

allegations in Paragraph 3.

NOTICES

4. On April 30, 2015, Petitioners received separate Notices of Deficiencies for individual tax liability ("Notices") arising from disputed tax deficiencies of Aurora Ave. Food Mart, Inc. ("Corporation") for each year, beginning in 2002 and ending in 2010 ("Tax Periods"). The deficiencies per year are as follows: 2002, \$3,287.22; 2003, \$6,187.76; 2004, \$199,458.78; 2005, \$184,306.82; 2006, \$252,899.06; 2007, \$34,423.26; 2008, \$160,687.50; 2009, \$118,877.59; and 2010, \$892.80. The Notices are attached as exhibits A through I.

Answer: Each Notice of Deficiency speaks for itself.

JURISDICTION

5. Petitioners brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

Answer: The allegation in Paragraph 5 is not an allegation of material fact, and therefore does not require an answer pursuant to Rule 310(b)(2). To the extent an answer is required, Department admits that Petitioner is asserting jurisdiction pursuant to 35 ILCS 1010/1-1 et seq.

6. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

Answer: Paragraph 6 contains a legal conclusion, not a material allegation of fact. Whether the taxpayer timely filed its petition and whether this Tribunal has jurisdiction are mixed questions of law and fact to be determined by this Tribunal. Department denies any factual allegation in Paragraph 6.

BACKGROUND

7. Petitioner, MEHBOOB A. KHAN, was a corporate officer of Corporation.

Farah Khan is Petitioner's spouse.

Answer: Upon information and belief, Department admits the factual allegations in Paragraph 7.

8. The Department audited Corporation on or about 2012 for Tax Periods 2004 through 2009 and issued notices of personal liability against petitioner.

Answer: Department admits that it audited Aurora Ave. Food Mart, Inc. ("Corporation") for Retailers' Occupation Tax ("ROT") for the periods beginning January 1, 2007 through June 30, 2009. Department admits that it issued Notices of Personal Liability Penalty to Petitioner M. Khan for the ROT of Corporation pursuant to 35 ILCS 735/3-7. Department admits that it audited Corporation for Business Income Tax for the tax years ending December 31, 2004 through and including the tax year ending December 31, 2009. Department admits that it sent Corporation an Audit Initiation Letter on November 9, 2011 for an income tax audit of Corporation for the tax years ending December 31, 2004 through and including the tax year ending December 31, 2009 ("Years at Issue"). Department admits it sent Corporation a Notice of Audit Results letter on December 18, 2014 for the Years at Issue. Department denies all remaining factual allegations in Paragraph 8.

9. On June 12, 2015 Corporation filed a petition with the Tax Tribunal disputing Notices of Deficiencies assessed against it.

Answer: Department admits Corporation filed a petition with the Tribunal (Docket No. 15-TT-118) and that Corporation's Petition is date-stamped as received on June 15, 2015. Department denies the remaining factual allegations in Paragraph 9.

10. The Department's Notices of Deficiencies and the underlying income tax liability assessed against Petitioners are based on the Department's disallowance of Corporation's substantiation for cost of goods sold and other expenses.

Answer: Department admits the Notices of Deficiency issued to Petitioners include Petitioner M. Khan's share of Corporation's Illinois S-Corporation income for the tax years ending December 31, 2004 through December 31, 2009. The Notices issued for 2002 and 2003 are based upon the Adjusted Gross Income reported on the IRS Transcripts for 2002 and 2003, respectively. Department denies the remaining factual allegations in Paragraph 10.

COUNT I

11. The Department denied Corporation's books and records for the Tax Periods 2004 through 2009 despite Corporation's production of books and records as required by 35 ILCS 120/07

and 86 Ill. Admin. Code 130.805.

Answer: Department denies the factual allegations in Paragraph 11.

12. The disallowance of Corporation's production of books and records unreasonably inflated Corporation's net taxable income.

Answer: Department denies the factual allegations in Paragraph 12.

13. The Department issued Notices of Deficiencies against Petitioner based on Notices of Personal Liability arising from the Department's overstatement of Corporation's net taxable income.

Answer: Department admits it issued Notices of Deficiency to Petitioners. Department denies the remaining factual allegations in Paragraph 13.

WHEREFORE, Department requests this Tribunal enter an order:

- a) finding that the Notices of Deficiency are correct, as issued;
- b) entering judgment in favor of the Department and against Petitioner;
- c) and for any further relief this Tribunal deems just.

Respectfully Submitted,

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