

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

ALSEY REFRACTORIES COMPANY)
)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT)
 OF REVENUE,)
)
 Respondent.)

RECEIVED
APR 29 2016
BY: _____

16TT81

PETITION

The Petitioner, Alsey Refractories Company, by and through its attorneys, Armstrong Teasdale LLP, hereby petitions the Illinois Independent Tax Tribunal to review and reverse and/or modify two Notices of Tax Liability (“Notices”) issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

INTRODUCTION

1. The first Notice was issued by the Department on March 4, 2016 assessing in the amount of \$12,855 in Gas Use Tax (“Gas Tax”), \$5,656 in penalties and \$5,109.45 in interest for taxable periods from January 1, 2009 through June 30, 2009. A copy of the first Notice is attached to this Petition as Exhibit A.

2. The second Notice was issued by the Department on March 4, 2016 assessing in the amount of \$106,030 in Gas Tax, \$23,327 in penalties and \$9,947.86 in interest for taxable

periods from July 1, 2009 through September 30, 2014. A copy of the second Notice is attached to this Petition as Exhibit B.

3. Petitioner is an Illinois corporation with its principal place of Illinois business operations located at Highway 106 in Aley, Illinois.

4. Petitioner's main office is located at 1600 South Brentwood Blvd., Suite 210, St. Louis, MO 63144, and its telephone number is 314-963-7000. The Petitioner's Illinois Account number is 41524391 and the Petitioner has been issued License No. G-01028 by the Department.

5. Petitioner is represented by Armstrong Teasdale LLP attorneys Stephen Wigginton and Scott Galt located at 7700 Forsyth Blvd. Suite 1800, St. Louis, MO 63105 and can be reached at (314) 621-5070 swigginton@armstrongteasdale.com or sgalt@armstrongteasdale.com respectively.

JURISDICTION

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 101/1-100.

7. The Tribunal has jurisdiction over this matter pursuant to 35 ILCS 1010/1-45 and 35 ILCS 1010/1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the issuance of the Notice.

BACKGROUND AND RELEVANT FACTS

8. Petitioner did not file a Gas Tax return for taxable periods from January 2009-September, 2014 ("Period"), as Petitioner did not believe it had the legal obligation to do so.

9. Throughout the Period, Petitioner has been engaged in the manufacture of refractory products, both for residential and industrial customers.

10. Petitioner purchases natural gas from Panhandle Eastern Pipe Line Company ("Panhandle") and takes title to such natural gas in Oklahoma.

11. Panhandle delivers such natural gas via a pipeline to Petitioner in Alsey, Illinois.
12. During the Period, Petitioner was not registered as a self-assessor under Illinois law.
13. Petitioner consumes all natural gas purchased from Panhandle in its refractory manufacturing operations and does not resell any of such natural gas.
14. To the best of the Petitioner's knowledge, Pipeline qualifies as a delivering supplier maintaining a place of business in Illinois, as Panhandle maintains business operations in Illinois whereby it is a supplier of natural gas to various customers in Illinois.

APPLICABLE LAW

15. Section 35 ILCS 173/5-5 defines a "delivering supplier" to mean any person engaged in the business of delivering gas to persons for use or consumption in Illinois and not for resale.
16. 35 ILCS 173/5-5 defines a "delivering supplier maintaining a place of business in this State" to mean any delivering supplier having or maintaining in Illinois an office, distribution facility or other place of business or having any employee, agent or other representative operating within Illinois under the authority of such delivering supplier.
17. 35 ILCS 173/5-5 defines a "purchaser" to mean any person who acquires the ownership of gas for use or consumption and not for resale.
18. 35 ILCS 173/5-5 defines a "self-assessing purchaser" to mean a purchaser of gas for use or consumption required to be registered with the Department and who is responsible for filing returns and paying tax under the Illinois Gas Use Tax Law.
19. 35 ILCS 173/5-10 imposes a Gas Tax obtained in an out-of-state purchase at a rate of 2.4 cents per therm or 5 percent of the purchase price, using whichever rate is lower. This is referred to as the "self-assessing purchaser tax rate."

20. 35 ILCS 173/5-10 also defines an “alternate tax rate” of 2.4 cents per therm for purchasers electing an alternative tax rate, with such Gas Tax paid to a delivering supplier maintaining a place of business in Illinois.

21. 35 ILCS 173/5-50(1) exempts from the Gas Tax gas used by business enterprises located in an enterprise zone certified by the Department of Commerce and Economic Opportunity pursuant to the Illinois Enterprise Zone Act (“Enterprise Zone Act”). Although not for the Period in issue, Petitioner has applied for certification that its business operations in Alsey, Illinois are located in an enterprise zone pursuant to the Enterprise Zone Act.

22. Regulation Title 86, Part 471, Section 471.110 provides that purchasers of out of state gas who choose not to register with the Department as self-assessing purchasers are deemed to have checked the alternate tax rate and must pay the applicable Gas Tax to delivering suppliers who are registered to collect the Gas Tax.

