

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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<b>ALSEY REFRACTORIES COMPANY</b>	)	
	)	
<b>Petitioner,</b>	)	<b>No. 16-TT-81</b>
	)	
<b>v.</b>	)	<b>Judge Brian F. Barov</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
	)	
<b>Respondent.</b>	)	

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**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 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.

**ANSWER:** The Department admits the factual allegations contained within Paragraph 1.

The Department adds that Exhibit A speaks for itself.

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.

**ANSWER:** The Department admits the factual allegations contained within Paragraph 2.

The Department adds that Exhibit B speaks for itself.

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

**ANSWER:** The information contained within 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. Otherwise, the Department admits the factual allegations contained within Paragraph 3.

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.

**ANSWER:** The information contained within 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 Department admits the factual allegations contained within Paragraph 4.

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](mailto:swigginton@armstrongteasdale.com) or [sgalt@armstrongteasdale.com](mailto:sgalt@armstrongteasdale.com) respectively.

**ANSWER:** The information contained within Paragraph 5 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 Department admits the factual allegations contained within Paragraph 5.

## **JURISDICTION**

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 10111-100.

**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.

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.

**ANSWER:** Paragraph 7 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.

## **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.

**ANSWER:** The Department denies the allegation that "the Petitioner did not believe it had a legal obligation to [file a Gas Tax return]," since the Department can only speculate as to what the Petitioner believed. Also, Paragraph 8 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, to the extent an answer is required, the Department admits that the Petitioner did not file Gas Use Tax Returns for the taxable periods from January 2009-September 2014.

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

**ANSWER:** The Department objects to the term “refractory products” as vague and ambiguous. To the extent the Department can answer, as stated in the audit file, the Petitioner manufactures various types of firebricks for industrial and residential uses.

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

**ANSWER:** The Department is without sufficient information to either admit or deny the factual allegations contained within Paragraph 10 and demands proof thereof.

11. Panhandle delivers such natural gas via a pipeline to Petitioner in Alsey, Illinois.

**ANSWER:** The Department is without sufficient information to either admit or deny the factual allegations contained within Paragraph 11 and demands proof thereof.

12. During the Period, Petitioner was not registered as a self-assessor under Illinois law.

**ANSWER:** The Department admits that Petitioner was not registered as a self-assessing purchaser during the Period. To the extent that Paragraph 12 contains any other factual allegations, they are denied.

13. Petitioner consumes all natural gas purchased from Panhandle in its refractory manufacturing operations and does not resell any of such natural gas.

**ANSWER:** The Department is without sufficient information to either admit or deny the factual allegations contained within Paragraph 13 and demands proof thereof.

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.

**ANSWER:** The Department is without sufficient information to either admit or deny the factual allegations contained within Paragraph 14 and demands proof thereof.

**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.

**ANSWER:** The Department states that Paragraph 15 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 15 and states that such provision speaks for itself. Finally, the Department denies that the summary of the statutory provision at issue in Paragraph 15 contains the full statutory language at issue. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 16 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 16 and states that such provision speaks for itself. Finally, the Department denies that the summary of the statutory provision at issue in Paragraph 16 contains the full statutory language at issue. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 17 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 17 and states that such provision speaks for itself. Finally, the Department denies that the summary of the statutory provision at issue in Paragraph 17 contains the full statutory language at issue. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 18 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 18 and states that such provision speaks for itself. Finally, the Department denies that the summary of the statutory provision at issue in Paragraph 18 contains the full statutory language at issue. To the extent a further answer is deemed required, denied.

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."

**ANSWER:** The Department states that Paragraph 19 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 19 and states that such provision speaks for itself. Finally, the Department denies that the summary of the statutory provision at issue in Paragraph 19 contains the full statutory language at issue. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 20 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 20 and states that such provision speaks for itself. Finally, the Department denies that the summary of the statutory provision at issue in Paragraph 20 contains the full statutory language at issue. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 21 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the statutory provision set forth or referred to within Paragraph 21 and states that such provision speaks for itself. Also, the Department denies that the summary of the statutory provision at issue in Paragraph 21 contains the full statutory language at issue. Finally, the Department is without sufficient information to either admit or deny the factual allegations stated within the second sentence of Paragraph 21. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 22 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 22 and states that such provision speaks for itself. Finally, the Department denies that the summary of the regulation at issue in Paragraph 22 contains the full regulatory language at issue. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 23 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 23 and states that such provision speaks for itself. Finally, the Department denies that the summary of the regulation at issue in Paragraph 23 contains the full regulatory language at issue. To the extent a further answer is deemed required, denied.

### **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.

**ANSWER:** The Department objects to the characterization contained within Paragraph 24, and denies the factual allegations contained within Paragraph 24. The Department's calculation is as stated in the audit file, including the auditor's narrative. Further, the Department admits the existence of Exhibit C and states that Exhibit C speaks for itself.

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

**ANSWER:** The Department objects to the characterization contained within Paragraph 25, and denies the factual allegations contained within Paragraph 25. The Department's position is as stated in the audit file, including the auditor's narrative.

