

ILLINOIS INDEPENDENT TAX TRIBUNAL

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ULTIMATE CIGAR	)	
INC	)	
Petitioner(s),	)	
	)	
V.	)	
	)	
ILLINOIS DEPARTMENT OF	)	
REVENUE.	)	
	)	
Respondent,	)	

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**RECEIVED**  
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**PETITION**

Petitioner(s), ULTIMATE CIGAR INC, by and through its attorneys Akram Zanayed and Associates, who are duly authorized to represent Petitioner in this regard pursuant to the Power of Attorney attached hereto as Exhibit "A", complains of Respondent, Illinois Department of Revenue, as follows:

**PARTIES**

1. Petitioner(s), ULTIMATE CIGAR INC ("Petitioner(s)"), is an Illinois Corporation.
2. Petitioner's place of location is at 137 E. NORTH AVE., VILLA PARK, IL 60181
3. Petitioner's telephone number is (630)880-2990
4. Petitioner's federal identification number is 26-0483891
5. Respondent, Illinois Department of Revenue (the "Department"), is an agency of the State of Illinois responsible for administering and enforcing the revenue laws of the state of Illinois.

## **JURISDICTION**

6. Petitioner(s) brings action pursuant to the Illinois Independent Tax Tribunal Act ( "Tribunal Act"), 35 ILCS 10101-1 to 35 ILCS 10101-100.

7. ON or about July 22, 2015, the Department issued a Notice of Tax Liability to Petitioner(s) asserting additional tax due in the amount of \$284,786.52 for the period of July 1, 2010 through December 31, 2013. ( A copy of the notice is attached hereto and incorporated herein as Exhibit "B").

8. This tribunal has jurisdiction pursuant to Sections 1-45 and 1-50 of the Tribunal Act over the Department's determinations as reflected on the July 22, 2015 notice, where the amount at issue exceeds \$15,000.00, exclusive of penalties and interest and because Petitioner(s) timely filed this petition within 60 days of the July 22, 2015 notice. See 35 ILCS 1010/1-45 and 35 ILCS 1010/1-50.

## **BACKGROUND**

9. Petitioner(s) operates a Hookah Lounge.

10. Petitioner(s) timely filed all tax returns and paid all amounts due on a regular and timely basis.

## **PROCEDURAL HISTORY**

11. At some point before July 22, 2015 the Department initiated a sales tax audit of the returns filed by the Petitioner(s) for the period of July 1, 2010 through December 31, 2013 ( the "Audit Period").

12. After completing the sales tax audit the department determined that the taxpayer underreported sales.

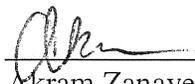
13. The taxpayer provided books and records regarding his purchases and provided information indicating that an entrance fee was charged to enter the premises.

14. The department issued an assessment in part based on the entrance fee as if it were subject to sales tax.

15. The department disregarded proof of the entrance fee and issued an assessment including assessment of a sales tax for the entrance fee.

WHEREFORE, Petitioner(s) ULTIMATE CIGAR INC, respectfully requests that the Tax Tribunal find and order that any tax, interest and penalties assessed by the Department be abated in full and for such other and further relief as the Tax Tribunal deems appropriate in this matter.

ULTIMATE CIGAR INC,  
Petitioner,

By:   
Akram Zanayed

Akram Zanayed  
Akram Zanayed & Associates  
8500 S. Harlem Avenue, Ste. G  
Bridgeview, IL 60455  
708-237-9000  
Zanayedlaw@gmail.com  
Attorney No. 14635

**Notice of Tax Liability**  
for Form EDA-105-R, ROT Audit Report



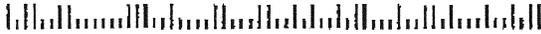
#BWNKMGV  
#CNXX X124 6181 3927#  
ULTIMATE CIGAR INC  
137 E NORTH AVE  
VILLA PARK IL 60181-1227

July 22, 2015



Letter ID: CNXXX12461813927

Account ID: 5562-4847



We have audited your account for the reporting periods July 01, 2010, through December 31, 2013. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	159,714.00	0.00	159,714.00
Late Payment Penalty Increase	31,943.00	0.00	31,943.00
Fraud Penalty	79,857.00	0.00	79,857.00
Interest	13,272.52	0.00	13,272.52
<b>Assessment Total</b>	<b>\$284,786.52</b>	<b>\$0.00</b>	<b>\$284,786.52</b>

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

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

- If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability 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 that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is September 21, 2015. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at tax.illinois.gov). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. 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. A protest of this notice does not preserve your rights under any other notice.
- Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, 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 to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS  
TECHNICAL REVIEW SECTION  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19012  
SPRINGFIELD IL 62794-9012