23. Regulation Title 86, Part 471, Section 471.120 states that upon a delivering supplier’s receipt of a certificate of registration issued to a self-assessing purchaser, the delivery supplier is relieved of the duty to collecting the Gas Tax from the purchaser.

COUNT I

PETITIONER IS NOT REQUIRED TO PAY GAS TAX

24. In a Notice of Proposed Liability dated April 1, 2015, attached as Exhibit C, the Department calculated the Gas Tax liability based on the lesser rate of 2.4 cents per therm or 5 percent of the purchase price.

25. In this Notice the Department appears to take the position that the Petitioner is a self-assessing purchaser for the Period.

26. During the Period the Petitioner never registered as a self-assessing purchaser, as a result, by virtue of Regulation Title 86, Part 471, Section 471.110, the Petitioner is deemed to be subject to the alternate tax rate and not a self-assessing purchaser.

27. Pursuant to Regulation Title 86, Part 471, Section 471.110, Petitioner must pay the applicable Gas Tax to delivering suppliers who are registered to collect the Gas Tax.

28. As Panhandle is a delivering supplier, Panhandle should be collecting the Gas Tax from its customers, including the Petitioner. Panhandle has made no effort to collect the Gas Tax from the Petitioner.

29. As Panhandle should be collecting the Gas Tax, Panhandle and not the Petitioner should be receiving these Notices of Gas Tax liability.

30. The Department's auditor has taken the position that the Petitioner is registered as a self-assessing purchaser and therefore liable for paying the Gas Tax directly to the Department. Attached as Exhibit D is an email from the Department's auditor to a representative of the Petitioner dated January 29, 2015.

31. The auditor's position is erroneous as the Petitioner did not register as a self-assessing purchaser during the Period, nor did the Petitioner erroneously give Panhandle an exemption certificate as was suggested by the auditor.

32. For the reasons described herein, Petitioner is not liable to the Department for Gas Tax during the Period.

COUNT II

PENALTIES SHOULD BE ABATED BASED ON REASONABLE CAUSE

33. Petitioner restates and incorporates by reference as it fully set forth herein the allegations contained in paragraphs 1 through 32, inclusive.

34. Department imposes both a late filing penalty and late payment penalty on Petitioner for the failure to timely file applicable Gas Tax returns and timely pay Gas Tax.

35. As Petitioner is not a self-assessing purchaser, the Petitioner is not legally obligated to file any Gas Tax Returns, nor pay any Gas Tax liability to the Department.

36. Under Illinois law, no penalties shall be imposed on a taxpayer if the taxpayer's failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

37. Pursuant to Regulation Title 86, Part 700, Section 700.400(b), "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 his proper tax liability and to file and pay his proper liability in a timely fashion."

38. Pursuant to Title 86, Part 700, Section 700.400(c), a taxpayer is considered to have made a good faith effort to determine and file and pay his tax liability if the taxpayer exercises ordinary care and prudence.

39. Pursuant to Title 86, Part 471, Section 400.400(d), the taxpayer's filing history is also considered in determining whether the taxpayer acted in good faith.

40. During the Period, Petitioner had consulted third party professionals as to its legal obligations regarding the Gas Tax.

41. As Petitioner correctly believed the delivering supplier was responsible for collection and payment of the Gas Tax, Petitioner made a good faith effort to determine its proper tax liability and to file and pay its proper liability in a timely fashion.

42. Petitioner exercised ordinary care and prudence in determining its proper tax liability and its obligations to file Gas Tax returns.

43. Petitioner has a history of timely filing Illinois income tax returns and paying Illinois income tax in a timely manner.

44. The late payment and late filing penalties imposed by the Department must be abated due to the existence of Petitioner's reasonable cause.

COUNT III

INTEREST SHOULD BE ABATED

45. Petitioner restates and incorporates by reference as it fully set forth herein the statements contained in paragraphs 1 through 45, inclusive.

46. In the first and second Notices, Department assesses interest of \$5,109.45 and \$9,947.86 against the Petitioner.

47. As the Petitioner had no obligation to file a Gas Tax Return or pay Gas Tax to the Department during the Period, the Petitioner should not be liable for any interest on any such tax liability.

48. The interest charges described in the first and second Notices should be abated as the underlying Gas Tax liability should be rescinded by the Department.

CONCLUSION AND RELIEF REQUESTED

WHEREAS, Petitioner requests that the Tax Tribunal find and enter Orders modifying or cancelling the first and second Notices for the reasons contained herein;

WHEREAS, Petitioner requests that the Tax Tribunal find and enter an Order that Petitioner is not liable for the Gas Tax described in the first and second Notices;

WHEREAS, the Petitioner requests that the Tax Tribunal find and enter an Order that penalties assessed by the Department be abated in full; and

WHEREAS, the Petitioner requests the Tax Tribunal find and enter an Order that interest assessed by the Department be abated in full.

