

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

YAO DINIZULU, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 Defendant. )

No.

**RECEIVED**  
JUL 14 2016  
BY: \_\_\_\_\_  
1677/40

**PETITION**

Petitioner, Yao Dinizulu (“Petitioner”), by and through his attorneys, The Law Office of James E. Dickett, Ltd, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

**PARTIES**

1. Petitioner is an individual who can be contacted at 7232 South Crandon Avenue, Chicago, Illinois, 60649, and can be reached at 312-384-1920.
2. Petitioner is represented by The Law Office of James E. 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](mailto:jdickett@aol.com).
3. Petitioner’s NPL Penalty ID is 2800247.
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.

## NOTICE

5. On June 10, 2016, the Department issued a personal liability assessment (“Notice”) to Petitioner for the unpaid sales tax of Buddies Food & Liquors Inc., in the amount of \$67,149 in tax plus penalties and interest. The Notice is attached hereto as Exhibit 1.

## 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.

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 date of the Notice.

## BACKGROUND

8. Petitioner is a former corporate officer of the underlying corporation who sold his interest in the business in early 2012.

9. Petitioner was not involved in the filing, preparation, and payment of Illinois sales tax for the underlying corporation during the tax periods ending June 30, 2014 per the enclosed Notice.

## COUNT I

### **Petitioner is not a responsible officer who failed to pay the Illinois sales tax, penalties, and interest of the corporation.**

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

11. A corporate officer who does not have control or supervision for filing or paying Illinois sales tax is not personally liable for the corporation’s debt. 35 ILCS 5/1002(d).

12. Petitioner was a corporate officer who did not have control, supervision, or responsibility for filing Illinois sales tax returns or making Illinois sales tax payments for the tax periods at issue (because he sold his interest in the business) and therefore is not personally liable for the corporation's unpaid taxes.

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

**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax, penalties, and interest of the corporation because Petitioner did not have control, supervision, or responsibility for filing the tax returns or making the tax payments; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice; and
- (c) enters judgment in favor of Petitioner and cancels the Notice.

### **COUNT II**

#### **Petitioner did not willfully fail to pay the Illinois sales tax, penalties, and interest of the corporation.**

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

15. A corporate officer who does not willfully fail to pay the corporation's Illinois sales tax is not personally liable for the unpaid sales tax, penalties, and interest. 35 ILCS 5/1002(d).

16. Petitioner was a corporate officer who did not willfully fail to pay the Illinois sales tax, penalties, and interest and therefore is not personally liable for such amounts because he sold his interest in the business prior to the tax periods at issue herein and had nothing to do with the business thereafter.

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

**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner is not personally liable for the unpaid Illinois sales tax, penalties, and interest of the corporation because Petitioner did not willfully fail to pay such amounts;
- (b) enjoins the Department from taking 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 Petitioner and against the Defendants.

### **COUNT III**

**The Department cannot assess a personal liability assessment for penalties and interest amounts related to unpaid corporate Illinois sales taxes.**

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

19. The Illinois statute regarding personal liability assessments improperly defines unpaid corporate taxes to include penalties and interest. 35 ILCS 735/3-7 and 35 ILCS 5/1002(d).

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

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

22. The Department's determination that Petitioner personally owes the unpaid penalties and interest of the corporation is not supported by law.

**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

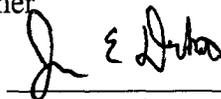
- (a) finds and declares that Petitioner is not personally liable for the unpaid Illinois sales tax penalties and interest of the corporation because such amounts were not collected "in trust" for the state;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice; and
- (c) enters judgment in favor of Petitioner and cancels the Notice.

Thank you for considering this Petition.

Respectfully submitted,

Yao Dinizulu,  
Petitioner

By:



One of Petitioner's Attorneys

Date:

7-12-16

James E. Dickett  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558  
708-784-3200 (fax 3201)  
[jdickett@aol.com](mailto:jdickett@aol.com)

**Collection Action**  
**Assessment and Notice of Intent**

Exhibit 1



June 10, 2016



Letter ID: L2059650448

YAO DINIZULU  
7232 S CRANDON AVE  
CHICAGO IL 60649-2510

Taxpayer ID: XXX-XX-  
NPL Penalty ID: 2800247



BUDDIES FOOD & LIQUORS, INC  
1758 E 79TH ST  
CHICAGO IL 60649-4913

**We have determined you are personally liable  
for a penalty of \$99,241.37.**

The penalty is equal to the amount of unpaid liability of BUDDIES FOOD & LIQUORS, INC, due to your status as a responsible officer, partner, or individual of BUDDIES FOOD & LIQUORS, INC.

Illinois law (35 ILCS 735/3-7) provides that any person who has control, supervision, or responsibility of filing returns or making payments for a taxpayer, and who willfully fails to do so, shall be personally liable for a penalty equal to the amount of tax due including penalty and interest.

**Pay us \$99,241.37.** Your payment must be guaranteed (i.e., cashier's check, money order) and made payable to the Illinois Department of Revenue. Send or bring it to us at the address below.

**If you do not agree, you may contest this notice by following the instructions listed below.**

- **If the amount of this liability 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 **August 9, 2016**. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. 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](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If the debt remains unpaid and this penalty becomes final, we intend to take collection enforcement action against you personally to collect this debt. Collection action can include the seizure and sale of your assets, and levy of your wages and bank accounts.

DMITRI CORNELIER  
100% PENALTY UNIT  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
SPRINGFIELD IL 62794-9035

217 782-9904 ext. 31613  
217 785-2635 fax

**For information about**  
› **how to pay**  
› **submitting proof**  
› **collection actions**



**Collection Action**  
**Assessment and Notice of Intent**



June 10, 2016



Letter ID: L2059650448

YAO DINIZULU  
7232 S CRANDON AVE  
CHICAGO IL 60649-2510

Taxpayer ID: XXX-XX-  
NPL Penalty ID: 2800247



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

**Sales/Use Tax & E911 Surcharge**

Account ID: 2485-4387

| Period      | Tax       | Penalty   | Interest | Other | Payments/Credits | Balance   |
|-------------|-----------|-----------|----------|-------|------------------|-----------|
| 30-Jun-2014 | 67,149.00 | 27,196.00 | 6,232.84 | -     | (1,336.47)       | 99,241.37 |

IDOR-5P-NPL (N-03/07)

Retain this portion for your records.  
Fold and detach on perforation. Return bottom portion with your payment.

**Collection Action**

(R-12/08) (136)



Letter ID: L2059650448  
YAO DINIZULU

Mail this voucher and your payment to:  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
SPRINGFIELD IL 62794-9035

Total amount due: \$99,241.37  
Write the amount you are paying below.  
\$ \_\_\_\_\_  
Write your Account ID on your check.

000 006 012706819368 731 123199 7 0000009924137