

**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SULTAN AND GULBANO GILANI,)
)
 Petitioners,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Defendant.)

No.



1577(5)

PETITION

Petitioners, Sultan and Gulbano Gilani (“Petitioners”), by and through their attorneys, The Law Office of James E. Dickett, Ltd., complain of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

PARTIES

1. Petitioners are individuals located at 6341 North Leavitt Street, Chicago, Illinois, 60659, and can be reached at 773-720-2234.
2. Petitioners are 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.
3. Petitioners’ Taxpayer (Account) ID is XXX-XX-XXXX (redacted).
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 laws. 20 ILCS 5/5-15.

NOTICE

5. On July 30, 2015, Petitioner received two Notice of Deficiency letters for Form IL-1040 (“Notices”) for the tax years 2010 and 2011. The Notices, in aggregate, reflect more than \$15,000 in tax due, plus penalties and interest. 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 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 Notice.

BACKGROUND

8. The Petitioners are the owners of an S corporation that was a petroleum retailer formerly located in Northbrook, Illinois.

9. Defendant audited the S corporation’s books and records for sales tax for the periods 2010 and 2011, and, based on that audit, the Department projected the individual income tax assessments at issue herein without providing the proper allowance for cost of goods sold for the corporation.

COUNT I

Defendant’s audit methodology overstates Petitioners’ liability.

10. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the tax liabilities contained in the Notices based on the sales tax audit results without providing the proper allowance for cost of goods sold.

12. By applying the Department's corporate sales tax audit results to the business income tax Notices herein, the Department drastically and unreasonable inflated Petitioners' individual income tax liability.

WHEREFORE, Petitioners pray that the Tribunal enter an order that:

- (a) enters judgment in favor of Petitioners and against the Defendants and cancels the Notices;
- (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;
- (c) grants such further relief as the Tribunal deems appropriate.

COUNT II

All penalties should be abated based on reasonable cause.

13. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. In its Notices, the Department assessed late filing and late payment penalties.

15. Illinois law provides that neither late penalties nor negligence penalties apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

17. Petitioners exercised ordinary business care and prudence when they reasonably determined its business income liability during the audit periods and clearly did not use the Department's proposed sales tax audit results.

WHEREFORE, Petitioners pray that the Tribunal enter an order that:

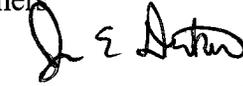
- (a) finds and declares that all penalties should be fully abated based on reasonable cause;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount of penalties due on the Notices; and
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Thank you for considering this Petition.

Respectfully submitted,

Sultan and Gulbano Gilani,
Petitioners

By:



Petitioners' Attorney

Date:

9-15-15

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

Notice of Deficiency
for Form IL-1040, Individual Income Tax Return

Exhibit 1



July 30, 2015



Letter ID: CNXXXX9739881126

Taxpayer ID: XXX-XX-6783
 Audit ID: A710744064
 Reporting period: December 2010
 Total Deficiency: \$245,939.30
 Balance due: \$245,939.30

 #BWNKMGV
 #CNXX XX97 3988 1126#
 SULTAN A. and GULBANO S. GILANI

 6341 N LEAVITT ST

 CHICAGO IL 80659-2123

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to the "Illinois Department of Revenue", write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of the date of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative and administrative hearing. 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. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, 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.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard

Constance Beard
 Director

ILLINOIS DEPARTMENT OF REVENUE
 AUDIT BUREAU
 PO BOX 19012
 SPRINGFIELD IL 62794-9012
 (217) 558-4980

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



July 30, 2015



Letter ID: CNXXXXX165582240

#BWNKMGV
 #CNXX XXX1 6558 2240#
 SULTAN A. and GULBANO S. GILANI
 6341 N LEAVITT ST
 CHICAGO IL 60659-2123

Taxpayer ID: XXX-XX-6783
 Audit ID: A710744064
 Reporting period: December 2011
 Total Deficiency: \$115,852.97
 Balance due: \$115,852.97

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to the "Illinois Department of Revenue", write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

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

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of the date of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative and administrative hearing. 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. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, 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.

If you have questions, call us at the telephone number shown below.

Sincerely,

Constance Beard
 Director

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 AUDIT BUREAU
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(217) 558-4960