ALSEY REFRACTORIES COMPANY

By: *F. Scott Galt*
Attorneys for Petitioner

Representatives:

Stephen Wigginton
Armstrong Teasdale LLP
7700 Forsyth Blvd., Suite 1800
Clayton, MO 63105
(314) 621-5070
Illinois Bar No. 6200459

Scott Galt
Armstrong Teasdale LLP
7700 Forsyth Blvd., Suite 1800
Clayton, MO 63105
(314) 621-5070
Illinois Bar No. 06286209

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and two copies of the petition, along with a check in the amount of \$500 to cover the filing fee, were mailed to the Tax Tribunal at:

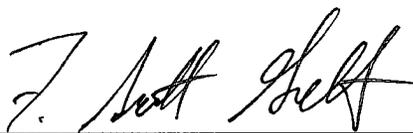
Illinois Independent Tax Tribunal
160 N. LaSalle St. Room N506
Chicago., Illinois 60601

The petition copy for the Department of Revenue was mailed to:

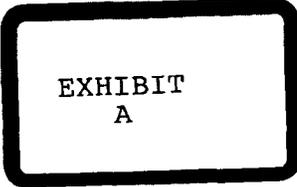
Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7-900 (7th floor of the Thompson Center)
Chicago, IL 60601.

The foregoing documents were mailed UPS overnight delivery on this 28th day of April, 2016.

Attorney for Plaintiffs



Notice of Tax Liability
for Form RG-1-A, Gas Revenue Tax Audit Report



217 782-6046

March 4, 2016



Letter ID: CNXXX1X919317924

License No: G-01028
Account ID: 41524391

#BWNKMGV
#CNXX X1X9 1931 7924#
ALSEY REFRACTORIES CO
ATTN: POA DANIEL W. MUDD CPA
800 MARKET ST STE 500
SAINT LOUIS MO 63101-2514

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	12,855.00	0.00	12,855.00
Late Payment Penalty	5,142.00	0.00	5,142.00
Late Filing Penalty Increase	514.00	0.00	514.00
Interest	5,109.45	0.00	5,109.45
Assessment Total	\$23,620.45	\$0.00	\$23,620.45

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 **May 03, 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 RG-1-A, Gas Revenue Tax Audit Report



217 782-6045

#BWNKMGV
#CNXX XXX1 2799 9680#
ALSEY REFRACTORIES CO
ATTN: POA DANIEL W. MUDD CPA
800 MARKET ST STE 500
SAINT LOUIS MO 63101-2514

March 4, 2016



Letter ID: CNXXXXX127999680

License No: G-01028
Account ID: 41524391

We have audited your account for the reporting periods July 01, 2009, through September 30, 2014. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	106,030.00	0.00	106,030.00
Late Payment Penalty	21,206.00	0.00	21,206.00
Late Filing Penalty Increase	2,121.00	0.00	2,121.00
Interest	9,947.86	0.00	9,947.86
Assessment Total	\$139,304.86	\$0.00	\$139,304.86

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 May 03, 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 Proposed Liability
for Sales, Use, and Excise Taxes and Fees

EXHIBIT
C



April 1, 2015



Letter ID: L1893608416

ALSEY REFRACTORIES CO
HWY 106
ALSEY IL 62610

Taxpayer ID: 37-0797227
License No: G-01028
Account ID: 41524391
Audit ID: A480815104
Return type: RG-1
Audit periods: 01/2009 - 09/2014

We have audited your account and have determined that there is additional liability due.

Tax	\$121,270.00
Penalty	\$22,801.00
Interest	\$11,816.00
Total	\$155,887.00

Our calculations, periods covered, and other explanations resulting in the determination are attached for your review.

If you agree with the tax amount as shown, contact us using the information listed below for further instructions. Please note, if you sign the Audit Report, you waive the right to seek review by the Informal Conference Board.

If you do not agree with the figures, you may request a review of this proposed liability by the Informal Conference Board (Section 2505-510). To do this, you must complete Form ICB-1, Request for Informal Conference Board Review, within 60 days from the date of this notice and mail it, along with a copy of the auditor's work papers and a copy of this notice, to:

INFORMAL CONFERENCE BOARD
100 W RANDOLPH SUITE 7-286
CHICAGO IL 60601

If you do not request an ICB review within 60 days from the date of this notice, we will issue a Notice of Tax Liability for the amount proposed to be due.

