

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SUDDEN IMPACT COLLISION)	
CENTER, INC.,)	
Petitioner,)	
)	
v.)	Case No. 15-TT-147
)	
DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS,)	
Respondent.)	

ANSWER

The Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, answers the Taxpayer’s Petition as follows:

PARTIES

1. Petitioner is an Illinois corporation located at 849 East U.S. Highway 45, Mundelein, Illinois, 60060, and can be reached at 847-949-1200.

ANSWER: The information contained in Paragraph 1 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(A) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations contained 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 information contained in Paragraph 2 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(B) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal

Regulations. The Department admits the factual allegations contained in Paragraph 2.

3. Petitioner's Account ID is 4117-1012.

ANSWER: The information contained in Paragraph 3 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(C) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations contained in Paragraph 3.

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 law. 20 ILCS 5/5-15.

ANSWER: Paragraph 4 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

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.

ANSWER: The Department admits it issued Notices dated May 26, 2015 and states the Notice speaks for themselves. The Department admits the May 26, 2015 Notices are attached as Petitioner's Exhibit 1. To the extent Paragraph 5 requires any further answer, the Department denies the 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: Paragraph 6 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

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 Notices.

ANSWER: Paragraph 7 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

BACKGROUND

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

ANSWER: The Department admits the allegations contained in Paragraph 8.

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

ANSWER: The Department lacks sufficient information to admit or deny the allegations in Paragraph 9 and demands strict proof thereof.

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

ANSWER: The Department admits the allegations contained in Paragraph 10.

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 customers 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.

ANSWER: The Department denies the allegations in Paragraph 11.

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 allegations made in paragraphs 1 through 11, inclusive, hereinabove.

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 11 as though fully set forth herein.

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

ANSWER: The Department denies the allegations in Paragraph 13.

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

ANSWER: The Department denies the allegations in Paragraph 14.

WHEREFORE, the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notices correctly reflect the Petitioner's liability including interest and penalties;
- 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

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 allegations made in paragraphs 1 through 14, inclusive, hereinabove.

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 14 as though fully set forth herein.

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-printed forms.

ANSWER: The Department denies the allegations in Paragraph 16.

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

ANSWER: The Department denies the allegations in Paragraph 17.

WHEREFORE, the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notice(s) correctly reflect the Petitioner's liability including interest and penalties;
- c. Enter judgment in favor of the Department and against the Petitioner; and
- d. Grant any further relief this Tribunal deems just and appropriate.

[SPACE INTENTIONALLY LEFT BLANK]

Dated: August 24, 2015

Respectfully submitted,
Illinois Department of Revenue,

By: /s/ Ashley Hayes Forte
Ashley Hayes Forte
Special Assistant Attorney General

Ashley Hayes Forte
Illinois Department of Revenue
100 West Randolph Street, 7-900
Chicago, IL 60601
(312) 814-3514 phone
(312) 814-4344 facsimile
ashley.forte@illinois.gov

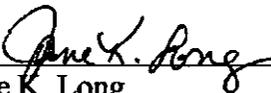
**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SUDDEN IMPACT COLLISION)	
CENTER, INC.,)	
Petitioner,)	
)	
v.)	Case No. 15-TT-147
)	
DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS,)	
Respondent.)	

**AFFIDAVIT OF JANE K. LONG
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

1. I am currently employed by the Illinois Department of Revenue in the Audit Bureau.
2. My current title is Revenue Auditor III.
3. I lack the personal knowledge required to either admit or deny the allegations alleged and neither admitted or denied in Petitioner's Petition Paragraph 9.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he (she) verily believes the same to be true.



Jane K. Long
Revenue Auditor III
Illinois Department of Revenue

DATED: 8/21/15