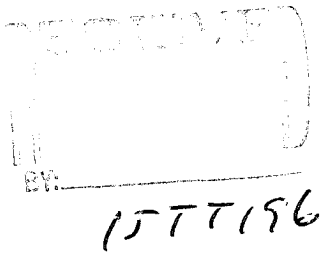
IN THE ILLINOIS INDENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

BLUE ISLAND ASHLAND CITGO INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	No.
	)	
ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Defendant.	)	



PETITION

Petitioner, Blue Island Ashland Citgo Inc. ("Petitioner"), by and through its 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. Petitioner is an Illinois corporation located at 12932 Ashland Avenue, Blue Island, Illinois, 60406, and can be reached at 708-228-4478.

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.

3. Petitioner's Taxpayer ID number is 26-3573970.

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 or about August 19, 2015, Petitioner received two (2) Notice of Deficiency letters for Form IL-1120, Corporation Income and Replacement Tax Return ("Notices") for the tax years 2011 and 2012. 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. Petitioner is a petroleum retailer located in the near south suburbs.

9. Defendant audited Petitioner's books and records for sales tax for the periods 2011 to 2012, and, based on that audit, the Department projected the business income tax assessments at issue herein without providing the proper allowance for cost of goods sold. Moreover, the sales tax audit is not yet final because the case is still pending under this Tribunal's Docket number14 TT 109.

COUNT I

Defendant's audit methodology overstates Petitioner's liability.

10. Petitioner realleges and incorporates 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 an unfinalized sales tax audit and 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 Petitioner's corporate income tax liability.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

(a) enters judgment in favor or Petitioner 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. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

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

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.

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. Petitioner 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.

WHEREFORE, Petitioner prays 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,

Blue Island Ashland Citgo Inc.,
Petitioner

By: _____
One of Petitioner's Attorneys

Date: 9/18/15

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-1120, Corporation Income and Replacement Tax Return

Exhibit 1

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

August 19, 2015

#BWNKMGV
#CNXX XX68 4766 48X1#
BLUE ISLAND ASHLAND CITGO INC
12932 ASHLAND AVE
BLUE ISLAND IL 60406-2701

Letter ID: CNXXXX68476648X1

Taxpayer ID:	26-3573970
Audit ID:	A326575104
Reporting period:	December 2011
Total Deficiency:	$23,950.94
Balance due:	$23,950.94

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) 558-4960

IDR-393 (R-05/14)

Explanation of Audit Adjustments

Income Tax

August 19, 2015

#BWNKMGV
#CNXX X151 X699 X246#
BLUE ISLAND ASHLAND CITGO INC
12932 ASHLAND AVE
BLUE ISLAND IL 60406-2701

Letter ID: CNXXX151X699X246

Taxpayer ID:	26-3573970
Account ID:	02128-53504
Audit ID:	A326575104
Reporting period:	December 2011

Explanation of adjustments for tax period ending 12/31/2011	Income change	Tax impact
We adjusted your Illinois net income or loss to correctly include income you failed to report, based on a review of your Illinois Sales Tax returns. [35 ILCS 5/203(b)(1), (c)(1), (d)(1)]	$224,258.00	$18,816.00

Interest on tax has been computed as allowed by Illinois law.
[35ILCS 735/3-2]

We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, Waiver of Restrictions, will result in this penalty increasing to 20 percent.
[35 ILCS 735/3-3(b-20)(2)]

Notice of Deficiency

for Form IL-1120, Corporation Income and Replacement Tax Return

August 19, 2015

Letter ID: CNXXXX15649128X6

#BWNKMGV
#CNXX XX15 6491 28X6#
BLUE ISLAND ASHLAND CITGO INC
12932 ASHLAND AVE
BLUE ISLAND IL 60406-2701

Taxpayer ID:	26-3573970
Audit ID:	A326575104
Reporting period:	December 2012
Total Deficiency:	$1,305.19
Balance due:	$1,305.19

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) 558-4960

Explanation of Audit Adjustments

Income Tax

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

August 19, 2015

#BWNKMGV
#CNXX X117 5154 7X49#
BLUE ISLAND ASHLAND CITGO INC
12932 ASHLAND AVE
BLUE ISLAND IL 60406-2701

Letter ID: CNXXX11751547X49

Taxpayer ID:	26-3573970
Account ID:	02128-53504
Audit ID:	A326575104
Reporting period:	December 2012

Explanation of adjustments for tax period ending 12/31/2012	Income change	Tax impact
We adjusted your Illinois net income or loss to correctly include income you failed to report, based on a review of your Illinois Sales Tax returns. [35 ILCS 5/203(b)(1), (c)(1), (d)(1)]	$45,964.00	$1,045.00

Interest on tax has been computed as allowed by Illinois law.
[35ILCS 735/3-2]

We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, Waiver of Restrictions, will result in this penalty increasing to 20 percent.
[35 ILCS 735/3-3(b-20)(2)]