



ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

CHASE WESTERN, INC.)	
Petitioner)	
)	14-TT-131
)	
STATE OF ILLINOIS)	Chief Judge James M. Conway
DEPARTMENT OF REVENUE)	
Respondent)	

ANSWER

NOW COMES THE Department of Revenue of the State of Illinois (“Respondent”) through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its answer to Taxpayer’s Petition respectfully pleads as follows:

JURISDICTIONAL STATEMENT

1. On February 19, 2014, the Department of Revenue, (the “Department”) issued four notice of deficiencies (“NODs”) to Chase Western. Copies of those NODs are attached hereto as Exhibits 1-4.

ANSWER: Respondent admits that the factual statements in Paragraph 1 are true and correct and that the notices of deficiency attached to Petitioner’s Petition are true and correct copies of the statutory notices sent to Petitioner on February 19, 2014.

2. Chase Western inadvertently failed to protest the NODs with the required time period.

ANSWER: Respondent admits that the factual statements in Paragraph 2 are true and correct.

3. On June 23, 2014, Chase Western submitted a request for a late discretionary hearing to the Acting Chief Administrative Law Jude, Terry D. Charlton.

ANSWER: Respondent admits that the factual statements in Paragraph 3 are true and correct.

4. On July 11, 2014, Judge Charlton granted Chase Western's request for a late discretionary hearing. A copy of Judge Charlton's letter granting the request is attached hereto as Exhibit 5.

ANSWER: Respondent admits that the factual statements in Paragraph 4 are true and correct and that the letter from Judge Charlton (Exhibit 5) is a true and correct copy of his letter.

5. Chase Western is filing this Petition pursuant to 35 ILCS 1010/1-45.

ANSWER: The information contained in Paragraph 5 is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2)(A).

TAXPAYER INFORMATION

6. CHASE Western owns and operates a restaurant and bar establishment commonly known as Mullens Bar & Grill. Chase Western's taxpayer ID number, address and phone number are:

- a. **Taxpayer ID:** 36-4141550
- b. **Address:** 505 Chicago Ave., Chicago, Illinois 60202
- c. **Phone number:** (773) 465-2113.

ANSWER: Respondent admits that the factual statements in Paragraph 6 are true and correct.

7. Chase Western's Attorneys' information is:

- a. **Name and Address:** The Law Offices of Edward T. Joyce & Associates, P.C. 135 S. LaSalle St., Suite 2200, Chicago, Illinois 60603;
- b. **Phone number:** (312) 641-2600.
- c. **Email:** rcarroll@joycelaw.com.

ANSWER: Respondent admits that the factual statements in Paragraph 7 are true and correct.

BASIS OF PROTEST

8. On February 14, 2013, Chase Western received a Notice of Tax Liability ("NTL") notifying Chase Western that as a result of a sales's tax audit, it owes an additional \$408,980.95 in sales taxes, penalties and interest for the time period 2008-2011. The auditor arrived at this tax liability by determining excepted receipts from Chase Western's purchases.

ANSWER: The information contained in Paragraph 9 is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2)(A). Respondent admits that the factual statements in Paragraph 8 are true and correct. However, how the auditor arrived at this amount is not a material allegation of act, and therefore does not require an answer pursuant to Rule 310(b)(2)(A).

9. Chase Western determined that the auditor made errors in her determination of its purchases, some of which were mathematical and some of which were based on factual errors, such as the auditor erroneously included purchases of items that were not purchased for resale. Chase Western filed a timely protest to that NTL and a hearing was initiated (the "Sales Tax Hearing").

ANSWER: The information contained in Paragraph 9 is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2)(A). Any errors made by the auditor in the sales tax audit must be resolved in the sales tax hearing or settlement. Only the final determination in the sales tax hearing or settlement is relevant here.

10. The Sales Tax Hearing is currently pending before the Department of Revenue's Office of Administrative Hearings and has been assigned docket number 13-ST-0084.

ANSWER: Respondent admits that the factual statements in Paragraph 10 are true and correct.

11. On February 19, 2014, the Department assessed Illinois business tax income deficiencies, with penalties and interest, against Chase Western for the following years in the following amounts:

- a. 2008 -- \$16,894.26 (See Ex. 1);
- b. 2009 -- \$16,517.25 (See Ex. 2);
- c. 2010 -- \$5,277.01 (See Ex. 3); and,
- d. 2011 -- \$10,878.63 (See Ex. 4).

ANSWER: Respondent admits that the factual statements in Paragraph 11 are true and correct, except that as of February 19, 2014 the balance due for 2008 was \$16,605.02, the balance due for 2009 was \$16,296.78, the balance due for 2010 was \$5,137.89 and the balance due for 2011 was \$10,694.89.

12. The adjustments/deficiencies were assessed based on the results of the sales tax audit discussed above.

ANSWER: Respondent admits that the factual statements in Paragraph 12 are true and correct.

13. Chase Western and the Department have been negotiating a settlement of the sales tax audit protest and it is likely that the parties will agree to a reduced deficiency amount in the very near future.

ANSWER: Respondent admits that the factual statements in Paragraph 13 are true and correct.

14. If the sales tax deficiency is reduced, either as a result of a settlement or a hearing, then the income tax deficiency, which is based upon the sales tax deficiency, should likewise be reduced in a corresponding amount.

ANSWER: Respondent admits that the factual statements in Paragraph 14 are true and correct.

WHEREFORE, the Department respectfully requests this Tribunal

- a. Deny Petitioner's prayer for relief;
- b. Find that this case is subject to the final outcome of the audit case and that this case be placed on inactive status until the final determination can be reached in the Chase Western Inc, Docket No. 13-ST-0084.
- c. Order judgment in favor of the Department and against the Taxpayer/Petitioner; and
- d. Grant any further relief this Tribunal deems just and appropriate.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By:



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CERTIFICATE OF SERVICE

Ralph Bassett certifies that he is a Special Assistant Attorney General of the State of Illinois duly appointed by Lisa Madigan, Attorney General of the State of Illinois; that he is authorized to make this certificate; that on August 19, 2014, before the hour of 5:00 p.m. he serviced a true and exact copy of the foregoing instrument entitled **ANSWER** on the above Taxpayer/Petitioner by sending same as an attachment to an electronic mail message addressed to the following individual at his designated email address:

Robert D. Carroll: rcarroll@joycelaw.com



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