

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SULTAN & GULBANO GILANI)	
)	
Petitioner)	
v.)	15-TT-195
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant)	

NOTICE OF FILING

TO: James E. Dickett
The Law Office of James E. Dickett, Ltd.
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 telephone
708-784-3201 facsimile
Email: jdickett@aol.com

PLEASE TAKE NOTICE, that on October 1, 2015, the undersigned representative for the Illinois Department of Revenue (the "Department") filed the Department's Answer to Sultan and Gulbano Gilani's Petition with the Illinois Tax Tribunal, located at 160 North LaSalle Street, Room N506, Chicago, IL 60601.

Rickey A. Walton
Special Assistant Attorney General

Rickey A. Walton
Illinois Department of Revenue
100 West Randolph Street, 7-900
Chicago, IL 60601
(312) 814-1016 phone
(312) 814-4344 facsimile
rick.walton@illinois.gov

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SULTAN & GULBANO GILANI)	
)	
Petitioner)	
v.)	15-TT-195
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant)	

ANSWER

Petitioners, Sultan and Gulbano Gilani (“Petitioners”), by and through their attorneys, The Law Office of James E. Dickett, Ltd., complains 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.

ANSWER: The information contained in Paragraph 1 is required by Illinois Independent Tax Tribunal Regulation (“Rule”) 310(a)(1)(A) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the above, 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 Rule 310(a)(1)(B) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Notwithstanding the above, Department admits the factual allegations contained in Paragraph 2.

3. Petitioner's Taxpayer (Account) ID is XXX-XX-XXXX (redacted).

ANSWER: The information contained in Paragraph 3 is required by Rule 310(a)(1)(C) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

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.

ANSWER: The Department admits that the Department is an agency of the State of Illinois. However, the term "Illinois tax laws" is vague, and therefore the Department denies all other allegations contained in Paragraph 4 and demands strict proof thereof.

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.

ANSWER: The Department admits that it issued the Notices of Deficiency ("Notices") attached to the Petition filed in the instant matter. The Notices speak for themselves. Further, copies of the Notices are required to be attached to the Petition

pursuant to Rule 310(a)(1)(D) and are not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b)(2).

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: The Department admits Paragraph 6.

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

ANSWER: The Department admits that this Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act. However, whether the Petition was timely filed is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department admits the existence, force and effect at all relevant times of the statute set forth or referred to in Paragraph 7 and states that such statute speaks for itself.

BACKGROUND

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

ANSWER: The Department admits that Petitioners were the owners of MGSG, d/b/a L&D Mart, located in Northbrook, Illinois, and Synergy Oil, located in Crestwood, Illinois, which were petroleum retailers, during the tax years ending December 31, 2010 and December 31, 2011.

9. Defendant audited Petitioner's books and records for sales tax for the period 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.

ANSWER: The Department admits that it audited the books and records of MGSG, Inc., d/b/a L&D Mart, and Synergy Oil for sales tax for the tax years 2010 and 2011. Further, the Department admit that is used part of the results from the sales tax audits of MGSG, d/b/a L&D Mark, and Synergy Oil to compute the individual income tax liability at issue in the instant matter. The Department denies all other allegations contained in Paragraph 9 and demands strict proof thereof.

COUNT I

10. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 9, inclusive, hereinabove.

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 9 as if fully set forth herein.

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.

ANSWER: The Department denies the allegations contained in Paragraph 11 and demands strict proof thereof.

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

ANSWER: The Department denies the allegations contained in Paragraph 12 and demands strict proof thereof.

WHEREFORE, Department prays that the Tribunal enter an order:

- a. denying each prayer for relief in Count I of the Petitioner's Petition;
- b. finding that the method Petitioners used to determine their business income liability was not reasonable;
- c. finding that the Department allowed the correct amount for cost of goods sold in computing the income tax liability at issue in the instant matter;
- d. entering judgment in favor of the Department and upholding the Notices;
- e. authorizing the Department to take any action to assess, lien, levy, offset or any other way to prosecute and collect the amount shown due in the Notices; and
- f. granting such further relief as this Tribunal deems appropriate under the circumstances.

COUNT II

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

ANSWER: The Department incorporates and repeats its answers to Paragraphs 1 through 12 as if fully set forth herein.

14. In its Notices, the Department assessed late penalties.

ANSWER: Admit.

15. Illinois law provides that late penalties do not apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

ANSWER: Paragraph 15 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department denies any factual allegations in Paragraph 15 and demands strict proof thereof.

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).

ANSWER: Paragraph 16 contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). The Department denies any factual allegations contained in Paragraph 16 and demands strict proof thereof.

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

ANSWER: Paragraph 17 contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). The Department denies any factual allegations contained in Paragraph 17 and demands strict proof thereof.

WHEREFORE, Department prays that the Tribunal enter an order:

- a. affirming that the Petitioners have not established reasonable cause to justify abatement of the penalties imposed in this matter;
- b. finding that the Notices are correct as issued, and therefore upholding each Notice;
- c. ordering judgment in favor of the Department and against the Petitioners;
- d. authorizing the Department to take any action to assess, lien, levy, offset or any other way to prosecute and collect the amount shown due in the Notices; and
- e. granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: _____
Rickey A. Walton
Special Assistant Attorney General

Rickey A. Walton
Special Assistant Attorney General
Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7-900
Chicago, IL 60601

Telephone: (312) 814-1016
Facsimile: (312) 814-4344
Email: rick.walton@Illinois.gov

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SULTAN & GULBANO GILANI)	
)	
Petitioner)	
v.)	15-TT-195
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant)	

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

TO: James E. Dickett
The Law Office of James E. Dickett, Ltd.
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 telephone
708-784-3201 facsimile
Email: jdickett@aol.com

Please take notice that the undersigned Representative for the Illinois Department of Revenue (the "Department") certifies that, on October 1, 2015, he served the Department's Answer to Sultan and Bulbano Gilani's Petition by electronic mail at the electronic mail address shown above at the time shown on the electronic transmission confirmation.

Rickey A. Walton
Special Assistant Attorney General

Rickey A. Walton
Illinois Dept. of Revenue
100 West Randolph Street, 7-900
Chicago, IL 60601
(312) 814-1016 phone
(312) 814-4344 facsimile
rick.walton@illinois.gov