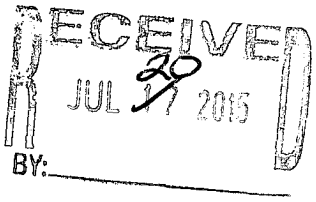
IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL




DISC REPLAY OF SOUTH COOK KANKAKEE LLC )

Petitioner )

v. )

CONSTANCE BEARD in his official capacity as )

DIRECTOR OF THE ILLINOIS DEPARTMENT )

OF REVENUE, and the ILLINOIS DEPARTMENT )

OF REVENUE, )

Defendants.

PETITION

Petitioner, Disc Replay Of South Cook Kankakee LLC ("Petitioner") by and through its attorney, Mansoor Ansari, complains of the Defendants, the Illinois Department of Revenue ("Department") and Constance Beard, Director of the Department ("Director Beard"), and alleges as follows:

1. Petitioner is an Illinois Corporation located at 25526 Devonshire, Monee, IL 60449 and can be reached at 312-637-9716 .

2. Petitioner is represented by Mansoor Ansari located at 500 N. Michigan Avenue, Suite 600, Chicago, Illinois, 60611, who can be reached at 312-265-5626 or ma@myillinoistaxattorney.com.

3. Petitioner's Illinois business tax number is 3676-8911.

4. Petitioner was formed a LLC to operate a convenience a video game resell store.

5. 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 ILCS5/5-15.

6. Director Beard is the current Director of the Department.

7. Director Beard is lawfully appointed by the Governor of the State of Illinois to execute the powers and discharge the duties vested by law in the director of the Department. 20 ILCS 5/5-20.

NOTICES

8. On March 17, 2015, the Defendants issued a Notices of Tax Liability ("Notices") totaling tax, penalties and interest of $245,290.00 for the periods through 01/2012 – 06/2014. True and accurate copies of the Notices are attached hereto as Exhibit A.

9. On May 20th, 2015, the Defendants claim to have filed a statutory notice providing the Petitioner 60 days to file a Complaint with the Illinois Tax Tribunal – PETITIONERS HAVE NOT RECEIVED SUCH NOTICE.

JURISDICTION

10. 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.

11. The Tribunal has jurisdiction over this matter pursuant to Sections 1-15, 1-45, and 1-50 of the Tribunal Act because Petitioner timely filed a protest with the Department's Office of Administrative hearings within 60 days of the Notices and elected to transfer the case to the Tribunal before February 1, 2014.

BACKGROUND

12. Petitioner was created to operate a video game buy and sell retail store.

13. The Department audited the Petitioner's books and records for the Periods at Issue.

14. In addition to performing an audit of the Petitioner's sales, the Department's auditor also utilized a sample period and extrapolated those figures to the entire audit period.

15. The Department made several adjustments to Petitioner's sales and us tax returns that resulted in the assessed liability at issue.

16. The Department disallowed deductions claimed by the Petitioner for items that were purchased, but not resold as a result of damage.

17. The Department has levied burdensome penalties on the client's business as a result of the underreporting.

COUNT 1 – No account of damaged items.

18. Petitioner alleges that the sampling method cannot be used to extrapolate sales.

19. That the costs of goods sold vary and the sampling method yields a higher figure than the actual sale price.

COUNT 2 – Penalties

20. Petitioner alleges that the penalties are must not be applied.

21. Petitioner, relying on Illinois law and regulations, exercised ordinary business care and prudence when it reasonably determined that it did not owe Illinois sales tax on the full amount of assessment.

22. The Department's determination that Petitioner owes penalties on late payment of tax is not supported by fact or law.

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

a) Finds and declares that all penalties should be fully abated based on reasonable cause at $32331.00;

b) Enjoins the Department from taking any action to assess, lien, levy, offset, or in any other way prosecute and collect the amount of penalties on the notices; and

c) Grants such further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,

DISC REPLAY OF SOUTH COOK KANKAKEE LLC

Petitioner

By: _____

One of Petitioner's Attorneys

23. On May 20, 2015, the Defendants issued two Notices of Tax liability ("Notices") totaling $205,510.00 tax, $32331.00 penalties, and $7449.00 interest at $245,290.00 through 01/2012 – 06/2014.

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in the foregoing Petition are true, accurate and correct.

By: _____

Charles Connolley

Executive Disc Replay Of South Cook Kankakee LLC

Subscribed and sworn to before me

This 16th day of July, 2015.

"OFFICIAL SEAL"
KAREN HAYDEN
Notary Public - State of Illinois
My Commission Expires June 20, 2016

Karen Hayden

EXHIBIT A

# Notice of Proposed Liability

## for Sales, Use, and Excise Taxes and Fees

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

March 17, 2015

**Letter ID:** L1801562128

DISC REPLAY OF SOUTH COOK-KANKAKEE LLC
DISC REPLAY
25526 S DEVONSHIRE LN
MONEE IL 60449-1606

| | |
|---|---|
| **Taxpayer ID:** | 52-2422671 |
| **Account ID:** | 3676-8911 |
| **Audit ID:** | A2099527680 |
| **Return type:** | ST-1 |
| **Audit periods:** | 01/2012 - 06/2014 |

We have audited your account and have determined that there is additional liability due.

| | |
|---|---|
| Tax | **$205,510.00** |
| Penalty | **$32,331.00** |
| Interest | **$7,449.00** |
| Total | **$245,290.00** |

Our calculations, periods covered, and other explanations resulting in the determination are attached for your review.

