

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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GEORGE AND OLGA RODIS,	)	
Petitioners,	)	
	)	15 TT 138
v.	)	Judge Brian F. Barov
	)	
THE STATE OF ILLINOIS	)	
DEPARTMENT OF REVENUE,	)	
Respondent.	)	
	)	

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**ANSWER**

NOW COMES the Department of Revenue of the State of Illinois (“Department”), 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:

1. Petitioners are individuals located at 6383 Lockwood Lane, Gurnee, Illinois 60031, and can be reached at 773-764-4400.

**ANSWER:** The information contained in paragraph 1 is required by Rule 310(a)(1)(A) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the above, the Department admits the factual allegations contained in Paragraph 1.

2. Petitioners are represented by The Law Offices of James E. Dickett, Ltd. Attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or [jdickett@aol.com](mailto:jdickett@aol.com).

**ANSWER:** The information contained in paragraph 2 is required by Rule 310(a)(1)(A) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the above, the Department admits the factual allegations contained in Paragraph 2.

3. Petitioners' Taxpayer Audit ID is A1642887168.

**ANSWER:** The information contained in paragraph 3 is required by Rule 310(a)(1)(A) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the above, the Department admits that the Petitioners' Audit Track Number is A-1642887168.

4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws 20 ILCS 5/5-15.

**ANSWER:** The Department admits that the Department is an agency of the Executive Department of the State of Illinois, the Department admits the statutes referred to in Paragraph 4 exist and are in effect and states that such statutes speak for themselves.

#### **NOTICE**

5. On or about May 21, 2015, Petitioner received two Notice of Deficiency letters for Form IL-1040 ("Notices") for the tax years 2010 and 2011. The Notices, in aggregate, reflect more than \$15,000 in tax due, plus penalties and interest. The Notices are attached as Exhibit 1.

**ANSWER:** The Department admits Paragraph 5.

## **JURISDICTION**

6. Petitioner 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:** Paragraph 6 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding this objection or waiving same, the Department admits the statutes referred to in Paragraph 6 exist and are in effect and states that such statutes speak for themselves.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and -150 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

**ANSWER:** Paragraph 7 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding this objection or waiving same, the Department admits the statutes referred to in Paragraph 7 exist and are in effect and states that such statutes speak for themselves.

## **BACKGROUND**

8. One of the Petitioners is the owner of an S corporation that operates a liquor store in the far north suburbs of Chicago.

**ANSWER:** The Department admits that George Rodis is a shareholder in Rodis Sunset Liquors, Inc. (“Rodis Sunset Liquors”). The Department lacks the knowledge or information sufficient to form a belief as to the truth or falsity of all of the remaining allegations contained in Paragraph 8.

9. Defendant audited the S corporation for sales tax for the periods 2010 and 2011, and based on that audit, the Department projected the individual income tax assessments at issue

herein even though the sales tax audit is still pending at the Department and is severely overstated because the corporation provided daily cash register tapes that were ignored.

**ANSWER:** The Department admits that it conducted a sales tax audit of Rodis Sunset Liquors for the period 1/1/10 through 12/31/11. The audit found that there was an underreporting of sales/income. George Rodis, as a shareholder of Rodis Sunset Liquors, has flow through income from Rodis Sunset Liquors. The Department denies the remaining allegations contained in Paragraph 9 and demands strict proof thereof.

### **COUNT I**

#### **Defendant's audit methodology overstates Petitioner's liability.**

10. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

**ANSWER:** The Department incorporates and repeats its answers to paragraphs 1 through 9 as if fully set forth herein.

11. The Department assessed the tax liabilities contained in the Notices base on the sales tax audit results even though the sales tax audit case is pending and overstated.

**ANSWER:** The Department admits that the Notices were issued based on the determination of underreporting in the sales tax audit, but denies the remaining allegations in Paragraph 11 and demands strict proof thereof.

12. By applying the Department's corporate sales tax audit results to the business income tax Notices herein, the Department drastically and unreasonable inflated Petitioners' individual income tax liability.

**ANSWER:** The Department denies Paragraph 12 and demands strict proof thereof.

**WHEREFORE the Department respectfully requests this Tribunal to:**

- (a) deny each prayer for relief of the petition;
- (b) find that the Notices of Deficiency correctly reflect the Petitioner's 2010 and 2011 Illinois income tax assessment, including penalties and interest;
- (c) enter judgment in favor of the Department and against the Petitioner; and
- (d) grant any further relief this Tribunal deems just and appropriate.

**COUNT II**

**All penalties should be abated based on reasonable cause**

13. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

**ANSWER:** The Department incorporates and repeats its answers to paragraphs 1 through 12 as if fully set forth herein.

14. In its Notices, the Department assessed late penalties.

**ANSWER:** The Department admits Paragraph 14.

15. Illinois law provides that late penalties do not apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

**ANSWER:** Paragraph 15 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding this objection or waiving same, the Department admits the statutes referred to in Paragraph 15 exist and are in effect and states that such statutes speak for themselves.

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it

exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

**ANSWER:** Paragraph 16 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding this objection or waiving same, the Department admits the regulations and any pertinent statutes referred to in Paragraph 16 exist and are in effect and states that such regulations and statutes speak for themselves.

17. Petitioners exercised ordinary business care and prudence when they reasonably determined its business income liability during the audit periods and clearly did not use the Department's proposed sales tax audit results.

**ANSWER:** The Department denies Paragraph 17 and requires strict proof thereof.

**WHEREFORE the Department respectfully requests this Tribunal to:**

- (a) deny each prayer for relief of the petition;
- (b) find that the Notices of Deficiency correctly reflect the Petitioner's 2010 and 2011 Illinois income tax assessment, including penalties and interest;
- (c) enter judgment in favor of the Department and against the Petitioner; and
- (d) grant any further relief this Tribunal deems just and appropriate.

Dated: September 11, 2015

Respectfully submitted,

**LISA MADIGAN**

Attorney General  
State of Illinois

/s/Sean P. Cullinan/s/

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