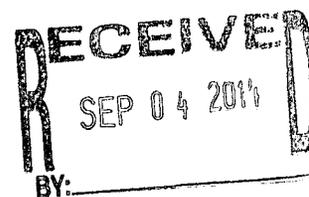


ILLINOIS INDEPENDENT
TAX TRIBUNAL



17TT170

ROCKFORD FOOD & LIQUOR, INC.,)
)
Petitioner,)
)
v.)
)
ILLINOIS DEPARTMENT)
OF REVENUE,)
)
Respondent.)

No.

PETITION

The Petitioner, ROCKFORD FOOD & LIQUOR INC., hereby petitions the Illinois Independent Tax Tribunal to review and reverse/and or modify the Notice of Tax Liability (“Notice”) issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

INTRODUCTION

The “Notice” was issued by the Department on July 7, 2014 assessing in the amount of \$41,169.00 in tax, \$16,312.00 in penalties and \$3,523.71 in interest for taxable period of July 1, 2009 through December 31, 2011, less payments/credits of \$1,050.00, resulting in a proposed liability of \$59,954.71 for sales/use tax & E911 surcharge. A copy of the “Notice” is attached to this Petition. For reason(s) unknown to Petitioner’s counsel, another statement provided by the Department to the Petitioner indicates that only \$58,904.71 is “subject to protest”.

Petitioner is a corporation with its principal place of business in Rockford, Illinois.

It is located at 1725 Kishwaukee St., Rockford, Illinois 61104, and its telephone number is (815) 964-7766. Its account ID is 3491-4056.

BACKGROUND AND RELEVANT FACTS

Petitioner is a retailer selling food and liquor.

Petitioner was audited by the Department and disagrees with the results.

APPLICABLE LAW

The Retailers Occupation Tax Act (35 ILCS 120 et. seq.).

Section 3-5 of the Uniform Penalty and Interest Act (35 ILCS 735/3-5).

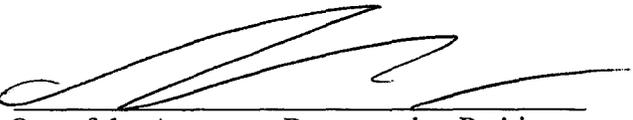
ERRORS OF FACT OR LAW

1. The Department erroneously determined Petitioner's tax liability by using an excessive markup analysis during the audit thus overstating Petitioner's liability and exceeding what is actually owed under the Retailers Occupation Tax Act (35 ILCS 120 et. seq.).
2. The Department erroneously determined Petitioner to be negligent. The Department thus erroneously imposed a negligence penalty. Petitioner was not negligent and is not subject to the penalty set forth at section 3-5 of the Uniform Penalty and Interest Act (35 ILCS 735/3-5).

CONCLUSION AND RELIEF REQUESTED

WHEREAS, Petitioner requests that the "Notice" be canceled for the reasons contained herein.

ROCKFORD FOOD & LIQUOR, INC.

By: 

One of the Attorneys Representing Petitioner

Representatives:

Michael C. Whelan, ARDC no. 6195511
E. Thomas Ryder, ARDC no. 6278366
Attorneys at Law
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Des Plaines, IL 60018

Phone: (847) 298-9275
Email: mcwhelanlaw@yahoo.com

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWVKMGV
#CNXX XX38 2893 7923#
ROCKFORD FOOD & LIQUOR INC
ROCKFORD FOOD & LIQUOR
1725 KISHWAUKEE ST
ROCKFORD IL 61104-5117

July 7, 2014



Letter ID: CNXXXX3828937923

Account ID: 3491-4056



We have audited your account for the reporting periods July 01, 2008, through December 31, 2011. As a result we have assessed the amounts shown below.

	Liability	Payments/Credit	Unpaid Balance
Tax	41,169.00	(1,050.00)	40,119.00
Late Payment Penalty Increase	8,024.00	0.00	8,024.00
Negligence Penalty	8,024.00	0.00	8,024.00
Late Filing Penalty Increase	264.00	0.00	264.00
Interest	3,523.71	0.00	3,523.71
Assessment Total	\$61,004.71	(\$1,050.00)	\$59,954.71

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

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

- If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability is assessed but the total penalties and interest 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 05, 2014**. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at tax.illinois.gov). Mail form AH-4 along with a copy of this notice to the address on the form. 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), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579