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.

**ANSWER:** The Department states that Paragraph 26 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department also admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 26 and states that the regulation speaks for itself. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 27 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department also admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 27 and states that the regulation speaks for itself. To the extent a further answer is deemed required, denied.

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.

**ANSWER:** The Department states that Paragraph 28 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there are any factual allegations, the Department is without sufficient information to either admit or deny any factual allegations contained within Paragraph 28, and demands proof of these factual allegations.

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

**ANSWER:** The Department states that Paragraph 29 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there are any factual allegations, the Department is without sufficient information to either admit or deny any factual allegations contained within Paragraph 29, and demands proof of these factual allegations.

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.

**ANSWER:** The Department objects to the characterization contained within Paragraph 30, and denies the factual allegations contained within Paragraph 30. The Department's reasoning is as stated in the audit file, including the auditor's narrative. Further, the Department admits the existence of Exhibit D and states that Exhibit D speaks for itself.

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.

**ANSWER:** The Department states that Paragraph 31 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

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

**ANSWER:** The Department states that Paragraph 32 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

**WHEREFORE,** the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notices correctly reflect 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.

## **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.

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 32 as though fully set forth herein.

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.

**ANSWER:** The Department denies that Gas Tax is at issue, as Gas Use Tax is at issue. Otherwise, the Department admits the factual allegations contained within Paragraph 34.

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.

**ANSWER:** The Department states that Paragraph 35 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

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.

**ANSWER:** The Department states that Paragraph 36 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

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."

**ANSWER:** The Department states that Paragraph 37 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 37 and states that the regulation speaks for itself.

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.

**ANSWER:** The Department states that Paragraph 38 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 38 and states that the regulation speaks for itself.

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.

**ANSWER:** The Department states that Paragraph 39 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, the Department admits the existence, force, and effect of the regulation set forth or referred to within Paragraph 39 and states that the regulation speaks for itself.

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

**ANSWER:** The Department is without sufficient information to either admit or deny the factual allegations contained within Paragraph 40 and demands strict proof thereof.

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.

**ANSWER:** The Department states that Paragraph 41 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

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

**ANSWER:** The Department states that Paragraph 42 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

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

**ANSWER:** The Department objects to the term “timely” as vague and ambiguous, and denies the factual allegations contained within Paragraph 43 on this basis.

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

**ANSWER:** The Department states that Paragraph 44 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

**WHEREFORE,** the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;

- b. Find that the Department's Notices correctly reflect 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.

**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.

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 45 as though fully set forth herein.

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

**ANSWER:** The Department states that the first and second Notices, attached as Exhibits A and B to the Petition, speak for themselves. Further, the amounts discussed within Paragraph 46 are interest as included in the Notices. The Department notes that interest on the Notices continues to accrue. Otherwise, the Department admits the factual allegations contained within Paragraph 46.

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.

**ANSWER:** The Department states that Paragraph 47 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2)

of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

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.

**ANSWER:** The Department states that Paragraph 48 contains legal conclusions, not material allegations of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further, to the extent there may be any factual allegations, they are affirmatively denied.

**WHEREFORE,** the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department's Notices correctly reflect 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: June 6, 2016

Respectfully submitted,  
Illinois Department of Revenue

By: /s/ Seth Jacob Schriftman  
Seth Jacob Schriftman  
Special Assistant Attorney General

Seth Jacob Schriftman  
Illinois Department of Revenue  
100 West Randolph Street, 7-900  
Chicago, IL 60601  
312-814-1591  
seth.schriftman@illinois.gov

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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<b>ALSEY REFRACTORIES COMPANY</b>	)	
	)	
<b>Petitioner,</b>	)	<b>No. 16-TT-81</b>
	)	
v.	)	<b>Judge Brian F. Barov</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
	)	
	)	
<b>Respondent.</b>	)	

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**AFFIDAVIT OF JANET ILER  
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

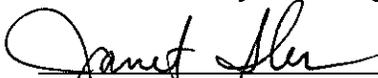
STATE OF ILLINOIS

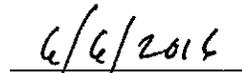
COUNTY OF ST. CLAIR

Under penalties as provided by Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, I, Janet Iler, being first duly sworn on oath, depose and state as follows:

1. I am currently employed by the Illinois Department of Revenue.
2. My current title is Revenue Auditor.
3. I compiled the audit information regarding the taxes asserted in the Notices of Tax Liability subject of Taxpayer's Petition.
4. I lack the personal knowledge required to either admit or deny some or all of the allegations contained in Paragraphs 10, 11, 13, 14, 21, 28, 29, and 40 of Taxpayer's Petition.
5. I am an adult resident of the State of Illinois and can truthfully and competently testify as to the matters contained herein based upon my own personal knowledge.

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, I hereby certify that the statements set forth in this Affidavit are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Janet Iler  
Revenue Auditor

  
\_\_\_\_\_  
Date