

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

ROMAN POOLS AND SPAS,)	
)	
Petitioner,)	
)	
v.)	Case No. 16-TT-16
)	
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:

INTRODUCTION

1. The “Notice” was issued by the Department on April 16, 2014 assessing in the amount of \$9,965.00 in tax, \$2,192.00 in penalties and \$726.20 in interest for the taxable periods July 01, 2009 through June 30, 2012. A copy of the “Notice” is attached to this Petition.

ANSWER: The Department states the Notice speaks for itself. The Department admits a copy of the April 16, 2014 Notice for periods July 2009 through June 2012 is attached to the Petition.

2. The “Notice” was issued by the Department on April 16, 2014 assessing in the amount of \$8,304.00 in tax, \$3,654.00 in penalties and \$3,341.67 in interest for the taxable periods January 01, 2007 through June 30, 2009. A copy of the “Notice” is attached to this Petition.

ANSWER: The Department states the Notice speaks for itself. The Department admits a copy of the April 16, 2014 Notice for periods January 2007 through June 2009 is attached to the Petition.

3. Petitioner is an individual with his principal place of business in Quincy, Illinois.

ANSWER: The Department admits Petitioner is an individual by merit of the Roman Pools & Spas' involuntary dissolution in October 2010.

4. It is located at 3110 Broadway, Quincy, IL 62301, and its telephone number is 217-222-2222. The Taxpayer Account number is 4077-9548.

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. The Department admits the factual allegations contained in Paragraph 4.

5. Roman Pools and Spas is a sole-proprietorship, owned by Robert R. Roman. This company constructs pools and spas of various shapes and sizes for homeowners in Quincy, Illinois and the surrounding area.

ANSWER: The Department admits the allegations in Paragraph 5.

BACKGROUND AND RELEVANT FACTS

6. Petitioner was audited by the Illinois Department of Revenue on December 7, 2012. The results of that audit were the assessment of sales/use tax due on the purchases of pool and spa construction supplies. The sales/use tax was assessed because invoices showing the sales tax paid for these purchases could not be located during the audit.

ANSWER: The Department denies the allegations in Paragraph 6.

APPLICABLE LAW

7. Title 86, Part 130, Section 130.2075

ANSWER: Paragraph 7 contains a legal conclusion (or legal citation), not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

ERROR

8. The invoices not located during the audit were later found and clearly show that sales tax paid at the time of purchase. In addition, the taxpayer has never registered with the Department as a retailer or reseller and therefore has never issued a certificate of resale to any suppliers. During the audit, the taxpayer was able to locate some invoices selected by the auditor and all invoices indicated sales tax was paid to the supplier. Additional invoices have also been located and are ready for review by the Department. All invoices indicate sales tax paid was on purchases.

ANSWER: The Department lacks sufficient information to admit or deny the allegations in Paragraph 8 and demands strict proof thereof.

CONCLUSION AND RELIEF REQUESTED

9. We respectfully request all sales/use tax assessments be removed, as sales/use tax on these purchases of tangible personal property have already been collected and remitted to the Department by the seller. We are also asking for abatement of the related interest and penalties.

ANSWER: The Department denies the allegations in Paragraph 9.

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

- a. denying the prayer for relief in the Petitioner's Petition in its entirety;
- b. finding that the Notices of Tax Liability at issue are correct as issued;
- c. ordering judgment in favor of the Department and against the Taxpayer; and
- d. granting such further relief as this Tribunal deems appropriate under the circumstances.

Dated: February 23, 2016

Respectfully submitted,
Illinois Department of Revenue

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