ILLINOIS INDEPENDENT

TAX TRIBUNAL

RECEIVED
FEB 03 2016
BY: 16TT19

NINTH CIRCLE, INC.	)
	)
PETER J. CALTKISIC	)
(improperly named Ninth Circle, Inc.)	)
Petitioners,	)
	)
v.	)
	)
ILLINOIS DEPARTMENT OF REVENUE	)
Respondent.	

PETITION

The Petitioners, Ninth Circle, Inc. and Peter J. Caltkisic (improperly named Ninth Circle, Inc.) hereby petition the Illinois Independent Tax Tribunal to review and modify the Notice of Tax Liability("Notice") issued by the Illinois Department of Revenue ("Department") for the reasons stated below:

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.

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.

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.

BACKGROUND AND RELEVANT FACTS

4. Petitioner Peter J. Caltkisic (improperly named Ninth Circle, Inc.)_was in the business of repairing automobiles during the entire period under examination.

5. The examination was never completed. The assessment was made based on the gross receipts listed on certain bank statements.
6. It is not known whether or not the assessment excluded certain amounts transferred between accounts, i.e. non-taxable receipts.
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.
8. The Petitioner paid sale 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.

ERROR I

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

ERROR II

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

CONCLUSION AND RELIEF REQUESTED

11. Petitioner Ninth Circle, Inc. should be dismissed.
12. The Department of Revenue should conclude its audit based on a review of all invoices.
13. The Department of Revenue should reduce the liability by the amount of sales tax paid to suppliers.

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

Steven S. Gilson
Gilson Labus & Silverman, LLC
223 W. Jackson Blvd., Suite 750
Chicago, Illinois 60606

312-386-9600

sgilson@glscpa.com

ARDC 0961299

Ninth Circle, Inc.

Peter J. Caltkisic
(improperly named Ninth Circle, Inc.)

By: _____
Attorney

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report

#BWNKMGV
#CNXX X121 856X 7847#
NINTH CIRCLE INC
ATTN: POA-WILLIAM PITTMAN, PITTMAN &
PITTMAN LLC
PO BOX 2552
HARVEY IL 60426-8552

December 3, 2015

Letter ID: CNXXX121856X7847

Account ID: 3283-2060

We have audited your account for the reporting periods July 01, 2009, through June 30, 2015. As a result we have assessed the amounts shown below.

	Liability	Payments/Credit	Unpaid Balance
Tax	83,884.00	0.00	83,884.00
Late Payment Penalty Increase	16,777.00	0.00	16,777.00
Late Filing Penalty Increase	1,678.00	0.00	1,678.00
Interest	6,971.73	0.00	6,971.73
Assessment Total	$109,310.73	$0.00	**$109,310.73**

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 **February 01, 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

Taxpayer Statement

December 3, 2015

Letter ID: CNXXXX69173X9120

#BWNKMGV
#CNXX XX69 173X 9120#
NINTH CIRCLE INC
ATTN: POA-WILLIAM PITTMAN, PITTMAN &
PITTMAN LLC
PO BOX 2552
HARVEY IL 60426-8552

Account ID: 3283-2060
Total amount due: $109,310.73

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge **Account ID: 3283-206(**

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2015	83,884.00	18,455.00	6,971.73	-	-	109,310.73

* $109,310.73 of this amount is subject to protest.

SOA

Retain this portion for your records.

P-000093 Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)

Letter ID: CNXXXX69173X9120
NINTH CIRCLE INC

Total amount due: $109,310.73

Write the amount you are paying below.

$_____.____

Write your Account ID on your check.

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19006
SPRINGFIELD IL 62794-9006

$109,310.73 is subject to protest.
Do not pay any Income Tax liability that you intend to protest.

000 006 012968649123 731 123199 7 0000010931073

Penalties and Fees

For detailed information on penalties and rates in effect for specific periods on or after January 1, 1994, see Publication 103.

1 **Late-filing or Nonfiling penalty** - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.

2 **Late-payment penalty for underpayment of estimated or quarter-monthly tax** - You owe this penalty if you were required to make estimated or quarter-monthly tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.

3 **Late-payment penalty for regular tax payments** - You owe this penalty if you did not pay the tax you owed by the original due date of the return.

4 **Negligence penalty** - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.

5 **Fraud penalty** - You owe this penalty if any part of a deficiency is due to fraud.

6 **Cost of collection fee** - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.

7 **Bad check penalty** - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.

8 **Failure to disclose participation in a reportable transaction penalty** - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.

9 **Reportable transaction understatement penalty** - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

10 **100 percent interest penalty** - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of the tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

11 **Audit penalty** - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

12 **Nonfiling penalty for transaction return** - You owe this penalty if you are a retailer required to file a transaction return (ST-556, Sales Tax Transaction Return) by the due date, even if no tax is due on the return.

Are penalties ever abated?

If you were unable to either timely pay the required amount of estimated or quarter-monthly payments, pay the tax you owed by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations.

How is interest figured?

Interest is calculated on your tax from the day after the original due date of your return through the date you pay the tax (for certain tax periods interest may also accrue on penalties). Interest accrues at simple rates established by the Internal Revenue Service. See Publication 103 for more information.

Bankruptcy Information

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.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.

WWW.CYBERDRIVEILLINOIS.COM

JESSE WHITE
SECRETARY OF STATE

CORPORATION FILE DETAIL REPORT

Entity Name	NINTH CIRCLE, INC.	**File Number**	61943692
Status	DISSOLVED		
Entity Type	CORPORATION	**Type of Corp**	DOMESTIC BCA
Incorporation Date (Domestic)	12/20/2001	**State**	ILLINOIS
Agent Name	JOSEPH C WICKER	**Agent Change Date**	06/26/2006
Agent Street Address	22033 HOWELL DR STE 5	**President Name & Address**	PETAR J CALTKISIC 9135 SUTTON CT ORLAND PK IL 60462
Agent City	NEW LENOX	**Secretary Name & Address**	INVOLUNTARY DISSOLUTION 05 09 08
Agent Zip	60451	**Duration Date**	PERPETUAL
Annual Report Filing Date	00/00/0000	**For Year**	2007

Return to the Search Screen

BACK TO CYBERDRIVEILLINOIS.COM HOME PAGE