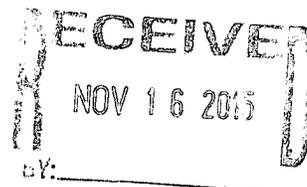


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

KISHWAUKEE AUTO CORRAL INC.,)
)
 Petitioner,)
)
 v.) No.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Defendant.)



1477204

PETITION

Kishwaukee Auto Corral 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 3336 Kishwaukee Street, Rockford, Illinois, 61109, and can be reached at 815-226-8966.
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 (Account) ID is 3618-2060.
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 October 26, 2015, Petitioner received a Notice of Tentative Claim Denial for Form ST-556 (“Notice”) from the Department for multiple refund claims filed by Petitioner. The Notice reflects \$61,312.89 in amount claimed for refund by Petitioner. The Notice is 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 used car retailer.

9. Petitioner filed multiple refund claims for sales tax on vehicles that were self-financed by Petitioner and then repossessed by Petitioner prior to the end of the financing term.

10. The Defendant denied all of Petitioner’s refund claims in this matter because the Petitioner did not show its vehicle repossessions at bad debt on its corporate income tax returns even though the Petitioner is a cash-basis taxpayer that does not recognize sales on an accrual basis and therefore cannot deduct the bad debts because those amounts were never included in sales and also despite the fact that the Petitioner paid all of the sales tax due up front out of its own pocket on all of the refund claims at issue in the Notice.

COUNT I

Defendant's claim denial is not supported by law.

11. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 10, inclusive, hereinabove.

12. On audit, the Defendant denied the Petitioner's refund claims in the attached Notice because the Petitioner did not take a bad debt deduction on its income tax returns.

13. By applying such audit methodology, the Defendant unreasonably denied the Petitioner's refund claims because the Petitioner is a cash-basis taxpayer that does not recognize sales on an accrual basis and therefore cannot deduct the bad debts since those amounts were never included in sales and also because the Petitioner self-financed all of the vehicles at issue in the Notice and paid the sales tax out of its own pocket up front at the time of sale.

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

- (a) enters judgment in favor of Petitioner and against the Defendant and grant the refund claims; and
- (b) grants such further relief as the Tribunal deems appropriate.

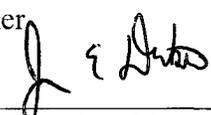
Thank you for considering this Petition.

Respectfully submitted,

Kishwaukee Auto Corral Inc.,

Petitioner

By:



One of Petitioner's Attorneys

Date:

11-13-15

James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
jdickett@aol.com

Notice of Tentative Denial of Claim
for Form ST-556, Sales Tax Transaction Return

Exhibit 1



#BWNKMGV
#CNXX XX86 426X 88X3#
KISHWAUKEE AUTO CORRAL INC
3336 KISHWAUKEE ST
ROCKFORD IL 61109-2022

October 26, 2015



Letter ID: CNXXXX86426X88X3

Account ID: 3618-2060



We have reviewed the claims described on the last page of this letter and have tentatively denied them because we have not established that this tax was paid in error or that issuing a credit memorandum would not result in unjust enrichment to you.

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

- If the amount of tax tentatively denied, exclusive of penalty and interest, is more than \$15,000, or if no tax is being denied but the total penalties and interest being denied 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. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this tentative denial of claim 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.

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.

If you have questions regarding this matter, write or call us weekdays between 8 a.m. and 4:30 p.m. Our address and telephone number are below

Alexandria Case
Revenue Tax Specialist I

SALES TAX PROCESSING DIVISION 2-242
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19013
SPRINGFIELD IL 62794-9013

217 782-7517
217 524-9001 fax

CLAIM DETAIL

<u>Batch Document Number</u>	<u>Transaction Number</u>	<u>Amount Claimed</u>
15-281-134-05-006	multiple claims	81,312.89

LTR-213 (R-1907)
IL-402-3022