

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

NINTH CIRCLE, INC.)	
PETER J. CALTKISIC,)	
Petitioners,)	
)	
v.)	Case No. 16-TT-19
)	
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 December 3, 2015 assessing \$83,884.00 in tax, \$18,455.00 in penalties and \$6,971.73 in interest for the reporting periods July 1, 2009 through June 30, 2015. A copy of the notice is attached.

ANSWER: The Department states the Notice speaks for itself. The Department admits a copy of the Notice is attached to the Petition.

2. Petitioner Ninth Circle, Inc._ was a corporation formed on December 20, 2001 and involuntarily dissolved on May 9, 2008. A copy of the Corporation File Detail Report is attached.

ANSWER: The Department admits the allegations in Paragraph 2.

3. Petitioner Peter J. Caltkisic (improperly named Ninth Circle, Inc.) is an individual doing business as Asia Care with its principal place of business at 12658 Old Plank Drive, New

Lenox, Illinois 60451, its principal phone number is (815) 485-3077 and its tax identification number is 26-001118.

ANSWER: The information contained in Paragraph 3 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.

BACKGROUND AND RELEVANT FACTS

4. Petitioner Peter J. Calkisic (improperly name Ninth Circle, Inc.)_ was in the business of repairing automobiles during the entire period under examination.

ANSWER: The Department admits the business appeared to be operating as an auto repair facility at a site visit during the audit. Otherwise, the Department lacks sufficient information to admit or deny the allegations in Paragraph 4 and demands strict proof thereof.

5. The examination was never completed. The assessment was made based on the gross receipts listed on certain bank statements.

ANSWER: The Department denies the allegations in Paragraph 5.

6. It is not known whether or not the assessment excluded certain amounts transferred between accounts, i.e. non-taxable receipts.

ANSWER: Paragraph 6 is vague as to its subject and therefore denied.

7. The Department of Revenue did not examine invoices to determine the amount of receipts from the sale of personal property transferred in connection with the sale of service.

ANSWER: The Department admits sales invoices were not examined because the taxpayer failed to provide such documents.

8. The Petitioner paid sales tax to his suppliers based on the purchase price of the personal property transferred to customers. The Department of Revenue did not examine invoices from suppliers to determine the amount of sales tax paid to suppliers.

ANSWER: The Department lacks sufficient information to admit or deny the allegations in Paragraph 8 and demands strict proof thereof. The Department admits limited purchase records were provided but denies these records were not reviewed.

ERROR I

9. Petitioner Ninth Circle, Inc. should not be a party in this case.

ANSWER: The Department denies the allegations in Paragraph 9.

ERROR II

10. The Department of Revenue did not conclude its audit.

ANSWER: The Department denies the allegations in Paragraph 10.

CONCLUSION AND RELIEF REQUESTED

11. Petitioner Ninth Circle, Inc. should be dismissed.

ANSWER: The Department denies the allegations in Paragraph 11.

12. The Department of Revenue should conclude its audit based on a review of all invoices.

ANSWER: The Department denies the allegations in Paragraph 12.

13. The Department of Revenue should reduce the liability by the amount of sales tax paid to suppliers.

ANSWER: The Department denies the allegations in Paragraph 13.

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 Notice of Tax Liability at issue is 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: March 11, 2016

Respectfully submitted,
Illinois Department of Revenue

By: /s/ Ashley Hayes Forte
Ashley Hayes Forte
Special Assistant Attorney General

Ashley Hayes Forte
Illinois Department of Revenue
100 West Randolph Street, 7-900
Chicago, IL 60601
(312) 814-3514 phone
(312) 814-4344 facsimile
ashley.forte@illinois.gov

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**AFFIDAVIT OF PATRICIA WAGNER
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

1. I am currently employed by the Illinois Department of Revenue in the Audit Bureau.
2. My current title is Revenue Auditor.
3. I lack the personal knowledge required to either admit or deny the allegations alleged and neither admitted or denied in Petitioner's Petition Paragraph 4 and Paragraph 8.

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


Patricia Wagner
Revenue Auditor
Illinois Department of Revenue

DATED: 3-11-16