

NOTICE

5. On May 26, 2015, the Department issued two (2) Notice of Tax Liability letters (“Notices”) to Petitioner. The two Notices are for the combined tax periods of July 1, 2008 to December 31, 2014. In the Notices the Department assessed excess tax totaling \$188,071. The Notices are attached hereto as Exhibit 1.

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.

7. This Tribunal has jurisdiction pursuant to Sections 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the date of the Notices.

BACKGROUND

8. Petitioner is a small auto repair shop located in the north suburbs of Chicago.

9. Petitioner pays Illinois sales tax on all of its purchases except for a few out-of-state vendors (less than 10%).

10. During the audit the Department contacted a small sample of Petitioner’s customers regarding whether Petitioner had listed tax on its sales invoices to the sample customers.

11. The Department based the entire audit liability on the assumption that Petitioner listed tax on ALL of its sales invoices issued to ALL of its customer for ALL of the audit tax periods while at the same time not allowing any credit or offset for the taxes paid by Petitioner on its (almost) ALL of its purchase invoices. In other words, the Department is seeking to obtain the tax twice from Petitioner – once for the tax already paid by Petitioner to its Illinois vendors and a second time in the audit of Petitioner.

COUNT I

Petitioner does not owe the audit liability because Petitioner paid tax to its vendors during the audit tax periods.

12. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 11, inclusive, hereinabove.

13. Petitioner does not owe the audit liability because it already paid the tax to its vendors during the audit tax periods.

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

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

- (a) finds and declares that Petitioner is not liable for the amounts contained in the Notices because Petitioner already paid the tax to its vendors during the audit tax periods; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notices; and
- (c) enters judgment in favor of Petitioner and cancels the Notices.

COUNT II

The Department's audit methodology is flawed because it is based on improper assumptions and documents that are not customer invoices.

15. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 14, inclusive, hereinabove.

16. The Department's audit methodology is flawed because the sample size is insufficient and also because the Department based its findings on documents that were not sales invoices but rather internal estimate documents or other pre-preprinted forms.

17. Contrary to the Department's determination, Petitioner does not owe the audit liability because the Department's audit methodology is severely flawed.

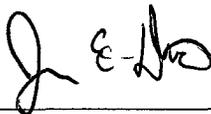
WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner is not liable for the amounts contained in the Notices; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notices; and
- (c) enters judgment in favor of Petitioner and cancels the Notices.

Thank you for considering this Petition.

Respectfully submitted,

Sudden Impact Collision Center Inc.,
Petitioner

By: 

One of Petitioner's Attorneys

Date: 7/17/15

James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
jdickett@aol.com

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report

Exhibit
1



#BWNKMGV
#CNXX XX45 8X15 5X47#
SUDDEN IMPACT COLLISION CENTER
849 EAST RTE 45
MUNDELEIN IL 60060

May 26, 2015



Letter ID: CNXXX458X155X47

Account ID: 4117-1012

We have audited your account for the reporting periods July 01, 2008, through June 30, 2009. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Excess Tax and Excess E911 Surcharge	24,511.00	0.00	24,511.00
Assessment Total	\$24,511.00	\$0.00	\$24,511.00

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher or the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is July 27, 2015. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at tax.illinois.gov). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.
- Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWNKMGV
#CNXX XXX8 9354 7689#
SUDDEN IMPACT COLLISION CENTER
849 EAST RTE 45
MUNDELEIN IL 60060

May 26, 2015



Letter ID: CNXXXXX893547689

Account ID: 4117-1012

We have audited your account for the reporting periods July 01, 2009, through December 31, 2014. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Excess Tax and Excess E911 Surcharge	163,560.00	0.00	163,560.00
Assessment Total	\$163,560.00	\$0.00	\$163,560.00

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

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