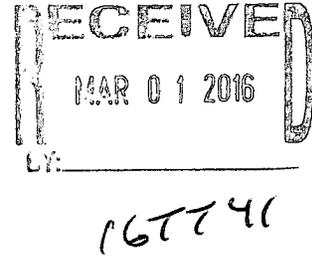


**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

HOB HOLDING CORP.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Respondent.)

No.



PETITION

HOB Holding Corp., 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 formerly located at 15180 South LaGrange Road, Orland Park, Illinois, 60462 and can be reached at 630-629-4040.
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 3925-2728.
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 January 20, 2016, the Department issued two (2) Notice of Tax Liability letters (“Notice”) to Petitioner for a sales/use tax audit for the tax periods January 1, 2009 to July 31, 2012. The Notices reflect \$307,331 in total tax due, plus penalties and interest. The Notices are 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 was a bridal gown store located in the southwest suburbs.

9. Defendant audited Petitioner’s books and records for the tax periods January 1, 2009 to July 31, 2012.

10. Petitioner properly filed its sales tax returns during the audit tax periods by reporting its sales using the cash basis method of accounting (based on bank deposits) and deducting from its sales the substantial alteration charges for bridal gowns (\$375) and bridesmaid dresses (\$125 each) that are contained in Petitioner’s monthly POS reports, but the Department’s auditor and audit supervisor (both recently retired) reviewed all of the above-mentioned documents during the audit and estimated the audit liability using an unknown audit methodology.

COUNT I

Defendant's audit methodology drastically overstates Petitioner's liability.

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

12. On audit, the Department calculated the audit liability using an unknown audit methodology and improperly failed to allow Petitioner's sales tax return methodology.

13. By applying such audit methodology, the Department drastically and unreasonably inflated Petitioner's audit liability because Petitioner properly filed its sales tax returns during the audit tax periods by reporting its sales using the cash basis method of accounting and deducting from its sales alteration charges for bridal gowns and bridesmaid dresses that are contained in Petitioner's monthly POS reports.

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

- (a) enters judgment in favor of Petitioner and against the Defendant and cancels the Notice; and
- (b) enjoins the Department from collecting the amount due on the Notice.

COUNT II

All penalties should be abated based on reasonable cause.

14. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 13, inclusive, hereinabove.

15. In its Notice, the Department assessed late and negligence penalties.

16. Illinois law provides that such penalties do not apply if a taxpayer shows that its

failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

17. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine and pay its proper tax liability in a timely fashion. 86 Ill. Admin. Code 700.400(b).

18. A taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

19. Petitioner exercised ordinary business care when it reasonably determined its sales tax liability by reporting sales using the cash basis method of accounting (based on bank deposits) and deducting from its sales the alteration charges for dresses.

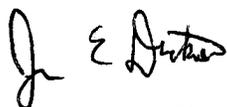
WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause; and
- (b) enjoins the Department from taking any action to assess, lien, levy, or offset, or collect the amount of penalties due on the Notice.

Thank you for considering this Petition.

Respectfully submitted,

HOB Holding Corp.,
Petitioner

By: 
One of Petitioner's Attorneys

Date: 2/26/16

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

Notice of Tax Liability
for Form EDA-105-R, ROT Audit Report

Exhibit 1



#BWNKMGV
#CNXX XX95 X992 X167#
HOB HOLDING CORP
HOUSE OF BRIDES
ATTN: HOUSE OF BRIDES
1184 ROOSEVELT RD
GLEN ELLYN IL 60137-7811

January 20, 2016



Letter ID: CNXXXX95X992X167

Account ID: 3925-2728



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 | 51,924.00 | 0.00 | 51,924.00 |
| Late Payment Penalty Increase | 20,770.00 | 0.00 | 20,770.00 |
| Negligence Penalty | 20,770.00 | 0.00 | 20,770.00 |
| Late Filing Penalty Increase | 398.00 | 0.00 | 398.00 |
| Interest | 20,928.68 | 0.00 | 20,928.68 |
| Assessment Total | \$114,790.68 | \$0.00 | \$114,790.68 |

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 **March 21, 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 X2X2 4733 84X4#
HOB HOLDING CORP
HOUSE OF BRIDES
ATTN: HOUSE OF BRIDES
1184 ROOSEVELT RD
GLEN ELLYN IL 60137-7811

January 20, 2016



Letter ID: CNXXX2X2473384X4

Account ID: 3925-2728



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

| | <u>Liability</u> | <u>Payments/Credit</u> | <u>Unpaid Balance</u> |
|-------------------------------|---------------------|------------------------|-----------------------|
| Tax | 255,407.00 | 0.00 | 255,407.00 |
| Late Payment Penalty Increase | 51,081.00 | 0.00 | 51,081.00 |
| Negligence Penalty | 51,081.00 | 0.00 | 51,081.00 |
| Interest | 32,644.38 | 0.00 | 32,644.38 |
| Assessment Total | \$390,213.38 | \$0.00 | \$390,213.38 |

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 **March 21, 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.

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