Sincerely,

Janet Iler
Revenue Auditor

ILLINOIS DEPARTMENT OF REVENUE
15 EXECUTIVE DRIVE, SUITE 1 & 2
FAIRVIEW HEIGHTS IL 62208

618 304-7593
618 624-7076 fax
janet.iler@illinois.gov

ALSBY REFRIGERATORIES
ALSBY, IL

CALCULATION OF GAS USE TAX DUE

SCH. G
ILI 3/25/15

INVOICE DATE	SERVICE MONTH	INVOICE NUMBER	VANGUARD ENERGY SERV PURCH AMT	THERMS PURCHASED	PANHANDLE EASTERN TRANS AMT	5% of purchase 5% GAS UT DUE	2.4cents per therm \$.024 GAS UT DUE	ANDERS RECALC	
05/14/13 05/11/13	April-13 April-13	400-1304-6438 1304p0050	37681.03	88620	4533.6	2,110.73	2,126.88	2,110.73	
06/13/13 06/11/13	May-13 May-13	400-1305-5879 1305p0045	37682.9	89590	4540.93	2,111.19	2,150.16	2,111.19	
07/17/13 07/11/13	June-13 June-13	400-1306-7400 1306p0052	37204.83	88030	4537.44	2,087.11	2,112.72	2,087.11	
08/07/13 08/10/13	July-13 July-13	400-1307-4170 1307p0045	38272.28	90660	4545.11	2,140.87	2,175.84	2,140.87	
09/18/13 09/11/13	August-13 August-13	400-1308-6538 1308P0045	38428.22	91210	4556	2,149.21	2,189.04	2,149.21	
10/08/13 10/11/13	September-13 September-13	400-1309-4675 1309P0009	35857.27	84320	4533.34	2,019.53	2,023.68	2,019.53	
11/12/13 11/11/13	October-13 October-13	400-1310-4371 1310P0072	37609.96	88760	4533.3	2,107.16	2,130.24	2,107.16	
12/17/13 12/11/13	November-13 November-13	400-1300-7703 1311P0061	35987.48	84790	4523.07	2,025.53	2,034.96	2,025.53	
01/13/14 01/11/14	December-13 December-13	400-1312-5238 1312P0060	4647.84	11720	5948.8	529.83	281.28	281.28	
02/20/14 02/11/14	January-14 January-14	400-1401-7185 1401P0060	27855.92	56160	5596.13	1,672.60	1,347.84	1,347.84	
03/13/14 03/11/14	February-14 February-14	400-1402-6635 1402P0044	40373.19	90820	4543.79	2,245.85	2,179.68	2,179.68	
04/16/14 04/11/14	March-14 March-14	400-1403-6870 1403P0060	47929.16	110590	4604.62	2,626.69	2,654.16	2,626.69	
05/15/14 05/10/14	April-14 April-14	400-1404-5691 1404P0044	27532.31	62860	4547.69	1,604.00	1,508.64	1,508.64	
06/17/14 06/11/14	May-14 May-14	400-1405-6373 1405P0117	35284.69	81010	4501.3	1,989.30	1,944.24	1,944.24	
07/14/14 07/11/14	June-14 June-14	400-1406-4516 1406P0044	36110.9	83210	4495.49	2,030.32	1,997.04	1,997.04	
08/25/14 08/11/14	July-14 July-14	400-1407-7866 1407p0044	37649.5	86800	4512.87	2,108.12	2,083.20	2,083.20	
09/15/14 09/11/14	August-14 August-14	400-1408-6150 1408P0044	37649.5	86800	4510.2	2,107.99	2,083.20	2,083.20	
10/15/14 10/11/14	September-14 September-14	400-1409-6999 1409P0044	34661.66	79050	4486.95	1,957.43	1,897.20	1,897.20	
			2863766.76	5031510	312300.91	0	158,803.38	120,756.24	121,269.88

