

a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations contained in Paragraph 2.

3. The Petitioner is engaged in the purchase and sale of used automobiles.

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

4. The Petitioner uses a third-party processing company to process all ST-566 forms and remit taxes to the Department.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 4 and, therefore, demands strict proof thereof.

5. When entering the information into the system provided by the third-party processing company, the “Delivery Date” was automatically generated by the computer program as the date the data was being entered. The[] employee that entered the information never adjusted the date.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 5 and, therefore, demands strict proof thereof.

6. Petitioner was not aware of any issues with the filings. Petitioner never received any notices of deficiencies or other information from the Department that the filing was incorrect.

ANSWER: The Department denies that it the Petitioner never received any notices of deficiencies or other information that the Petitioner’s filings were incorrect. The Department lacks sufficient information to either admit or deny the remaining allegation in Paragraph 6 and, therefore, demands strict proof thereof.

7. All tax liability was paid in full. Indeed, Petitioner has maintained a credit balance with the Department. The only issue before this tribunal is the imposition of late filing and payment penalties and interest thereon.

ANSWER: The Department admits the allegations in paragraph 7.

8. It was not until audit, that the Petitioner first became aware of issues with the ST filings.

ANSWER: The Department lacks sufficient information to either admit or deny the allegation in Paragraph 8 and, therefore, demands strict proof thereof.

9. Once aware, Petitioner corrected the issue.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 9 and, therefore, demands strict proof thereof.

10. The Department imposed penalties for the late filing of the returns and the late payment of the taxes pursuant to section 3-3 of the Uniform Penalty and Interest Act (“UPIA”) (35 ILCS 735/3-1 *et seq.*).

ANSWER: The Department admits the allegations in paragraph 10.

11. Section 3-8 of the UPIA provides a basis for the abatement of the section 3-3 penalties and states in part as follows:

The penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department.

(35 ILCS 735/3-8)

ANSWER: The Department admits the existence, force and effect of the Uniform Penalty and Interest Act (35 ILCS 735/3-1 *et seq.*) and states that the statute speaks for itself.

12. The Department has promulgated rules interpreting reasonable cause at 86

Ill. Admin Code Ch. I, §700.400. These rules provide as follows:

The determination of whether a taxpayer acted with reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. 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. (86 Ill. Admin. Code §700.400(b).)

A taxpayer will be considered to have made a good faith effort to determine and file and pay his proper tax liability if he exercised ordinary business care and prudence in doing so. A determination of whether a taxpayer exercised ordinary business care and prudence is dependent upon the clarity of the law or its interpretation and the taxpayer's experience, knowledge, and education. Accordingly, reliance on the advice of a professional does not necessarily establish that a taxpayer exercised ordinary business care and prudence, nor does reliance on incorrect facts such as an erroneous information return. (86 Ill. Admin. Code §700.400(c).)

The Department will also consider a taxpayer's filing history in determining whether the taxpayer acted in good faith in determining and paying his tax liability. Isolated computational or transcriptional errors will not generally indicate a lack of good faith in the preparation of a taxpayer's return. (86 Ill. Admin. Code §700.400(d).)

ANSWER: The Department admits the existence, force and effect of its regulation and states that the regulation speaks for itself.

13. The Petitioner made a good faith effort to pay its proper tax liability in a timely fashion and exercised ordinary business care in doing so. Indeed, Petitioner's filing history shows consistent payments to the Department.

ANSWER: The first sentence of Paragraph 13 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 admits that the Petitioner has made payments to the Department. The Department denies all remaining factual allegations contained in Paragraph 13

and demands strict proof thereof.

14. That some of those payments were untimely was due not to the negligence of the Petitioner, but to a computer glitch that was not recognized by the Petitioner's employees.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 14 and, therefore, demands strict proof thereof.

15. The actions of the Petitioner constitute a showing of reasonable cause for alleviating the penalty under Illinois law.

ANSWER: Paragraph 15 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. The Department denies all factual allegations contained in Paragraph 15 and demands strict proof thereof.

WHEREFORE, the Department respectfully requests this tribunal deny the Petitioner's request that the Notice of Tax Liability issued by the Department be modified or cancelled.

Respectfully submitted,

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