

IN THE ILLINOIS
INDEPENDENT TAX TRIBUNAL

PEACOCK COLORS, INC., Petitioners,)	
)	
v.)	No. 15-TT-198
)	
THE ILLINOIS DEPARTMENT OF REVENUE,)	
Respondent.)	
)	

CERTIFICATE OF SERVICE

Rebecca L. Kulekowskis certifies that she is a Special Assistant Attorney General of the State of Illinois duly appointed by Lisa Madigan, Attorney General of the State of Illinois; that she is authorized to make this certificate; that on **October 28, 2015**, before the hour of 5:00 p.m. (C.S.T) she served a true and exact copy of the foregoing instruments entitled **RESPONDENT'S ANSWER TO PETITION** on the above Taxpayer/Petitioner by sending same as an attachment to an electronic mail message addressed to the following individuals at their designated email addresses:

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PEACOCK COLORS, INC.,)
Petitioners,)
v.) No. 15-TT-198
THE ILLINOIS DEPARTMENT OF)
REVENUE,)
Respondent.)

RESPONDENT'S ANSWER TO PETITION

NOW COMES the Department of Revenue of the State of Illinois ("Department"), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its Answer to Taxpayer's Petition respectfully pleads as follows:

INTRODUCTION

1. The Notice was issued by the Department on July 21, 2015, proposing adjustments in the amount of \$22,945.00 to income tax, \$2,294.50 in penalties, and \$182.93 in interest for tax year ending January 31, 2015. A copy of the Notice is attached to this Petition as Exhibit A.

ANSWER: Department admits the factual allegations in Paragraph 1.

2. Petitioner is a corporation with its principal place of business in Addison, Illinois.

ANSWER: Department admits the factual allegations in Paragraph 2.

3. It is located at 1000 W. National Avenue, Addison, Illinois, and its contact number is through its accountants 847-966-5255. Petitioner's Account Identification Number 36-2479521.

ANSWER: Department admits the factual allegations in Paragraph 3.

BACKGROUND

4. Petitioner is a manufacturer of coloring for plastics.

ANSWER: Department admits the factual allegations in Paragraph 4.

5. Petitioner's tax year runs from January 31st to January 31st.

ANSWER: Department admits the factual allegations in Paragraph 5, although the Department states the Petitioner's tax year is actually February 1st through January 31st.

6. Petitioner filed its Form IL-1120 for its tax year ending January 31, 2015, in a timely manner.

ANSWER: Department admits the factual allegations in Paragraph 6.

7. The Department has challenged the net loss deduction ("NLD") on the return for tax year ending January 31, 2005.

ANSWER: Department admits the factual allegations in Paragraph 7.

8. Petitioner believes that a clerical or administrative error may have occurred in electronically preparing this return in connection with the listing of the NLD for tax year ending January 31, 2005.

ANSWER: Department denies the factual allegations in Paragraph 8.

9. The NLDs reported for tax years ending January 31, 2009, and January 31, 2010, are accurate as stated on the return.

ANSWER: Department denies the factual allegations in Paragraph 9.

10. All other information is accurate as stated on the return.

ANSWER: Department denies the factual allegations in Paragraph 10.

11. Petitioner believes that the resultant tax would be the same in any case, notwithstanding any issue with the 2005 reported loss.

ANSWER: Paragraph 11 contains a legal conclusion, not a material allegation of fact. Therefore, no answer is required pursuant to Tribunal Rule 310(b)(2). Department denies the factual allegations in Paragraph 11.

APPLICABLE LAW

12. Pursuant to 35 ILCS 5/207, if a taxpayer's net income results in a loss, such loss shall be allowed as a carryover or carryback deduction.

ANSWER: Department admits the existence force and effect of the statute cited in Paragraph 12. That statute speaks for itself.

13. Late payment penalties may be abated, or not asserted, based on reasonable cause. *Kroger Co. v. Department of Revenue, 284 Ill.App.3d at 484, 220 Ill. Dec. 566, 673 N.E.2d 710 (Ill. App. 1 Dist., 1996)*. The existence of reasonable cause justifying abatement of a penalty is a factual determination made on a case-by-case basis. *Id.*

ANSWER: Department admits the existence force and effect of the case law cited in Paragraph 13. That case law speaks for itself.

14. The Department erred in its proposed adjustments to tax, denying and/or adjusting Petitioner's NLDs.

ANSWER: Department denies the factual allegations in Paragraph 14.

15. The Department erred in proposing a late payment penalty against the Petitioner for late payment of tax.

ANSWER: Department denies the factual allegations in pparagraph 15.

CONCLUSION AND RELIEF REQUESTED

16. Petitioner believes that its tax liability on Form IL-1120 for tax year ending January 31, 2015, was accurate as originally filed.

ANSWER: Department denies the factual allegations in Paragraph 16.

17. Petitioner requests that no adjustments be made on its account for the period at issue, including adjustments to tax, and the addition of any penalty or interest.

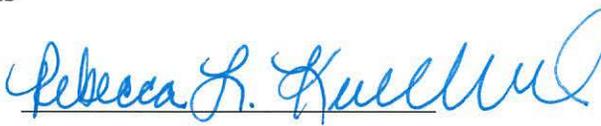
ANSWER: Department denies the factual allegations in Paragraph 17.

WHEREFORE, Respondent prays that the Tax Tribunal enter an order holding that the Department acted reasonably and deny any relief requested by the Petitioner. .

Respectfully submitted,

Illinois Department of Revenue

By: LISA MADIGAN, Attorney General, State of Illinois

By: 

Rebecca L. Kulekowskis

Special Assistant Attorney General

Date: October 28, 2015

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