

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

ULTIMATE CIGAR INC.,)	
Petitioner,)	
)	
v.)	Case No. 15-TT-230
)	
DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS,)	
Respondent.)	

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:

PARTIES

1. The Petitioner(s), ULTIMATE CIGAR INC (“Petitioner(s)”), is an Illinois Corporation.

ANSWER: The Department admits the allegations in Paragraph 1.

2. Petitioner’s place of location is at 137 E. NORTH AVE., VILLA PARK, IL 60181.

ANSWER: The information contained in Paragraph 2 is required by Illinois Tax Tribunal Regulation Section 310(a)(1)(A) (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 admits the allegations in Paragraph 2.

3. Petitioner’s telephone number is (630)880-2990.

ANSWER: The information contained in Paragraph 3 is required by Illinois Tax Tribunal Regulation Section 310(a)(1)(A) (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 admits the allegations in Paragraph 3.

4. Petitioner's federal identification number is 26-0483891.

ANSWER: The information contained in Paragraph 4 is required by Illinois Tax Tribunal Regulation Section 310(a)(1)(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. The Department admits the allegations in Paragraph 4.

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.

ANSWER: Paragraph 5 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.

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.

ANSWER: Paragraph 6 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.

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").

ANSWER: The Department denies the factual allegations in Paragraph 7. The Department's Notice of Tax Liability states \$159,714 in additional tax is due plus

penalties and interest.

8. This tribunal has jurisdiction pursuant to Sections 1-45 and 1-50 of the Tribunal Act over the Department's determination 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.

ANSWER: Paragraph 8 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.

BAGKGROUND

9. Petitioner(s) operates a Hookah Lounge.

ANSWER: The Department denies the implication Petitioner *solely* operates a hookah lounge because Petitioner has other tobacco retail sales components as part of its business. The Department admits a portion of Petitioner's business operates a hookah lounge.

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

ANSWER: The Department denies the allegations in Paragraph 10.

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").

ANSWER: The Department admits the allegations in Paragraph 11.

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

underreported sales.

ANSWER: The Department admits the allegations in Paragraph 12.

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

ANSWER: The Department admits that the taxpayer provided some books and records during the audit but denies the implication that a complete set of books and records was provided. The Department additionally denies the implication the taxpayer provided documentary evidence regarding the entrance fee.

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

ANSWER: The Department admits the allegations in Paragraph 14.

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

ANSWER: The Department denies the allegations in Paragraph 15.

WHEREFORE, the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notice(s) correctly reflect 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.

Dated: December 28, 2015

Respectfully submitted,
Illinois Department of Revenue,

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