

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

DINESH M. LAKHANI, )  
 )  
 ) Petitioner, )  
 )  
 ) v. )  
 )  
 ) STATE OF ILLINOIS )  
 ) DEPARTMENT OF REVENUE, )  
 )  
 ) Defendant. )

No.

**RECEIVED**  
AUG 05 2016  
BY: \_\_\_\_\_  
16 TT 157

**PETITION**

Petitioner, Dinish M. Lakhani (“Petitioner”), by and through her 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 resides at 8304 Kelly Drive, Woodridge, Illinois, 60517, and can be reached at 630-880-9648.
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 7770032.
4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

## NOTICE

5. On July 12, 2016, the Department issued a Collection Action Assessment and Notice of Intent for a personal liability penalty (a.k.a. NPL) (“Notice”) to Petitioner in the amount of \$252,347.51, which covers the tax periods January 1, 2008 to March 31, 2013. 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 Notice.

## BACKGROUND

8. Petitioner was a partial “absentee” owner of 1<sup>st</sup> Lincoln Corporation.

9. The NPL at issue herein is based on two sales tax audits of the corporation for the tax periods January 1, 2008 to March 31, 2013.

10. However, with respect to the first audit, nearly all of the audit tax liability is based on disallowed purchases for resale that were “marked-up” as taxable sales.

11. With respect to the second audit, almost all of the audit liability is based on disallowed sales to exempt organizations that were eliminated from line “1” of the sales tax returns as filed.

## COUNT I

### **Petitioner is not a responsible officer who failed to pay the sales tax of the corporation.**

12. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 11, inclusive, hereinabove.

13. A corporate officer who does not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments is not personally liable for the corporation's unpaid sales tax, penalties, and interest. 35 ILCS 35 ILCS 735/3-7.

14. Petitioner 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 he was not involved in the day-to-day operations of the business.

15. Contrary to the Department's determination, Petitioner is not a responsible officer who failed to pay the 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 sales tax, penalties, and interest of the corporation because  
Petitioner did not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments;
- (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 against the Defendants.

## **COUNT II**

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

16. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 15, inclusive, hereinabove.

17. 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.

18. Petitioner did not willfully fail to pay the sales tax, penalties, and interest and therefore is not personally liable for such amounts because the underlying sales tax audit liability is based on non-willful disallowed deductions for sales for resale and sales to exempt organizations and in **both** instances the corporation never collected the sales tax from such non-taxable customers.

19. Contrary to the Department's determination, Petitioner was not a responsible officer who willfully failed to pay the 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 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; and
- (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 sales taxes.**

20. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 19, inclusive, hereinabove.

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

22. The intent of 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.

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

24. 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:

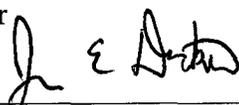
- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax penalties and interest of the corporation because such amounts were not collected "in trust" for the state; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way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

Thank you for considering this Petition.

Respectfully submitted,

Dinish M. Lakhani,  
Petitioner

By:

  
\_\_\_\_\_  
One of Petitioner's Attorneys

Date:

8-3-16

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



July 12, 2016



Letter ID: L0251956368

DINESH M. LAKHANI  
8304 KELLY DR  
WOODRIDGE IL 60517-4534

Taxpayer ID: XXX-XX-1117  
NPL Penalty ID: 7770032



1ST LINCOLN CORPORATION  
1208 CROMWELL LN  
NAPERVILLE IL 60564-3170

**We have determined you are personally liable  
for a penalty of \$252,347.51.**

The penalty is equal to the amount of unpaid liability of 1ST LINCOLN CORPORATION, due to your status as a responsible officer, partner, or individual of 1ST LINCOLN CORPORATION.

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 \$252,347.51.** 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.

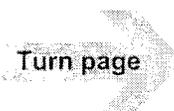
**If you do not agree, you may contest this notice by following the instructions listed below.**

- **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 **September 10, 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

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



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

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

Exhibit 1



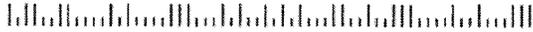
July 12, 2016



Letter ID: L0251956368

DINESH M. LAKHANI  
8304 KELLY DR  
WOODRIDGE IL 60517-4534

Taxpayer ID: XXX-XX-1117  
NPL Penalty ID: 7770032



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: 5519-6462

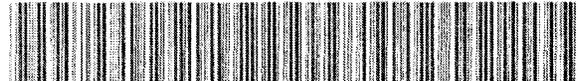
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	54,353.00	21,842.00	12,562.69	-	(2,053.17)	86,704.52
31-Dec-2010	63,461.00	25,484.00	10,645.06	-	-	99,590.06
31-Mar-2013	43,926.00	17,670.00	4,456.93	-	-	66,052.93

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: L0251956368  
DINESH M. LAKHANI

Total amount due: \$252,347.51

Write the amount you are paying below.

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

\$ \_\_\_\_\_

Write your Account ID on your check.

000 006 014476799523 731 123199 7 0000025234751