30696.28 90573.60 = 121270 TAX DUE

pink are averages of remainder months
yellow = tax due

INVOICE DATE	SERVICE MONTH	INVOICE NUMBER	VANGUARD ENERGY SERV PURCH AMT	THERMS PURCHASED	PANHANDLE EASTERN TRANS AMT	5% of purchase 5% GAS UT DUE	2.4cents per therm \$.024 GAS UT DUE	ANDERS RECALC
02/13/09	January-09	400006-012009	78828.92	101740				
02/07/09	January-09	90100047			4566.1	4,169.75	2,441.76	2,441.76
03/11/09	February-09	400006-022009	68830.64	86600				
03/11/09	February-09	90200047			4521.91	3,667.63	2,078.40	2,078.40
04/16/09	March-09	400006-032009	75511.73	93650				
04/11/09	March-09	90300047			4548.56	4,003.01	2,247.60	2,247.60
05/14/09	April-09	400006-042009	72092.4	87000				
05/11/09	April-09	90400047			4471.27	3,828.18	2,088.00	2,088.00
06/17/09	May-09	400006-052009	74727.23	90260				
06/11/09	May-09	90500047			4537.46	3,963.23	2,166.24	2,166.24
07/16/09	June-09	400006-062009	68900.03	76380				
07/11/09	June-09	90600047			4529.53	3,671.48	1,833.12	1,833.12
08/14/09	July-09	400006-072009	68270.69	69600				
08/11/09	July-09	90700047			4000.08	3,613.54	1,670.40	1,670.40
09/15/09	August-09	400006-082009	43030.48	0				
09/11/09	August-09	90800047			4669.86	2,385.02	-	2,385.02
10/13/09	September-09	400006-092009	58243.39	46400				
10/10/09	September-09	90900047			4386.06	3,131.47	1,113.60	1,113.60
11/11/09	October-09	400006-102009	70645.99	80740				
11/11/09	October-09	91000047			4567.26	3,760.66	1,937.76	1,937.76
12/11/09	November-09		40911	70120				
12/11/09	November-09	91100047			4545.32	2,272.82	1,682.88	1,682.88
01/11/10	December-09		40911	84100				
01/11/10	December-09	91200047			4551.35	2,273.12	2,018.40	2,018.40
02/11/10	January-10		40911	0				
02/11/10	January-10	100100047			4255.96	2,258.35	-	-
03/11/10	February-10		40911	0				
03/11/10	February-10	100200047			4233.41	2,257.22	-	-
04/10/10	March-10		40911	40250				
04/10/10	March-10	100300047			4355.47	2,263.32	966.00	966.00
05/11/10	April-10		40911	80600				
05/11/10	April-10	100400047			4455.08	2,268.30	1,934.40	1,934.40
06/11/10	May-10		40911	67360				
06/11/10	May-10	100500047			4564.98	2,273.80	1,616.64	1,616.64
07/10/10	June-10		40911	72800				
07/10/10	June-10	100600047			4447.87	2,267.94	1,747.20	1,747.20
08/11/10	July-10		40911	69820				
08/11/10	July-10	100700047			4452.56	2,268.18	1,675.68	1,675.68
09/11/10	August-10		40911	74010				
09/11/10	August-10	100800046			4485.42	2,269.82	1,776.24	1,776.24
10/11/10	September-10		40911	73560				
10/11/10	September-10	100900046			4470.13	2,269.06	1,765.44	1,765.44
11/11/10	October-10		40911	74070				
11/11/10	October-10	101000047			4464.2	2,268.76	1,777.68	1,777.68
12/11/10	November-10		40911	75410				
12/11/10	November-10	101100046			4488.39	2,269.97	1,809.84	1,809.84
01/11/11	December-10	400006-122010	61886.99	90550				
01/11/11	December-10	101200046			4487.49	3,318.72	2,173.20	2,173.20
02/16/11	January-11	400-1101-5793	8034.71	18160				
02/11/11	January-11	110100046			4277.64	615.62	435.84	435.84
03/09/11	February-11	400-1102-4372	2222.35	5080				

ALSEY REFRACORIES
ALSEY, IL

CALCULATION OF GAS USE TAX DUE

SCH. G
JU 3/25/15