217 785-6579

**Notice of Audit Results**  
**for Sales, Use, and Excise Taxes and Fees**



#BWNKMGV  
#CNXX XX94 3116 2569#  
ULTIMATE CIGAR INC  
137 E NORTH AVE  
VILLA PARK IL 60181-1227

July 10, 2015



Letter ID: CNXXXX9431162569



Taxpayer ID: 26-0483891  
Account ID: 5562-4847  
Audit ID: A1676219392  
Return type: ST-1  
Audit periods: 07/2010 - 12/2013

Enclosed, please find Form EDA-105-R, ROT Audit Report, showing the additional amount of tax, penalty, and interest that is due as the result of your audit. Interest has been calculated through the "interest through date", July 10, 2015, and will continue to accrue until the additional tax shown due is paid in full.

Please note, **if you sign the audit report you waive the right to seek review by the Informal Conference Board.**

If you want to pay the audit liability or sign Form EDA-105-R, or do both, contact us using the information below for updated interest and penalty calculations.

The late payment penalty amount shown on this audit report has been computed through the "interest through date." If you do not sign Form EDA-105-R, **and** pay the additional tax shown due within 30 days of the "interest through date", your late payment penalty will increase to \$31943. Failure to sign Form EDA-105-R, will result in the issuance of a Notice of Tax Liability explaining your rights to protest the liability and request an administrative hearing.

If you sign Form EDA-105-R, but do not pay the additional tax shown due, the late payment penalty will increase to \$31943 and a Notice of Tax Assessment will be issued.

Mail your payment and the signed Form EDA-105-R, to:

AUDIT BUREAU SPI-A  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19475  
SPRINGFIELD IL 62794-9475

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

Sincerely,

Rudolf Bujak  
Revenue Auditor

ILLINOIS DEPARTMENT OF REVENUE  
9511 HARRISON STREET, DP-A  
DES PLAINES IL 60016-1523

847 636-7383  
847 636-7383 cell  
847 294-4246 fax

rudolf.bujak@illinois.gov



**Illinois Department of Revenue**  
**EDA-105-R ROT Audit Report**

Rev 01  
 Station 854

Account ID 5562-4847  
 Business name ULTIMATE CIGAR INC  
 Business address 137 E NORTH AVE  
VILLA PARK IL 60181-1227

Processing period 7/1/2010-12/31/2013  
 Interest through (issue) date 07/10/15  
 Earliest statute date 12/26/15  
 Audit Period 7/1/2010-12/31/2013

**Step 1: Taxes due per audit**

The line numbers in Step 1 of this report mirror those on Form ST-1.

**Sales made from locations inside Illinois**

Retailers'/service occupation tax  
 4b General merchandise 4b 159,572  
 5b Food and drug 5b \_\_\_\_\_

**Sales made from locations outside Illinois**

Retailers'/service occupation tax  
 6b General merchandise 6b \_\_\_\_\_  
 7b Food and drug 7b \_\_\_\_\_

**Sales at other rates**

Retailers'/service occupation tax  
 8b General merchandise 8b \_\_\_\_\_

**Total tax due on receipts**

11 Total tax due on receipts  
 (Add 4b through 8b.) 11 159,572

**Tax on purchases**

Use tax on purchases  
 12b General merchandise 12b 142  
 13b Food and drug 13b \_\_\_\_\_  
 15 Total tax due on purchases  
 (Add lines 12b and 13b) 15 142

16 Total tax or credit due on receipts and purchases  
 (Add Lines 11 and 15.) 16 159,714  
 22 Excess tax collected 22 \_\_\_\_\_  
 23 Total tax due 23 \_\_\_\_\_  
 Total of Lines 16 and 22 23 159,714

**Step 2: Penalty and interest due**

26 Penalty  
 a Penalty (prior to 12/93) 26a \_\_\_\_\_  
 b Late-filing penalty 26b \_\_\_\_\_  
 c Negligence penalty 26c \_\_\_\_\_  
 d Fraud penalty 26d 79,857  
 e Late-payment penalty (12/03 and after) 26e 31,943  
 27 Interest  
 a Interest on tax 27a 13,115  
 b Interest on late-filing penalty 27b \_\_\_\_\_  
 c Interest on negligence/fraud penalty 27c \_\_\_\_\_

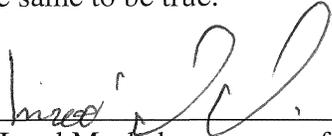
**Step 3: Amount due or overpaid**

28 Total due or overpaid  
 (Add Lines 23 through 27c.) 28 \$ 284,629

**NOT A PROCESSABLE FORM**  
**INFORMATIONAL ONLY**

**VERIFICATION**

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

  
\_\_\_\_\_  
Imad Mosbah as owner of Ultimate  
Cigars Inc.