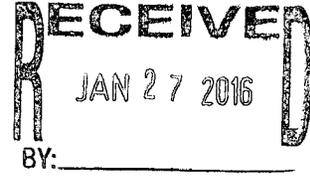


ILLINOIS INDEPENDENT
TAX TRIBUNAL



HALANICK ENTERPRISES, Inc.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT)
 OF REVENUE,)
)
 Respondent.)

16 TT 8

FIRST AMENDED PETITION

The Petitioner, Halanick Enterprises, Inc., hereby petitions the Illinois Independent Tax Tribunal to review and reverse and/or modify the Notices of Tax Liability (“Notices”) issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

INTRODUCTION

1. The “Notice” was issued by the Department on November 13, 2015 assessing in the amount of \$27,133.00 in tax, \$10,853.00 in penalties and \$11,070.48 in interest for taxable periods January 1, 2009 through June 30, 2009. A copy of the “Notice” is attached to this Petition.
2. The second “Notice” was issued by the Department on November 13, 2015 assessing in the amount of \$114,511.00 in tax, \$23,825.00 in penalties and \$15,409.64 in interest for taxable periods July 1, 2009 through December 31, 2012. A copy of the “Notice” is attached to this Petition.
3. Petitioner is a corporation with its principal place of business in Orland Park, Illinois.
4. It is located at 14428 John Humphrey Dr., and its telephone number is 708-403-3334. The Taxpayer Account number is 2957-9333.

BACKGROUND AND RELEVANT FACTS

5. Petitioner filed a return for taxable period January 1, 2009 to December 31, 2012 (“Tax

Period”) on a monthly basis.

6. During the audit for the Tax Period, Petitioner and its accountant were preparing documents for the auditor.
7. Because some documents and spreadsheets took longer to prepare, Petitioner signed a waiver of the statute of limitations until December 2015.
8. In August 2015, Petitioner provided the remaining documents for the audit, including the figures for the ending deposits from customers for each year.
9. Previously, Petitioner had submitted, and the auditor had applied, the ending deposits for the year 2009.
10. The audit continued on August 24 and 25, 2015.
11. However, although the Petitioner had supplied ending deposit figures for 2010, 2011, and 2012, the auditor did not apply them to her sales reconciliation worksheet.
12. The addition of the ending deposits would have significantly affected the outcome of the audit.
13. Upon information and belief, even though the Petitioner's waiver was until December 2015, the auditor was under pressure to close the audit.

APPLICABLE LAW

14. Because the Illinois Department of Revenue issued a Notice of Tax liability and because the amount of tax due is in excess of \$15,000, jurisdiction is conferred by the Illinois Independent Tax Tribunal Act of 2012, 35 ILCS 1010.
15. Because the tax at issue is retail sales tax, the Retailers' Occupation Tax Act, 35 ILCS 120, applies and falls within the jurisdiction of the Tribunal.

ERROR I

16. Because the ending deposits from customers are not income until the next year when the sale is finalized, the deposits should be deducted from that year and carried over to the next.

17. Petitioner supplied year end deposits for the Tax Period, but the auditor only applied the figures for 2009, which were carried over into 2010.
18. The auditor failed to apply the ending deposits for 2010, 2011, and 2012 because the deposits were not income for those years, but rather the years following.
19. As a result, the audit was inconsistent and subjected Petitioner to taxes, penalties, and interest on income outside the Tax Period.
20. Therefore, the ending deposits should be applied to the audit and a new notice of tax liability issued, if any liability is found to exist.

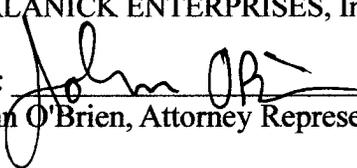
CONCLUSION AND RELIEF REQUESTED

WHEREAS, Petitioner requests that the "Notice" be modified or canceled for the reasons contained herein.

January 12, 2016

Walters O'Brien Law Offices
800 W. Huron Street, Suite 4E
Chicago, IL 60642
312-428-5890
ARDC # 6293484

HALANICK ENTERPRISES, Inc.

By: 
John O'Brien, Attorney Representing Petitioner

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWNKMGV
#CNXX XX44 4298 5124#
HALANICK ENTERPRISES INC
EVAS BRIDALS-ORLAND PARK
14428 JOHN HUMPHREY DR
ORLAND PARK IL 60462-2638

November 13, 2015



Letter ID: CNXXXX4442985124

Account ID: 2957-9333



We have audited your account for the reporting periods January 01, 2009, through June 30, 2009. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	27,133.00	0.00	27,133.00
Late Payment Penalty Increase	10,853.00	0.00	10,853.00
Interest	11,070.48	0.00	11,070.48
Assessment Total	\$49,056.48	\$0.00	\$49,056.48

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 January 12, 2016. 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 Tax Liability
for Form EDA-105-R, ROT Audit Report



#BWNKMGV
#CNXX X196 5X24 X163#
HALANICK ENTERPRISES INC
EVAS BRIDALS-ORLAND PARK
14428 JOHN HUMPHREY DR
ORLAND PARK IL 60462-2638

November 13, 2015



Letter ID: CNXXX1965X24X163

Account ID: 2957-9333



We have audited your account for the reporting periods July 01, 2009, through December 31, 2012. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	114,511.00	0.00	114,511.00
Late Payment Penalty Increase	22,903.00	0.00	22,903.00
Late Filing Penalty Increase	922.00	0.00	922.00
Interest	15,409.64	0.00	15,409.64
Assessment Total	\$153,745.64	\$0.00	\$153,745.64

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 January 12, 2016. 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