INVOICE DATE	SERVICE MONTH	INVOICE NUMBER	VANGUARD ENERGY SERV PURCH AMT	THERMS PURCHASED	PANHANDLE EASTERN TRANS AMT	5% of purchase 5% GAS UT DUE	2.4cents per therm \$.024 GAS UT DUE	ANDERS RECALC
03/11/11	February-11	110200046			4234.93	322.86	121.92	121.92
04/06/11	March-11	400-1103-3609	39060	67500				
04/11/11	March-11	110300047			4570.61	2,181.53	1,620.00	1,620.00
05/11/11	April-11	400-1104-4358	45480.1	84000				
05/11/11	April-11	110400046			4483.64	2,498.19	2,016.00	2,016.00
06/14/11	May-11	400-1105-5453	45583.46	82880				
06/11/11	May-11	110500046			4458.66	2,502.11	1,989.12	1,989.12
07/12/11	June-11	400-1106-5003	43336.58	76500				
07/11/11	June-11	110600048			4447.91	2,389.22	1,836.00	1,836.00
08/18/11	July-11	400-1107-6293	42817.99	75920				
08/11/11	July-11	110700050			4509.3	2,366.36	1,822.08	1,822.08
09/13/11	August-11	400-1008-5426	48460.98	91620				
09/10/11	August-11	110800046			4519.64	2,649.03	2,198.88	2,198.88
10/10/11	September-11	400-1109-5502	34937.5	59000				
10/11/11	September-11	110900046			4498.81	1,971.82	1,416.00	1,416.00
11/11/11	October-11	400-1110-6595	12726.62	290				
11/11/11	October-11	111000047			4253.17	848.99	6.96	6.96
12/07/11	November-11	400-1111-6777	34922.65	61830				
12/10/11	November-11	111100046			4560.41	1,974.15	1,483.92	1,483.92
01/18/12	December-11	400-1112-6645	45931.96	93000				
01/11/12	December-11	111200046			4539.5	2,523.57	2,232.00	2,232.00
12/13/12	January-12	400-1201-5321	29393.53	94130				
12/11/12	January-12	120100046			4538.57	1,696.61	2,259.12	1,696.61
03/14/12	February-12	400-1202-5806	26412.01	85150				
03/10/12	February-12	120200047			4523.59	1,546.78	2,043.60	1,546.78
04/17/12	March-12	400-1203-3000	39531.25	77240				
04/11/12	March-12	120300047			4507.52	2,201.94	1,853.76	1,853.76
05/09/12	April-12	400-1204-4423	39382.4	77390				
05/11/12	April-12	120400046			4408.2	2,189.53	1,857.36	1,857.36
06/08/12	May-12	400-1205-4916	41081.36	83300				
06/11/12	May-12	120500046			4514.29	2,279.78	1,999.20	1,999.20
07/11/12	June-12	400-1206-4383	39962.47	81600				
07/11/12	June-12	120600046			4507.63	2,223.51	1,958.40	1,958.40
08/07/12	July-12	400-1207-4496	39933.49	79940				
08/11/12	July-12	120700046			4513.39	2,222.34	1,918.56	1,918.56
09/17/12	August-12	400-1208-5063	40695.27	82040				
09/11/12	August-12	120800031			4512.44	2,260.39	1,968.96	1,968.96
10/15/12	September-12	400-1209-6002	39589.84	80200				
10/11/12	September-12	120900046			4519	2,205.44	1,924.80	1,924.80
11/16/12	October-12	400-1210-5804	42337.86	87860				
11/10/12	October-12	121000046			4544.96	2,344.14	2,108.64	2,108.64
12/17/12	November-12	400-1200-5970	39040.95	79490				
12/11/12	November-12	121100046			4560.63	2,180.08	1,907.76	1,907.76
01/15/13	December-12	400-1212-5709	41514	85610				
01/11/13	December-12	121200046			4540.47	2,302.72	2,054.64	2,054.64
02/13/13	January-13	400-1301-5588	33428.7	92270				
02/11/13	January-13	130100047			4563.7	1,899.62	2,214.48	1,899.62
03/15/13	February-13	400-1302-5935	28131.19	78320				
03/11/13	February-13	130200046			4527.51	1,632.94	1,879.68	1,632.94
04/15/13	March-13	400-1303-5320	38587.41	91170				
04/11/13	March-13	1303p0051			4558.44	2,157.29	2,188.08	2,157.29

