

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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**M. ROGERS DESING, INC. D/B/A** )  
**DIMENSION DESIGN,** )  
**Petitioner,** )

v. )

**Case No. 15-TT-224**

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)  
**DEPARTMENT OF REVENUE** )  
**OF THE STATE OF ILLINOIS,** )  
**Respondent.** )

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**ANSWER**

The Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, answers the Taxpayer's Petition as follows:

**INTRODUCTION**

1. Petitioner is a company that provides design, engineering and graphics services to create branding environments for its clients. Petitioner designs, develops and manufactures custom displays, specialty booths and identifiable fixtures for trade shows and sponsorship events. These products include, among other things, its customers' name, logo, precise colors and other branding characteristics. More information can be found on its website.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 1 and therefore demands strict proof thereof.

2. The process for creating these custom items includes: creating the graphics, printing the graphics on to fabric, cutting and sewing the fabric, building aluminum frames and attaching the printed fabric onto a metal structure.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 2 and therefore demands strict proof thereof.

3. As explained in detail below, Petitioner was audited by the Illinois Department of Revenue and disputes multiple findings contained in the Notice of Tax Liability (the “Assessment”) that was issued upon conclusion of its audit (the “Audit”).

**ANSWER:** The Department admits Petitioner was audited by the Department. The remainder of the allegations in Paragraph 3 contain no material allegation of fact, and therefore do not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 3 requires any further answer, the Department denies the allegations.

#### **BACKGROUND**

4. Petitioner is an Illinois corporation, whose address is 3400 W. Lake Street, Glenview, Illinois 60028. Petitioner’s Illinois taxpayer ID number is 3361-4423. Petitioner’s telephone number is (847) 564-5033.

**ANSWER:** The information contained in Paragraph 4 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(A) and (C)(86 Ill. Admin. Code §5000.310) and is not a material allegation of fact requiring an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent any further answer is required, the Department admits the factual allegations contained in Paragraph 4.

5. On September 15, 2015, the Department issued a statutory Notice of Tax Liability, Form EDA-1045-R, Notice of Tax Liability (the “Assessment”), to Dimension Design in the amount of \$47,016.07 for the reporting period of July 1, 2010 through September 30, 2013. A copy of the Assessment is attached as Exhibit A.

**ANSWER:** The information contained in Paragraph 5 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(D)(86 Ill. Admin. Code §5000.310) and is not a material allegation of fact requiring an answer under Section 310(b)(2) of the Tax Tribunal

Regulations. The Department denies the Notice of Tax Liability can be identified as EDA-1045-R. An EDA-105-R (not EDA-1045-R) is separate and distinct from a Notice of Tax Liability. The Department admits the factual allegations contained in Paragraph 5.

6. The Assessment was comprised of \$38,247.00 in Tax; \$5,356.00 in Late Payment Penalty; \$124.00 in Late Filing Penalty; and \$3,289.07 in Interest.

**ANSWER:** The Department states the Notice of Tax Liability speaks for itself. The Department further states Paragraph 6 of Petitioner's Petition does not take into account the \$14,422 payment representing the use of the Manufacturer's Purchase Credits.

7. In support of the Assessment, the Department provided Dimension Design with a Global Taxable Exceptions Detailed Report (the "Exceptions Report"), a copy of which is attached as Exhibit B.

**ANSWER:** The Department admits the factual allegations in Paragraph 7.

8. Petitioner disputes the Assessment based on items erroneously included on the Exceptions Report as taxable items.

**ANSWER:** The Department denies the factual allegations in Paragraph 8.

### **ERROR 1**

9. The Exceptions Report ROT 10-200 sets forth amounts identified as "Sales Deduction Disallowed." This is a reference to resale certificates that the Department disallowed. Petitioner relied in good faith on the resale certificates it received from its customers. Petitioner will provide such supporting information to the Department. Consequently, the Assessment should be reduced accordingly.

**ANSWER:** Paragraph 9 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal

Regulations. Further, the last two sentences of Paragraph 9 contain no material allegation of fact, and therefore do not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the Assessment should be reduced and any remaining factual allegations in Paragraph 9.

**ERROR 2**

10. The Exceptions report ROT 30-100 sets forth a total of \$50,000.00 for amounts identified as “CustomMadeSewingTable” which is a reference to equipment used in Petitioner’s manufacturing, assembling and graphic arts production process. These custom made sewing tables are used by Petitioner as part of its *assembly line* and manufacturing process to precisely sew and assemble the printed fabric that will then be attached to the aluminum frames. These tables hold the fabric as it is being sewed, and as it is moved from one sewing machine to another with a particular “sewing cell.”

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 10 and therefore demands strict proof thereof.

11. This Equipment is absolutely necessary and essential to the manufacturing and assembling of Petitioner’s products. *See e.g.*, ILCS §120/2-5; 86 Ill. Adm. Code §§130.325 and 130.330. Thus, this amount should not be included as taxable in the Exceptions Report and the total amount of the Assessment should be reduced accordingly.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 11 and therefore demands strict proof thereof. Further, Paragraph 11 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the Assessment should be reduced and any remaining factual allegations in Paragraph

11.

**ERROR 3**

12. The Exceptions Report sets forth a total of \$196,111.73 for amounts identified as “Consumable Supplies” which is a reference to sublimation paper, blotting paper and plastic film used in Petitioner’s graphic arts production process.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 12 and therefore demands strict proof thereof.

