

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

DOWNTOWN OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	Case No. 14-TT-129
)	
THE ILLINOIS DEPARTMENT)	
OF REVENUE,)	
)	
Respondent.)	

ANSWER

The Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, answers the Taxpayer's Petition as follows:

1. Jurisdiction before the Independent Tax Tribunal is appropriate, as this petition arises from Notices of Tax Liability dated May 16, 2014 by the Illinois Department of Revenue against Petitioner for Retailers' Occupation Tax in excess of \$15,000.00 in the aggregate.

ANSWER: The Department admits it issued the Petitioner a Notice of Tax Liability dated May 16, 2014, for Retailers' Occupation Tax in excess of \$15,000.00. The remainder of the allegations in Paragraph 1 are legal conclusions, not material allegations of fact, and therefore do not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

2. On May 16, 2014, the Department issued a Notice of Tax Liability (Letter CNXXXX4X72639688) assessing additional Illinois Sales/Use tax liabilities for the period 7/1/09 through 6/30/12 (Audit Period) of \$44,055.00, plus penalties and interest. Copies of the Notices of Tax Liability are attached hereto and are incorporated herein by reference.

ANSWER: The Department admits it issued a Notice of Tax Liability for \$44,055.00. However, it denies this amount does not already include penalties and interest. The Notice of

Tax Liability states \$33,639.00 is owed in tax, plus penalties of \$8,400 and interest calculated through May 16, 2014 of \$2,016.

3. Petitioner is an Illinois Corporation whose current mailing address is 5333 Birchwood Ave., Skokie, IL 60077 and whose current phone number is 847-675-0005.

ANSWER: The information contained in Paragraph 3 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(A) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations in Paragraph 3.

4. Petitioner's federal income tax number is 36-3483274 and its Illinois tax identification number is 1940-5911.

ANSWER: The information contained in Paragraph 4 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(C) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations in Paragraph 4.

5. In 2013, the Illinois Department of Revenue ("Department") conducted an audit of Petitioner's sales/use tax returns (Forms ST-1) for the period 7/1/09 through 6/30/12.

ANSWER: The Department admits an audit was conducted of Petitioner's sales/use tax returns for 7/1/09 through 6/30/12 but denies the audit was conducted solely in 2013.

6. For each tax period at issue, Petitioner was engaged in the trade of gasoline sales at its retail store location.

ANSWER: The Department admits the factual allegations in Paragraph 6.

7. At all times during the period under audit, Petitioner filed Illinois Sales and Use Tax returns (Forms ST-1) with the Department and paid taxes due per the filed tax returns.

ANSWER: The Department admits Petitioner filed ST-1s for the audit period but denies the amount of tax due, as reported on the returns, was accurate.

8. Respondent determined that the Petitioner underpaid sales taxes during the audit period based on a miscalculation of total receipts.

ANSWER: The Department admits the factual allegations in Paragraph 8.

9. As a result, Respondent determined that Petitioner owed \$33,639.00 in excess sales tax plus penalties of \$8,400.00 and interest of \$2,016.00.

ANSWER: The Department admits the factual allegations in Paragraph 9.

10. The determination of the tax liabilities for the tax period set forth in the Notice of Liability are based upon the following errors:

- a. Respondent's determination of excess R.O.T. was erroneously based on miscalculated receipts.

ANSWER: The Department denies all factual allegations in Paragraph 10.

WHEREFORE, the Department prays that the Tribunal enter an order:

- a. denying the prayer for relief in the Petitioner's petition in its entirety;
- b. finding that the Department's Notices correctly reflect the Petitioner's liability, including interest and penalties;
- c. ordering judgment in favor of the Department and against the Taxpayer; and
- d. granting such further relief as this Tribunal deems appropriate under the circumstances.

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Respectfully submitted,
Illinois Department of Revenue

By: /s/ Ashley Hayes Forte
Ashley Hayes Forte
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CERTIFICATE OF SERVICE

Ashley Hayes Forte certifies that she is a Special Assistant Attorney General of the State of Illinois duly appointed by Lisa Madigan, Attorney General of the State of Illinois; that she is authorized to make this certificate; that on July 30, 2014, before the hour of 5:00 p.m. (C.S.T.) she served a true and exact copy of the foregoing instrument entitled ANSWER on the above Taxpayer/Petitioner by sending the same as an attachment to an electronic mail message addressed to Taxpayer/Petitioner at his designated email address:

Douglas Wexler: douglas.wexler@sbcglobal.net

/s/ Ashley Hayes Forte
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