INTEREST THROUGH DATE 4/1/15

MONTH	DETAIL LIABILITY	LATE FILING PENALTY RATE	LATE FILING PENALTY DUE	LATE PAYMENT PENALTY RATE	LATE PAYMENT PENALTY DUE	TOTAL PENALTY DUE
Jan-09	\$2,441.75	4.00%	\$97.67	30.00%	\$732.53	\$830.20
Feb-09	\$2,078.40	4.00%	\$83.14	30.00%	\$623.52	\$706.66
Mar-09	\$2,247.60	4.00%	\$89.90	30.00%	\$674.28	\$764.18
Apr-09	\$2,088.00	4.00%	\$83.52	30.00%	\$626.40	\$709.92
May-09	\$2,166.24	4.00%	\$86.65	30.00%	\$649.87	\$736.52
Jun-09	\$1,833.12	4.00%	\$73.32	30.00%	\$549.94	\$623.26
Jul-09	\$1,670.40	2.00%	\$33.41	15.00%	\$250.56	\$283.97
Aug-09	\$2,385.02	2.00%	\$47.70	15.00%	\$357.75	\$405.45
Sep-09	\$1,113.60	2.00%	\$22.27	15.00%	\$167.04	\$189.31
Oct-09	\$1,937.76	2.00%	\$38.76	15.00%	\$290.66	\$329.42
Nov-09	\$1,682.88	2.00%	\$33.66	15.00%	\$252.43	\$286.09
Dec-09	\$2,018.40	2.00%	\$40.37	15.00%	\$302.76	\$343.13
Jan-10	\$966.00	2.00%	\$19.32	15.00%	\$144.90	\$164.22
Apr-10	\$1,934.40	2.00%	\$38.69	15.00%	\$290.16	\$328.85
May-10	\$1,616.64	2.00%	\$32.33	15.00%	\$242.50	\$274.83
Jun-10	\$1,747.20	2.00%	\$34.94	15.00%	\$262.08	\$297.02
Jul-10	\$1,675.68	2.00%	\$33.51	15.00%	\$251.35	\$284.87
Aug-10	\$1,776.24	2.00%	\$35.52	15.00%	\$266.44	\$301.96
Sep-10	\$1,765.44	2.00%	\$35.31	15.00%	\$264.82	\$300.12
Oct-10	\$1,777.68	2.00%	\$35.55	15.00%	\$266.65	\$302.21
Nov-10	\$3,293.76	2.00%	\$65.88	15.00%	\$494.06	\$559.94
Dec-10	\$2,173.20	2.00%	\$43.46	15.00%	\$325.98	\$369.44
Jan-11	\$435.84	2.00%	\$8.72	15.00%	\$65.38	\$74.09
Feb-11	\$121.92	2.00%	\$2.44	15.00%	\$18.29	\$20.73
Mar-11	\$1,620.00	2.00%	\$32.40	15.00%	\$243.00	\$275.40
Apr-11	\$2,016.00	2.00%	\$40.32	15.00%	\$302.40	\$342.72
May-11	\$1,989.12	2.00%	\$39.78	15.00%	\$298.37	\$338.15
Jun-11	\$1,836.00	2.00%	\$36.72	15.00%	\$275.40	\$312.12
Jul-11	\$1,822.08	2.00%	\$36.44	15.00%	\$273.31	\$309.75
Aug-11	\$2,198.88	2.00%	\$43.98	15.00%	\$329.83	\$373.81
Sep-11	\$1,416.00	2.00%	\$28.32	15.00%	\$212.40	\$240.72
Oct-11	\$6.96	2.00%	\$0.14	15.00%	\$1.04	\$1.18
Dec-11	\$2,232.00	2.00%	\$44.64	15.00%	\$334.80	\$379.44
Jan-12	\$1,696.61	2.00%	\$33.93	15.00%	\$254.49	\$288.42
Feb-12	\$1,546.79	2.00%	\$30.94	15.00%	\$232.02	\$262.95
Mar-12	\$1,853.76	2.00%	\$37.08	15.00%	\$278.06	\$315.14
Apr-12	\$1,857.36	2.00%	\$37.15	15.00%	\$278.60	\$315.75
May-12	\$1,999.20	2.00%	\$39.98	15.00%	\$299.88	\$339.86
Jun-12	\$1,958.40	2.00%	\$39.17	15.00%	\$293.76	\$332.93
Jul-12	\$1,918.56	2.00%	\$38.37	15.00%	\$287.78	\$326.16
Aug-12	\$1,968.96	2.00%	\$39.38	15.00%	\$295.34	\$334.72
Sep-12	\$1,924.80	2.00%	\$38.50	15.00%	\$288.72	\$327.22
Oct-12	\$2,108.64	2.00%	\$42.17	15.00%	\$316.30	\$358.47
Nov-12	\$1,907.76	2.00%	\$38.16	15.00%	\$286.16	\$324.32
Dec-12	\$2,054.64	2.00%	\$41.09	15.00%	\$308.20	\$349.29
Jan-13	\$1,899.62	2.00%	\$37.99	15.00%	\$284.94	\$322.94
Feb-13	\$1,632.94	2.00%	\$32.66	15.00%	\$244.94	\$277.60
Mar-13	\$2,157.29	2.00%	\$43.15	15.00%	\$323.59	\$366.74
Apr-13	\$2,110.73	2.00%	\$42.21	15.00%	\$316.61	\$358.82
May-13	\$2,111.19	2.00%	\$42.22	15.00%	\$316.68	\$358.90
Jun-13	\$2,087.11	2.00%	\$41.74	15.00%	\$313.07	\$354.81
Jul-13	\$2,140.87	2.00%	\$42.82	15.00%	\$321.13	\$363.95
Aug-13	\$2,149.21	2.00%	\$42.98	15.00%	\$322.38	\$365.57
Sep-13	\$2,019.53	2.00%	\$40.39	15.00%	\$302.93	\$343.32
Oct-13	\$2,107.16	2.00%	\$42.14	15.00%	\$316.07	\$358.22
Nov-13	\$2,025.53	2.00%	\$40.51	15.00%	\$303.83	\$344.34
Dec-13	\$281.28	2.00%	\$5.63	15.00%	\$42.19	\$47.82
Jan-14	\$1,347.84	2.00%	\$26.96	15.00%	\$202.18	\$229.13
Feb-14	\$2,179.68	2.00%	\$43.59	15.00%	\$326.95	\$370.55
Mar-14	\$2,626.69	2.00%	\$52.53	15.00%	\$394.00	\$446.54
Apr-14	\$1,508.64	2.00%	\$30.17	15.00%	\$226.30	\$256.47
May-14	\$1,944.24	2.00%	\$38.88	15.00%	\$291.64	\$330.52
Jun-14	\$1,997.04	2.00%	\$39.94	15.00%	\$299.56	\$339.50
Jul-14	\$2,083.20	2.00%	\$41.66	15.00%	\$312.48	\$354.14
Aug-14	\$2,083.20	2.00%	\$41.66	15.00%	\$312.48	\$354.14
Sep-14	\$1,897.20	2.00%	\$37.94	15.00%	\$284.58	\$322.52
TOTAL	\$121,269.88		\$2,682.50		\$20,118.75	\$22,801.25

ALSEY REFRACTORIES LLC
 ALSEY, IL.

