sales determined per Audit before Tax	1,465,609		1,628,736	
Sales Split High/low % age determined per RAF	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>
	98.70%	1.30%	98.70%	1.30%
Revised Sales determined per Audit	1,446,556	19,053	1,607,562	21,174
Less Credit for Tax Base per Returns Filed per Line 4a	(1,072,318)	(13,456)	(1,172,552)	(15,613)
Unreported Taxable Sales per Audit	<u>374,238</u>	<u>5,597</u>	<u>435,010</u>	<u>5,561</u>
Tax Due per Audit	Rate 1/10-6/10	7.75%	14,502	
	Rate 7/10-12/10	8.75%	16,373	38,063
	1%			56
Total Tax due Per Audit	<u>30,875</u>		<u>38,063</u>	
		56		56



Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS
Willard Ice Building
101 West Jefferson Street – Level 5SW
Springfield, IL 62702
(217)782-6995

January 24, 2014

Clair L. McMahon
Madden, Jiganti, Moore & Sinars LLP
190 South LaSalle Street, Suite 1700
Chicago, IL 60603

Re: **PROTEST DISMISSAL DUE TO LACK OF JURISDICTION**
Jasbir Enterprises, Inc.
Account ID: 3481-8871
Notice of Tax Liability (“NTL”)
Letter ID: CNXXXX25886X8965, dated December 4, 2013

Dear Ms. McMahon:

The Office of Administrative Hearings of the Illinois Department of Revenue received your protest and request for an administrative hearing on behalf of the above client. The mailing date of your protest and request for hearing indicate that the protest was sent within the 60-day protest period for requesting an administrative hearing stated on the above NTL. However, the amount of liability at issue for the protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest) for which the Department has jurisdiction for protests filed on or after January 1, 2014. For protests that exceed the statutory amount and are filed on or after January 1, 2014, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.* **Because the Department does not have jurisdiction over this protest, the Department is respectfully dismissing your client’s protest and request for administrative hearing.**

Because of these recent changes in Illinois law, the Department and the Tax Tribunal recognize that there may be instances, such as this, when a protest and request for an administrative hearing may be filed in the wrong jurisdiction. The Tax Tribunal’s website (www.illinois.gov/taxtribunal) contains draft proposed rules that include guidance on filing in the wrong jurisdiction and contact information for the Tax Tribunal. **The Tax Tribunal’s draft proposed rules provide that a timely protest that is dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal.** See Subsection (a)(3) of “Section ____310

Pleadings” of the Tax Tribunal’s draft proposed rules. Please note that the Tax Tribunal has different requirements than the Department for filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

I recommend that you review the information provided on the Tax Tribunal’s website and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Terry D. Charlton
Chief Administrative Law Judge
Illinois Department of Revenue

TDC

Original Audit Report

Jasbir Enterprises

d/b/a Main Package Liquor Store

3481-8871

RHB

A/P 1/10 thru 12/11

2/6/2013

Schedule of Additional ROT due Per Audit

Description	2010	2011		
Total Sales per FIT	1,414,094	1,572,123		
Total Purchases per FIT	1,256,291	1,179,276		
Mark up	1.13	1.33		
Total Purchases Per FIT	1,256,291	1,179,276		
Total Purchases Per Audit	1,302,069	1,221,766		
Difference Unreported Purchases	45,778	42,490		
Average Mark-up per Above	1.13	1.33		
Unreported Taxable Sales	51,729	56,512	-	-
High Rate 98.7% *	51,057	55,777		
Low rate 1.3%			672	735
Tax Rate 1%			7	7
Tax Rate 1/10-6/10 7.75%	25,528.50			
Tax rate 7/10-12/10 8.75%	25,528.50	55,777		
Additional Tax Due 7.75%	1,978			
8.75%	2,234	4,880		
	4,212	4,880	7	9,106

Per ROT Returns as Filed

2231414	0.987
2260483	

Revised Audit Report

Jasbir Enterprises
d/b/a Main Package Liquor Store
3481-8871
RHB A/P 1/10 thru 12/11
5/9/2013
Schedule of Additional ROT due Per Audit

<u>Description</u>	<u>2010</u>		<u>2011</u>	
Total revised Purchases per Audit	1,302,069		1,221,766	
mark-up used from US 1120	Sales	<u>1,414,094</u>	<u>1,572,123</u>	
	Purchases	1,256,291	1,179,276	
	Mark up	1.1256	1.3331	
Revised Taxable Sales determined per Audit before Tax	1,465,609		1,628,736	
Sales Split High/low % age determined per RAF	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>
	98.70%	1.30%	98.70%	1.30%
Revised Sales determined per Audit	1,446,556	19,053	1,607,562	21,174
Less Credit for Tax Base per Returns Filed per Line 4a	(1,072,318)	(13,456)	(1,172,552)	(15,613)
Unreported Taxable Sales per Audit	<u>374,238</u>	<u>5,597</u>	-	<u>435,010</u>
Tax Due per Audit	Rate 1/10-6/10	7.75%	14,502	
	Rate 7/10-12/10	8.75%	16,373	38,063
	1%		<u>56</u>	<u>56</u>
Total Tax due Per Audit	<u><u>30,875</u></u>		<u><u>38,063</u></u>	
		<u>56</u>		<u>56</u>