

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

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| SANTOK13, INC. |) | |
| Petitioner, |) | |
| v. |) | Chief Judge James M. Conway |
| ILLINOIS DEPARTMENT OF |) | |
| REVENUE |) | No. 16-TT-48 |
| 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:

Petitioner(s), SANTOK13, INC, by and through its attorneys Akram Zanayed and Associates, who are duly authorized to represent Petitioner in this regard pursuant to the Power of Attorney attached hereto as Exhibit "A", complains of Respondent, Illinois Department of Revenue, as follows:

ANSWER: The information contained in the preceding unnumbered paragraph is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310(a)) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations, nor is it a numbered Paragraph. Otherwise, the factual allegations contained within the preceding Paragraph are admitted.

PARTIES

1. Petitioner(s), SANTOK 13, INC, ("Petitioner(s)"), is an Illinois Corporation.

ANSWER: The information contained in Paragraph 1 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310(a)) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, according to public documentation, SANTOK

13, Inc. is currently dissolved. Otherwise, the factual allegations contained within Paragraph 1 are admitted.

2. Petitioner's place of location is at 725 PINTAIL LANE, WASHINGTON, IL, 61571.

ANSWER: The information contained in Paragraph 2 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310(a)) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, according to public documentation, SANTOK 13, Inc. is currently dissolved. Otherwise, the factual allegations contained within Paragraph 2 are admitted.

3. Petitioner's telephone number is (630) 340-1219.

ANSWER: The information contained in Paragraph 3 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310(a)) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

4. Petitioner's federal identification number is 37-1652646.

ANSWER: The information contained in Paragraph 4 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310(a)) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Otherwise, the factual allegations contained within Paragraph 4 are admitted.

5. Respondent, Illinois Department of Revenue (the "Department"), is an agency of the State of Illinois responsible for administering and enforcing the revenue laws of the state of Illinois.

ANSWER: Paragraph 5 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

JURISDICTION

6. Petitioner(s) brings action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 10101-1 to 35 ILCS 10101-100.

ANSWER: Paragraph 6 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, the "Tribunal Act" is comprised of 35 ILCS 1010/1-1 to 1010/1-100. The Department admits the existence, force and effect of the Tribunal Act, and states that the Act speaks for itself.

7. On or about November 12, 2015, the Department issued a Notice of Tax Liability to Petitioner(s) asserting additional tax due in the amount of \$50,442.54 for the period of January 1, 2012 through August 31, 2013. (A copy of the notice is attached hereto and incorporated herein as Exhibit "B").

ANSWER: Admitted that the Notice reflects \$35,938.00 in tax due, \$7,188.00 in late payment penalty increase, \$5,012.00 in negligence penalty, and \$2,304.54 in interest, for a total assessed amount of \$50,442.54. The Department further states that the liability proposed under the Notice is deemed *prima facie* correct and is deemed *prima facie* evidence of the correctness of the amount of tax due. *See 35 ILCS 120/4.* The Department admits the other factual allegations in Paragraph 7.

8. The Illinois Department of Revenue received an appeal of this liability in a timely fashion and dismissed the action granting leave to file an appeal with this Tribunal.

(A copy of the notice is attached hereto and incorporated herein as Exhibit "C").

ANSWER: Admitted that Exhibit C is attached to the Petition. The Department adds that Exhibit C speaks for itself.

9. This tribunal has jurisdiction pursuant to Sections 1-45 and 1-50 of the Tribunal Act over the Department's determinations as reflected in the order, where the amount at issue exceeds \$15,000.00, exclusive of penalties and interest.

ANSWER: Paragraph 9 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, the Department admits the existence, force and effect of Section 1-45 and 1-50 of the Tribunal Act, and states that the Act speaks for itself.

BACKGROUND

10. Petitioner(s) operates a Gas Station.

ANSWER: Denied. As stated in the audit file, including the audit narrative, the Petitioner operated a gas station/convenience store. Further, the audit file and public documentation indicates that the Petitioner is no longer operating.

11. Petitioner(s) timely filed all tax returns and paid all amounts due on a regular and timely basis.

ANSWER: Denied. Further answering, as indicated in the audit file, including the audit narrative, the Petitioner timely filed the ST-1 Returns, but not the actual amounts due according to the audit assessment.

PROCEDURAL HISTORY

12. At some point before November 12, 2015 the Department initiated a sales tax audit of the returns filed by the Petitioner(s) for the period of January 1, 2012 through August 31, 2013, (the "Audit Period").

ANSWER: The Department objects to the term “sales tax audit of the returns,” as vague and ambiguous, and denies this term on that basis. Otherwise, the factual allegations contained within Paragraph 12 are admitted.

13. After completing the sales tax audit the department determined that the taxpayer underreported sales.

ANSWER: The Department admits the factual allegations contained within Paragraph 13.

14. The taxpayer provided books and records regarding his purchases and provided information regarding the cost of gasoline and the selling price of gasoline.

ANSWER: As stated in the audit file, including the audit narrative, denied. As such, the auditor used his best judgment and information to determine the assessment. *See 30 ILCS 120/4.*

15. The department issued an assessment and disregarded the information provided to it by the Taxpayer.

ANSWER: The Department denies the characterization made by the Petitioner. As stated in the audit file, including the audit narrative, the Taxpayer provided little in the way of books and records. The resulting audit liability was a result of information collected, as reflected in the audit file, and the auditor used his best judgment and

information to determine the assessment which was issued. *See 30 ILCS 120/4.*
Otherwise, the factual allegations contained within Paragraph 15 are denied.

16. The auditor further assessed an additional tax based upon the arbitrary addition of non-gas sales from the business without justification.

ANSWER: The Department denies the characterization made by the Petitioner. As stated in the audit file, including the audit narrative, the Taxpayer provided little in the way of books and records. The resulting audit liability was a result of information collected, as reflected in the audit file, and the auditor used his best judgment and information to determine the assessment which was issued. *See 30 ILCS 120/4.*
Otherwise, the factual allegations contained within Paragraph 16 are denied.

17. The issuance of the assessment is in error.

ANSWER: Paragraph 17 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, the Department denies the characterization made by the Petitioner. As stated in the audit file, including the audit narrative, the Taxpayer provided little in the way of books and records. The resulting audit liability was a result of information collected, as reflected in the audit file, and the auditor used his best judgment and information to determine the assessment which was issued. *See 30 ILCS 120/4.* Otherwise, the factual allegations contained within Paragraph 17 are denied.

WHEREFORE, the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notice correctly reflects the Petitioner's liability including interest and penalties.

- c. Enter judgment in favor of the Department and against the Petitioner; and
- d. Grant any further relief this Tribunal deems just and appropriate.

Dated: April 13, 2016

Respectfully submitted,
Illinois Department of Revenue

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