**If you agree** with the tax amount as shown, contact us using the information listed below for further instructions. Please note, if you sign the Audit Report, you waive the right to seek review by the Informal Conference Board.

**If you do not agree** with the figures, you may request a review of this proposed liability by the Informal Conference Board (Section 2505-510). To do this, you must complete Form ICB-1, Request for Informal Conference Board Review, within 60 days from the date of this notice and mail it, along with a copy of the auditor's work papers and a copy of this notice, to:

INFORMAL CONFERENCE BOARD
100 W RANDOLPH SUITE 7-286
CHICAGO IL 60601

If you do not request an ICB review within 60 days from the date of this notice, we will issue a Notice of Tax Liability for the amount proposed to be due.

Sincerely,

Paullette Lewis-Birmingham
Revenue Auditor

ILLINOIS DEPARTMENT OF REVENUE
9511 HARRISON STREET, DP-A,
DES PLAINES IL 60016-1563

708 921-7662
708 921-7662 cell
847 294-4246 fax
paullette.lewis@illinois.gov

Illinois Department of Revenue

# IL-2848 Power of Attorney

## Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney. ***Do not send this form separately.***

## Step 1: Complete the following taxpayer information

1 DISC REPLAY OF SOUTH COOK KANKAKEE LLC
Taxpayer's name

2 3676-8911
Taxpayer's identification number(s)

3 25526 S DEVONSHIRE
Taxpayer's street address

MONEE IL 60449
City State ZIP

## Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

| | | |
|---|---|---|
| Mansoor Ansari | | |
| Name | Name | Name |
| Ansari Tax Law Firm | | |
| Name of firm | Name of firm | Name of firm |
| 500 N Michigan Ste 600 | | |
| Street address | Street address | Street address |
| Chicago IL 60611 | | |
| City State ZIP | City State ZIP | City State ZIP |
| (312) 265-5626 | ( ) | ( ) |
| Daytime phone number | Daytime phone number | Daytime phone number |
| ma@myillinoistaxattorney.com | | |
| E-mail address | E-mail address | E-mail address |
| Sales Tax 2003-2013 | | |
| Specific tax type Year or period | Specific tax type Year or period | Specific tax type Year or period |

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above **do not** have the power to – *Check only the items below you **do not** wish to grant.*

- _____ endorse or collect checks in payment of refunds.
- _____ receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- _____ execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- _____ execute consents extending the statutory period for assessments or collection of taxes.
- _____ delegate authority or substitute another representative.
- _____ file a protest to a proposed assessment.
- _____ execute offers in compromise or settlement of tax liability.
- _____ represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- _____ obtain a private letter ruling on behalf of the taxpayer.
- _____ perform other acts (explain) _____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

| | | |
|---|---|---|
| Name | Name | Name |
| Street address | Street address | Street address |
| City State ZIP | City State ZIP | City State ZIP |
| ( ) | ( ) | ( ) |
| Daytime phone number | Daytime phone number | Daytime phone number |
| Date granted | Date granted | Date granted |



Continued on Page 2

7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following: MANSOOR ANSARI

| Name | Name | Name |
|---|---|---|
| 500 N MICHIGAN, STE 600 | | |
| Street address | Street address | Street address |
| CHICAGO IL 60611 | | |
| City State ZIP | City State ZIP | City State ZIP |
| (312) 265 5626 | ( ) | ( ) |
| Daytime phone number | Daytime phone number | Daytime phone number |

## Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

| | | |
|---|---|---|
| Taxpayer's signature | Title, if applicable | Date 9/3/14 |
| Spouse's signature | Title, if applicable | Date |
| If corporation or partnership, signature of officer or partner | Title, if applicable | Date |

## Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

I declare that I am **not** currently under suspension or disbarment and that I am

- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
- duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
- enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

| | | | |
|---|---|---|---|
| ATTORNEY | IL | | 9.3.14 |
| Designation (attorney, C.P.A., enrolled agent) | Jurisdiction (state(s), *etc.*) | Signature | Date |
| Designation (attorney, C.P.A., enrolled agent) | Jurisdiction (state(s), *etc.*) | Signature | Date |
| Designation (attorney, C.P.A., enrolled agent) | Jurisdiction (state(s), *etc.*) | Signature | Date |

## Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

_____ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness Date

Signature of witness Date

_____ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary Date

**Notary seal**



This form is authorized by the Illinois Tax Act. Disclosure of this information is REQUIRED. Failure to provide information could result in a penalty. This form has been approved by the Forms Management Center. IL-492-0058