

**ILLINOIS INDEPENDENT TAX TRIBUNAL**

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<b>SKYLINE CORNER MART INC</b>	)	
<b>Petitioner</b>	)	
<b>v.</b>	)	
	)	<b>15 TT 150</b>
	)	<b>JUDGE BRIAN BAROV</b>
<b>ILLINOIS DEPARTMENT</b>	)	
<b>OF REVENUE,</b>	)	
<b>Respondent.</b>	)	

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**JOINT PRE-TRIAL ORDER**

**(A) JURISDICTION:**

The Illinois Independent Tax Tribunal has jurisdiction over this matter pursuant to 35 ILCS 1010/1-45.

**(B) TRIAL ATTORNEYS:**

Petitioner is represented by Mansoor Ansari 6295701;

Phone: 312-265-5626

Email: [ma@myillinoistaxattorney.com](mailto:ma@myillinoistaxattorney.com)

Address: 500 N Michigan Ave., Ste 600, Chicago IL 60611

Respondent is represented by Ashley Forte

Phone: 312-814-3514

Email: [Ashley.forte@illinois.gov](mailto:Ashley.forte@illinois.gov)

Address: 100 W. Randolph Street, 7<sup>th</sup> Floor, Chicago IL 60601

**(C) HEARING LENGTH:**

The approximate time for the hearing is 2 hours.

**(D) STIPULATIONS AND UNCONTESTED FACTS:**

1. The Retailers' Occupation Tax ("ROT") audit of Petitioner was initiated by Illinois Department of Revenue auditor Mary Piszczor on October 16, 2013 for periods 01/2011 through 06/2013.
2. The ROT audit was expanded/amended on January 13, 2014 to periods 02/2012 through 12/2013.
3. The total ROT audit periods in the Notice of Tax Liability ("NTL") contested in the captioned matter are 02/2012 through 12/2013.
4. Petitioner's Illinois business tax number is 4066-4619.
5. On June 8, 2015, the Defendant issued an NTL totaling tax, penalties and interest of \$182,834.93 for the periods through 02/2012 – 12/2013.
6. The taxpayer did not maintain books and records as required by 35 ILCS 120/7.
7. Due to the fact that Petitioner did not maintain the required records, or at least present them at the time of the audit, the auditor used an alternative method to determine gross receipts. The method involved determining the Petitioner's purchases of gasoline for the taxable periods and then marking up the purchases based on the average Midwest selling price and the risk management standard industry average. The auditor additionally circulated information requests from known vendors to obtain information on purchases to which an industry average mark-up was applied to arrive at gross taxable sales.
8. The Department made several adjustments to Petitioner's sales and us tax returns that resulted in the assessed liability at issue.
9. The Department issued a Notice of Tax Liability dated June 8, 2015, to Petitioner assessing \$99,098.00 in additional tax, a late filing penalty for in the amount of \$1,614, a late payment penalty of \$22,124, a fraud penalty of \$55,310.00, and interest.

**(E) WITNESS DESCRIPTION LIST:**

**Petitioner's Witnesses:**

<b>Witnesses Who Will Be Called</b>	<b>Contemplated Testimony</b>
Timothy Kaczmerik	Mr. T Kaczmerik is the son and one of the operators of the business. He has day-to-

	day involvement with all aspects of the business as well as the audit.
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<b>Witnesses May Be Called</b>	<b>Contemplated Testimony</b>
U.S. Oil Representative	This is the person in charge of delivering oil to the Petitioner's gas station. There were 2 in total both of which cannot be reached by phone.

**Respondent's Witnesses:**

<b>Witnesses Who Will Be Called</b>	<b>Contemplated Testimony</b>
none	

<b>Witnesses May Be Called</b>	<b>Contemplated Testimony</b>
Mary Piszczor- Department Auditor	If called to testify, Ms. Piszczor will testify as to the procedure followed during the audit and the additional tax liability determined as a result of the audit.

**(F) EXHIBITS AND EXHIBIT CHARTS**

**Petitioner's Exhibit Chart**

<b>Exhibit Number</b>	<b>Date of Exhibit/Document</b>	<b>Description of Exhibit</b>	<b>Exhibit's Relevance</b>	<b>Objection to Exhibit (Y/N)</b>	<b>Explanation of Objection</b>

**Respondent's Exhibit Chart**

<b>Exhibit Number</b>	<b>Date of Exhibit/Document</b>	<b>Description of Exhibit</b>	<b>Exhibit's Relevance</b>	<b>Objection to Exhibit (Y/N)</b>	<b>Explanation of Objection</b>
DOR # 1	June 8, 2015	Notice of Tax Liability Issued to Petitioner	Establishes Respondent's <i>Prima Facie</i> case under 35 ILCS 105/4	No	n/a
DOR # 2	n/a	Audit Narrative & EDC 5	Describes the auditor's process and conclusions reached in assessing additional taxable gross receipts	No	n/a
DOR # 3	Various	Audit schedules & all other documents included in the audit file not already listed as part of DOR # 1 or DOR # 2	Supports the auditor's process and conclusions reached in assessing additional taxable gross receipts	No	No

**(G) MOTIONS IN LIMINE**

Petitioner has no motions in limine.

Respondent has no motions in limine.