13. Sublimation Paper. As part of the printing process, a customer’s graphics are printed on chemically-coated paper called sublimation paper, using multicolor laser jet print heads attached to an industrial-scale printer. The chemical coating on the sublimation paper serves as a catalyst in that it is designed to release the ink onto the fabric when exposed to high heat in the heat presses. The printed rolls of sublimation paper are removed from the printers and mounted on a heat press machine. The paper is pressed against the fabric and the heat of the press initiates a catalytic chemical reaction on the sublimation paper which causes the ink’s release from the sublimation paper onto the fabric. This is akin to a printing press for fabric. Thus, the sublimation paper should qualify as exempt “equipment” under Ill. Adm. Code 130.325(b)(2), which includes chemicals acting as a catalyst to effect a direct and immediate change upon a graphic arts product. The chemicals in the sublimation paper are critical and necessary to release the ink from the paper onto the fabric.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 13 and therefore demands strict proof thereof. Further, Paragraph 13 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent

Paragraph 13 requires any further answer, the Department denies the factual allegations.

14. Blotting Paper. An integral part of the heat press equipment is the blotting paper. This paper is used to protect the rollers of the heat press machine from being damaged in the graphic arts production process and thus a necessary component of making the final product. The blotting paper is initially purchased with the heat press equipment and is replaced periodically as it is used along with, and in conjunction with, the sublimation paper. Accordingly, the blotting paper is an essential sub-unit comprising a component to the heat press machines and graphic arts production process and thus should be exempt from taxation under Ill. Admin. Code 130.325(b)(2).

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 14 and therefore demands strict proof thereof. Further, Paragraph 14 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 14 requires any further answer, the Department denies the factual allegations.

15. Plastic Film. Once the printed images are transferred onto the fabric, the printed fabric rolls are then transferred to a cutting table, which is approximately 70 feet long by 20 feet wide. Its purpose is to cut the fabric to specifications developed by the fabric engineering team so that it will precisely fit the shape of the aluminum frame. The printed fabric is unrolled onto the cutting table, and then the fabric is covered with a thin plastic film that enables a clean and accurate cut of the fabric. The plastic film holds the fabric firmly in place during the cutting process, which is essential to properly cut the fabric. The film is held in place by a vacuum system built into the cutting table. The fabric is cut to the specifications developed by the Fabric Engineering Team so that it will fit the shape of the aluminum frame. The

cutting process should be a graphic arts production tax-exempt activity “involving the binding, collating or finishing of the graphic arts product” under Ill. Adm. Code 130.325(b)(4)(C), and the plastic film, which holds the fabric in place for cutting, is exempt because it is essential equipment contributing to graphic arts production. Ill. Adm. Code 130.325(b)(2).

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 15 and therefore demands strict proof thereof. Further, Paragraph 15 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 15 requires any further answer, the Department denies the factual allegations.

#### **ERROR 4**

16. The Exceptions Report ROT 30-100 “Production Related Fixed Asset Purchase” includes \$2,048.00 for the purchase of an X-Rite Spectro Photometer. This is a hand-held computer that analyzes the precise colors and is necessary and essential for the production of Petitioner’s graphic arts products. As such, it qualifies as an independent device or tool that is necessary and essential to an integrated manufacturing and graphic arts production. Petitioner will provide additional information to the Department. Thus the Assessment should be revised accordingly.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 16 and therefore demands strict proof thereof. Further, Paragraph 16 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the Assessment should be revised. The Department further denies the Exceptions

Report lists the X-Rite Spectro Photometer as \$2,048.00. The Exceptions Report lists the X-Rite Spectro Photometer as \$999.00. To the extent Paragraph 16 requires any further answer, the Department denies the factual allegations.

**ERROR 5**

17. Petitioner, in consultation with, and in reliance upon, its then accounting firm, exercised ordinary business care and prudence in making a good faith effort to determine its proper tax liability and to timely pay such amounts. Consequently, Petitioner respectfully requests complete abatement of penalty for reasonable cause in the event any tax is due in accordance with 35 Ill. Comp. Stat. 735/3-8.

**ANSWER:** Paragraph 17 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 17 requires any further answer the Department denies the factual allegations.

**WHEREFORE,** the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notice correctly reflects the Petitioner's liability including interest and penalties;
- c. Enter judgment in favor of the Department and against the Petitioner; and
- d. Grant any further relief this Tribunal deems just and appropriate.

[SPACE INTENTINALLY LEFT BLANK]

Dated: December 4, 2015

Respectfully submitted,  
Illinois Department of Revenue

By: /s/ Ashley Hayes Forte  
Ashley Hayes Forte  
Special Assistant Attorney General

Ashley Hayes Forte  
Illinois Department of Revenue  
100 West Randolph Street, 7-900  
Chicago, IL 60601  
(312) 814-3514 phone  
(312) 814-4344 facsimile  
[ashley.forte@illinois.gov](mailto:ashley.forte@illinois.gov)

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**AFFIDAVIT OF ALEXANDER J. GRINYA  
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

1. I am currently employed by the Illinois Department of Revenue in the Audit Bureau.
2. My current title is Revenue Auditor II.
3. I lack the personal knowledge required to either admit or deny the allegations alleged and neither admitted or denied in Petitioner's Petition Paragraphs 1-2 and 10-16.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he (she) verily believes the same to be true.



Alexander J. Grinya  
Revenue Auditor II  
Illinois Department of Revenue

DATED: 12/04/2015