

**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

SALIM SIDDIQUE,)	
)	
Petitioner,)	
)	
v.)	No. 14-TT-160
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant.)	

PETITION

NOW COMES the Respondent, the Illinois Department of Revenue (“Department”), by and through their attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its answer to Taxpayer’s Petition respectfully pleads as follows:

PARTIES

1. Petitioner is an individual who lives at 162 Michigan Drive, Bloomingdale, Illinois, 60108, and can be reached at 630-935-7203.

ANSWER: The Department admits the actual allegations contained in Paragraph 1.

2. Petitioner is represented by Romanoff & 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.

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

3. Petitioner’s Taxpayer ID is XXX-XX-8048.

ANSWER: The Department admits the factual allegations contained in Paragraph 3.

4. The Department is an agency of the Executive Department of the State

Government and is tasked with the enforcement of Illinois tax laws. 20 ILCS 5/5-15.

ANSWER: The Department admits the factual allegations contained in Paragraph 4.

NOTICE

5. On June 12, 2014, Petitioner received a Collection Action Assessment and Notice of Intent for a personal liability penalty (a.k.a. NPL) (“Notice”) in the amount of \$40,444.97, for the unpaid liability of ISRA Gas Inc. for the tax periods ending December 31, 2011. The Notice is attached hereto as Exhibit A.

ANSWER: The Department admits the factual allegations contained in 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 1010/1-100.

ANSWER: The Department admits the factual allegations contained in Paragraph 6.

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.

ANSWER: The Department admits the factual allegations contained in Paragraph 7.

BACKGROUND

8. Petitioner is a corporate officer of ISRA Gas Inc.

ANSWER: The Department admits the factual allegations contained in Paragraph 8.

9. Even though Petitioner was involved in the day-to-day activities of ISRA Gas Inc., Petitioner was not involved in the filing, preparation, and payment of Illinois sales tax for the corporation because the corporation retained and reasonably relied on an outside accountant

to prepare the Illinois sales tax returns during the audit tax periods at issue.

ANSWER: The Department denies the factual allegations contained in Paragraph 9.

COUNT I

10. Petitioner realleges and incorporates by reference the allegations made in paragraphs 1 through 9, inclusive, hereinabove.

ANSWER: The Department admits the factual allegations contained in Paragraph 10.

11. A corporate officer who does not have control or supervision for filing or paying sales tax is not personally liable for the corporation's debt. 35 ILCS 35 ILCS 735/3-7.

ANSWER: The Department denies this as legal conclusions not facts and asserts that the cited statute speaks for itself.

12. Petitioner is a corporate officer of ISRA Gas Inc. who did not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments and therefore is not personally liable for the corporation's unpaid sales tax, penalties, and interest because the corporation retained and reasonably relied on an outside accountant to prepare the sales tax returns.

ANSWER: The Department denies the factual allegations contained in Paragraph 12 and demands strict proof thereof.

13. Contrary to the Department's determination, Petitioner is not a responsible officer who failed to pay the sales tax of the corporation.

ANSWER: The Department denies the factual allegations contained in Paragraph 13 and demands strict proof thereof.

WHEREFORE, the Department respectfully requests this Tribunal:

- (a) find and declare that Petitioner is personally liable for the unpaid sales tax, penalties, and interest of the corporation because Petitioner had control, supervision, or responsibility for filing sales tax returns or making sales tax payments; and
- (b) grant the Department the right to take any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice; and
- (c) enter judgment in favor of the Department and finalize the Notice.

COUNT II

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

ANSWER: The Department admits the factual allegations contained in Paragraph 14.

15. A corporate officer who does not willfully fail to pay the corporation's sales tax is not personally liable for the corporation's unpaid sales tax penalties and interest. 35 ILCS 35 ILCS 735/3-7.

ANSWER: The Department denies this as legal conclusions not facts and asserts that the cited statute speaks for itself.

16. Petitioner was a corporate officer of ISRA Gas Inc. who did not willfully fail to pay the sales tax, penalties, and interest and therefore is not personally liable for such amounts because the corporation retained and reasonably relied on an outside accountant.

ANSWER: The Department denies the factual allegations contained in Paragraph 16 and demands strict proof thereof.

17. Contrary to the Department's determination, Petitioner is not a responsible officer who willfully failed to pay the sales tax, penalties, and interest of the corporation.

ANSWER: The Department denies the factual allegations contained in Paragraph 17 and demands strict proof thereof.

WHEREFORE, the Department respectfully requests this Tribunal:

- (a) find and declare that Petitioner is personally liable for the unpaid sales tax, penalties, and interest of the corporation because Petitioner willfully failed to pay such amounts;
- (b) grant the Department the right to take any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice;
- (c) enter judgment in favor of the Department and against the Petitioner.

COUNT III

18. Petitioner realleges and incorporates by reference the allegations made in paragraphs 1 through 17, inclusive, hereinabove.

ANSWER: The Department admits the factual allegations contained in Paragraph 18.

19. The Illinois statute regarding personal liability assessments improperly defines unpaid corporate sales tax to include penalties and interest. 35 ILCS 735/3-7.

ANSWER: The Department denies this as legal conclusions not facts and asserts that the cited statute speaks for itself.

20. The intent of the Illinois statute regarding personal liability assessments for unpaid corporate sales taxes is to allow the state to pursue responsible, willful corporate officers for unpaid corporate sales taxes that were collected "in trust" for

the state.

ANSWER: The Department denies this as legal conclusions not facts.

21. The unpaid corporate sales tax penalties and interest contained in the Notice at issue were not collected “in trust” for the state.

ANSWER: The Department denies the factual allegations contained in Paragraph 21.

22. The Department’s determination that Petitioner personally owes the unpaid penalties and interest of ISRA Gas Inc. is not supported by law.

ANSWER: The Department denies this as legal conclusions not facts.

WHEREFORE, the Department requests this Tribunal:

- (a) find and declare that Petitioner is personally liable for the unpaid sales tax penalties and interest of the corporation;
- (b) grant the Department the right to take any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice;
- (c) enters judgment in favor of the Department and against the Petitioner and finalize the Notice; and
- (d) grant such further relief as the Tribunal deems appropriate.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: 

Marc L. Muchin
Special Assistant Attorney General

Illinois Department of Revenue
100 W. Randolph St., #7-900

Chicago, IL 60601