

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SALAM ELIAS MANSOUR,)	
Petitioner)	
v.)	15-TT-145
ILLINOIS DEPARTMENT OF REVENUE,)	
Respondent)	

ANSWER

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

PARTIES

1. Petitioner is an individual (sole-proprietor) located at 9512 Park Lane, Des Plaines, Illinois, 60016, and can be reached at 312-918-3200.

ANSWER: The Respondent admits that the Petitioner’s sole proprietorship was formerly located at 9512 Park Lane, Des Plaines, IL 60016, and could formerly be reached at 312-918-3200. The Respondent denies the remaining allegations in Paragraph 1.

2. Petitioner is represented by The Law Office 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.

ANSWER: The Respondent admits the allegations in Paragraph 2.

3. Petitioner’s Account ID is 3627-9919.

ANSWER: The Respondent admits the allegations in Paragraph 3.

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

ANSWER: The Respondent admits the allegations in Paragraph 4.

NOTICE

5. On May 21, 2015, the Department issued a Notice of Tax Liability letter (“Notice”) to Petitioner. The tax amount in the Notice is \$148,317, plus penalties and interest. The Notice is attached hereto as Exhibit 1.

ANSWER: The Respondent admits the allegations in the first sentence of Paragraph 5. A copy of the Notice of Tax Liability issued by the Respondent to the Petitioner, for the reporting periods of January 1, 2010 through September 30, 2014 (the “Periods”), dated May 21, 2015 and with Letter ID CNXXXX17X8866249, attached to the Petition (the “Notice”), is not a material allegation of fact, and therefore does not require an answer pursuant to Illinois Independent Tax Tribunal Regulation (“Rule”) 310(b)(2) (86 Ill. Adm. Code 5000.310), but to the extent an answer is required, the Respondent admits issuing the Notice and states that the Notice speaks for itself. The Respondent denies any remaining allegations in 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: The Respondent admits the allegations in Paragraph 6.

7. 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: The Respondent admits the allegations in Paragraph 7.

BACKGROUND

8. Petitioner operated an electronics store as a sole proprietor.

ANSWER: The Respondent admits the allegations in Paragraph 8.

9. The Department audited Petitioner for sales tax and disallowed several sales for resale due to lack of documentation even though there exists other evidence of resale.

ANSWER: The Respondent objects to Paragraph 9 in that it is vague as to the term “several,” and as to the phrase “other evidence of resale.” Notwithstanding said objections, and without waiving the same, the Respondent admits that (1) it conducted a sales tax audit of the Petitioner, and (2) due to a lack of documentation, the Respondent disallowed the sales for resale deductions that the Petitioner claimed on its sales tax returns for the Periods. The Respondent denies the remaining allegations in Paragraph 9.

COUNT I

Petitioner does not owe the entire audit liability because most of the disallowed resales are in fact sales for resale.

10. Petitioner realleges and incorporates by reference the allegation [sic] made in paragraphs 1 through 9, inclusive, hereinabove.

ANSWER: The Respondent incorporates and repeats its answers to Paragraphs 1 through 9 as if fully set forth herein.

11. Petitioner does not owe the entire audit liability because most of the disallowed resales are in fact sales for resale based on Petitioner’s other evidence of resale.

ANSWER: The Respondent objects to Paragraph 11 in that it is vague as to the term “most,” and as to the phrase “other evidence of resale.” Notwithstanding said objections, and without waiving the same, the Respondent denies the allegations in Paragraph 11.

12. Contrary to the Department's determination, Petitioner does not owe the entire audit liability.

ANSWER: The Respondent objects to Paragraph 12 in that it is vague as to the term "determination." Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 12.

WHEREFORE, the Respondent prays that the Tribunal enter an order to:

- a. deny each prayer for relief in Count I of the Petitioner's Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 5) is correct as issued;
- c. order judgment in favor of the Respondent and against the Petitioner; and
- d. grant such further relief as this Tribunal deems appropriate under the circumstances.

COUNT II

All penalties should be abated based on reasonable cause

13. Petitioner realleges and incorporates by reference the allegation [sic] made in paragraphs 1 through 12, inclusive, hereinabove.

ANSWER: The Respondent incorporates and repeats its answers to Paragraphs 1 through 12 as if fully set forth herein.

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

ANSWER: The Respondent admits the allegations in 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), but to the extent an answer is required, the Respondent states that the statute cited speaks for itself.

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 and pay its proper tax liability in a timely fashion. 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), but to the extent an answer is required, the Respondent states that the regulation cited speaks for itself.

17. 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 17 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2), but to the extent an answer is required, the Respondent states that the regulation cited speaks for itself.

18. Petitioner exercised ordinary business care and prudence when it reasonably determined its sales and use tax liability during the audit period by not collecting and remitting sales tax on sales for resale.

ANSWER: The Respondent denies the allegations in Paragraph 18.

WHEREFORE, the Respondent prays that the Tribunal enter an order to:

- a. deny each prayer for relief in Count II of the Petitioner's Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 5) is correct as issued;

- c. find that the Respondent's assessment of the penalties contained in the Notice was appropriate and conformed with the law;
- d. find that the Petitioner's failure to file sales tax returns, and to pay the tax assessed in the Notice, was not due to reasonable cause. 35 ILCS 735/3-8;
- e. order judgment in favor of the Respondent and against the Petitioner; and
- f. grant such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

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State of Illinois

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