

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>SKYLINE CORNER MART, INC.,</b>	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 15-TT-150</b>
	)	
<b>THE ILLINOIS DEPARTMENT</b>	)	
<b>OF REVENUE,</b>	)	
<b>Respondent.</b>	)	

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**VERIFIED 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:

1. Petitioner is an Illinois Corporation located at 170 Lake Marian Road, Carpentersville, IL, 60110, and can be reached at 847-844-1790.

**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 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](mailto:ma@myillinoistaxattorney.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 Illinois business tax number is 4066-4619.

**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. Petitioner was formed a Corporation on January 17, 2012, to operate a gas station and convenience store.

**ANSWER:** The Department lacks sufficient information to admit or deny the allegations in Paragraph 4 and demands strict proof thereof.

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 ILCS 5/5-15.

**ANSWER:** Paragraph 5 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.

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

**ANSWER:** The Department admits the allegations in Paragraph 6.

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.

**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.

## NOTICES

8. On June 9, 2015, the Defendants issued a Notices of Tax Liability (“Notices”) totaling tax, penalties and interest of \$249,963.47 for the periods through 02/2012-03/2015. True and accurate copies of the Notices are attached hereto as Exhibit A.

**ANSWER:** The Department denies the allegations in Paragraph 8. The Notice of Tax Liability (“NTL”) is dated June 8, 2015, and only includes February 2012 through December 2013. A Taxpayer Statement was issued on June 9, 2015, that includes the NTL periods plus amounts due for November 2014 through March 2015. The June 8<sup>th</sup> NTL totals tax, penalties and interest in the amount of \$182,834.93. The Department denies that true and accurate copies of the Notice of Tax liability is attached as Petitioner’s Exhibit A.

9. On June 20<sup>th</sup>, 2015, the Defendants filed statutory notice providing the Petitioner 60 days to file a Complaint with the Illinois Tax Tribunal.

**ANSWER:** The Department denies the allegations in Paragraph 9.

## 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.

**ANSWER:** Paragraph 10 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.

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.

**ANSWER:** Paragraph 11 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. The Department denies Petitioner ever filed a protest with the Department's Office of Administrative Hearings. Therefore, the Department also denies that Petitioner elected to transfer the case to the Tribunal before February 1, 2014. The Notice of Tax Liability giving Petitioner protest rights was issued June 8, 2015.

#### BACGROUND

12. Petitioner was created to operate a gas station and convenience retail store.

**ANSWER:** The Department lacks sufficient information to admit or deny the allegations in Paragraph 12 and demands strict proof thereof.

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

**ANSWER:** *Periods at Issue* is not a defined or recognizable term in the Petitioner's Petition. The Department admits it audited Petitioner's sales tax reporting for the periods of February 2012 through December 2013. Petitioner provided minimal documents to the Department during the course of the audit and the audit was completed based on third-party records. Therefore, because Petitioner provided little to no books and records, the Department denies it audited Petitioner's books and records. To the extent Paragraph 13 requires any further answer, the Department denies the allegations in Paragraph 13.

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.

**ANSWER:** The Department denies the allegations in Paragraph 14.

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

**ANSWER:** The Department admits the allegations in Paragraph 15.

16. The months of 2/2012, 3/2012, and 4/2012, US Oil did not issue the state required PST-1's for gasoline delivered to 170 Lake Marian Road, Carpentersville, IL.

**ANSWER:** The Department lacks sufficient information to admit or deny the allegations in Paragraph 16 and demands strict proof thereof.

17. US Oil charged 0.0624 per cent sales tax on the gross wholesale price of each gross invoice amount.

**ANSWER:** The Department lacks sufficient information to admit or deny the allegations in Paragraph 17 and demands strict proof thereof.

18. The total amount collected of \$47,301.01 for the five month period described above.

**ANSWER:** The Department lacks sufficient information to admit or deny the allegations in Paragraph 18 and demands strict proof thereof.

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

**ANSWER:** The Department denies the allegations in Paragraph 19.

COUNT I- No account of taxes paid.

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

**ANSWER:** The Department denies the allegations in Paragraph 20.

21. That the prepaid sales tax has not been applied to the audit figures.

**ANSWER:** The Department denies the allegations in Paragraph 21.

COUNT II- Penalties

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

**ANSWER:** The Department denies the allegations in Paragraph 22.

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

**ANSWER:** Paragraph 23 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. To the extent Paragraph 23 requires an answer, the Department denies the allegations in Paragraph 23.

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

**ANSWER:** Paragraph 24 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. To the extent Paragraph 24 requires an answer, the Department denies the allegations in Paragraph 24.

**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.

Dated: August 6, 2015

Respectfully submitted,  
Illinois Department of Revenue,

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

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Respondent. )

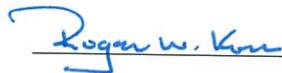
Case No. 15-TT-150

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STATE OF ILLINOIS )  
COUNTY OF SANGAMAN ) SS

**VERIFICATION**

I, Roger W. Koss, being first duly sworn upon his oath, deposes and says that I am an employee of the Illinois Department of Revenue and as such I am the duly authorized agent for the Illinois Department of Revenue, that I have read the foregoing Department of Revenue's Answer, that I am well acquainted with its contents, and under penalties as provided by law pursuant to 73 5 ILCS 5/1-109 of the Illinois Code of Civil Procedure, I certify that the matters and things contained in it are true to the best of my knowledge, information and belief.

  
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Roger W. Koss  
Audit Bureau  
Sales and Miscellaneous Taxes Division Manager  
ILLINOIS DEPARTMENT OF REVENUE

Dated: 7, August 2015

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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