INTEREST CALCULATION

SCH. 2A
 JJ 4/1/15

CALCULATED THROUGH 4/1/2015

MONTH	DETAIL LIABILITY	RATE	INTEREST DUE
Jan-09	\$2,441.75	36.1147%	\$881.83
Feb-09	\$2,078.40	35.3476%	\$734.66
Mar-09	\$2,247.60	34.4983%	\$775.38
Apr-09	\$2,088.00	33.6764%	\$703.16
May-09	\$2,166.24	32.8272%	\$711.12
Jun-09	\$1,833.12	32.1148%	\$588.70
Jul-09	\$1,670.40	15.7177%	\$262.55
Aug-09	\$2,385.02	15.3780%	\$366.77
Sep-09	\$1,113.60	15.0492%	\$167.59
Oct-09	\$1,937.76	14.7095%	\$285.03
Nov-09	\$1,682.88	14.3807%	\$242.01
Dec-09	\$2,018.40	14.0410%	\$283.40
Jan-10	\$966.00	13.0547%	\$126.11
Apr-10	\$1,934.40	12.7259%	\$246.17
May-10	\$1,616.64	12.3862%	\$200.24
Jun-10	\$1,747.20	12.0574%	\$210.67
Jul-10	\$1,675.68	11.7177%	\$196.35
Aug-10	\$1,776.24	11.3779%	\$202.10
Sep-10	\$1,765.44	11.0492%	\$195.07
Oct-10	\$1,777.68	10.7094%	\$190.38
Nov-10	\$3,293.76	10.3807%	\$341.92
Dec-10	\$2,173.20	10.0557%	\$219.40
Jan-11	\$435.84	9.8409%	\$42.89
Feb-11	\$121.92	9.6108%	\$11.72
Mar-11	\$1,620.00	9.3560%	\$151.57
Apr-11	\$2,016.00	9.1095%	\$183.65
May-11	\$1,989.12	8.8547%	\$176.13
Jun-11	\$1,836.00	8.5533%	\$157.04
Jul-11	\$1,822.08	8.2136%	\$149.66
Aug-11	\$2,198.88	7.8738%	\$173.14
Sep-11	\$1,416.00	7.5451%	\$106.84
Oct-11	\$6.96	7.2053%	\$0.50
Dec-11	\$2,232.00	6.5916%	\$147.12
Jan-12	\$1,696.61	6.3368%	\$107.51
Feb-12	\$1,546.79	6.0985%	\$94.33
Mar-12	\$1,853.76	5.8437%	\$108.33
Apr-12	\$1,857.36	5.5971%	\$103.96
May-12	\$1,999.20	5.3424%	\$106.81
Jun-12	\$1,958.40	5.0958%	\$99.80
Jul-12	\$1,918.56	4.8410%	\$92.88
Aug-12	\$1,968.96	4.5862%	\$90.30
Sep-12	\$1,924.80	4.3396%	\$83.53
Oct-12	\$2,108.64	4.0848%	\$86.13
Nov-12	\$1,907.76	3.8383%	\$73.23
Dec-12	\$2,054.64	3.7479%	\$77.01
Jan-13	\$1,899.62	3.7479%	\$71.20
Feb-13	\$1,632.94	3.7479%	\$61.20
Mar-13	\$2,157.29	3.7479%	\$80.85
Apr-13	\$2,110.73	3.7479%	\$79.11
May-13	\$2,111.19	3.7479%	\$79.13
Jun-13	\$2,087.11	3.7479%	\$78.22
Jul-13	\$2,140.87	3.7479%	\$80.24
Aug-13	\$2,149.21	3.7479%	\$80.55
Sep-13	\$2,019.53	3.7479%	\$75.69
Oct-13	\$2,107.16	3.7479%	\$78.97
Nov-13	\$2,025.53	3.7479%	\$75.91
Dec-13	\$281.28	3.5835%	\$10.08
Jan-14	\$1,347.84	3.3287%	\$44.87
Feb-14	\$2,179.68	3.0986%	\$67.54
Mar-14	\$2,626.69	2.8438%	\$74.70
Apr-14	\$1,508.64	2.5972%	\$39.18
May-14	\$1,944.24	2.3424%	\$45.54
Jun-14	\$1,997.04	2.0958%	\$41.85
Jul-14	\$2,083.20	1.8411%	\$38.35
Aug-14	\$2,083.20	1.5863%	\$33.05
Sep-14	\$1,897.20	1.3397%	\$25.42
TOTAL	\$121,269.88		\$11,816.31

Daniel Mudd

From: Iler, Janet [Janet.Iler@Illinois.gov]
Sent: Thursday, January 29, 2015 1:23 PM
To: Daniel Mudd
Subject: Alsey Gas Use Tax audit
Attachments: EDA-70-2 GAS.pdf

Dan,

I am attaching another EDA-70 to request the gas purchase and delivery invoices for Alsey Refractories Co. The law clearly states that the incidence of tax is on the purchaser.

Section 471.105 Imposition of Tax

Beginning October 1, 2003, a tax is imposed upon the privilege of using in this State gas obtained in a purchase of out-of-State gas at the rate or rates set forth in Section 471.110 of this Part. [35 ILCS 173/5-10]

EXAMPLE: A purchase of out-of-State gas occurs when a purchaser enters into a contract outside of this State with a supplier to purchase gas at a wellhead located in Oklahoma. The purchaser then contracts with an Illinois utility for the delivery of that gas to the purchaser's place of business in Illinois. The sale of that gas occurs outside of this State and the seller is not liable for Gas Revenue Tax on the sale of that gas. Unless otherwise exempt under this Part, the purchaser incurs Gas Use Tax liability at the rate or rates set forth in Section 471.110 of this Part on the purchase of the out-of-State gas.

When auditing the purchaser, we cannot be certain that they did not give an exemption certificate (in error) to the delivering supplier. The tax is due and I need to establish the liability. There are paths they can pursue if they do not agree with the assessment but I need to conclude my audit first.

Please let me know how you would like to proceed.

Janet Iler
Revenue Auditor III
Illinois Department of Revenue
15 Executive Drive Suite 2
Fairview Heights, IL 62208
618-304-7593

