ILLINOIS INDEPENDENT TAX TRIBUNAL

WACHS VALVE AND HYDRANT SERVICES, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 14-TT19
	)	
ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Respondent.	)	

RECEIVED
FEB 13 2014
BY:

PETITION

The Petitioner, Wachs Valve and Hydrant Services, LLC, hereby petitions for a redetermination of the Tax Liability Notices set forth by Respondent, Illinois Department of Revenue, and as the basis for Petitioner's case alleges as follows:

1. Petitioner is Wachs Valve and Hydrant Services, LLC, an Illinois limited liability company. Petitioner's principal office and mailing address is 801 Asbury Drive, Buffalo Grove, Illinois 60089. Petitioner's telephone number is 800-525-5821.

2. Petitioner's representatives are:

(a) Edwin I. Josephson. Address: Chuhak & Tecson, P.C., 30 S. Wacker Drive, Suite 2600, Chicago, IL 60606. Telephone: 312-444-9300. Email: ejosephson@chuhak.com; and

(b) David B. Shiner. Address: Chuhak & Tecson, P.C., 30 S. Wacker Drive, Suite 2600, Chicago, IL 60606. Telephone: 312-444-9300. Email: dshiner@chuhak.com.

3. Petitioner's federal taxpayer identification number is 36-4377643 and Petitioner's Illinois account ID is 12390-21568.

4. The Notices of Tax Liability have been transferred by Respondent's Administrative Hearings Division to the Illinois Independent Tax Tribunal pursuant to an order dated January 22, 2014 issued by Administrative Law Judge Kenneth J. Galvin. A copy of the order dated January 22, 2014 is attached hereto and marked as Exhibit A.

5. A copy of the Notices of Tax Liability are attached hereto and marked as Exhibit B.

6. The liabilities as determined by Respondent are in use tax and penalties or interest for the following periods and for the following amounts:

Audit period ending	**Assessment amount**
March 28, 2011	$15,364.06
April 27, 2011	$ 7,029.34
May 10, 2011	$ 569.92
June 9, 2011	$ 7,721.36
July 1, 2011	$ 1,192.14

August 24, 2011	$ 2,421.11
September 16, 2011	$ 4,879.44
January 19, 2012	$ 3,316.36
February 29, 2012	$ 715.30
November 1, 2012	$ 432.75
December 23, 2012	$ 3,770.50

The entire above stated liabilities in use tax and penalties or interest determined or proposed is in dispute.

7. The determination of tax and penalties or additions to tax set forth in the said notices of liability is based upon the following errors:

(a) Petitioner disputes Respondent's determination that equipment purchased from a United Kingdom vendor was used in Illinois.

(b) Petitioner disputes Respondent's determination that the temporary storage exemption under 35 ILCS 105/3-55(e) does not apply.

(c) Petitioner disputes Respondent's determination that late payment penalties should be imposed.

(d) Petitioner disputes Respondent's determination that late filing penalties should be imposed.

(e) Petitioner disputes Respondent's determination that interest should be imposed

8. The facts upon which Petitioner relies, as the basis of Petitioner's case, are as follows:

(a) Petitioner is a leading provider of water distribution system asset management solutions.

(b) The company employs 150 dedicated employees located in strategic hubs throughout North America and has completed over 200 infrastructure renewal projects, including the largest known projects in Baltimore and Atlanta.

(c) During the applicable periods, Petitioner purchased equipment from a vendor in the United Kingdom in pursuit of an entirely new service offering to augment the company's core business of maintaining and rehabilitating water delivery systems, such as valves, hydrants and water mains.

(d) Delivery of the equipment was accepted at the Company's headquarters in Buffalo Grove, Illinois and temporarily stored there.

(e) The equipment was purchased pursuant to a license agreement providing for activity-based royalty payments to the seller.

(f) The equipment formed two discrete inspection systems that were installed in separate vans.

(g) Use of the equipment was tracked by a third party.

(h) During the applicable periods, equipment was used in various projects in North America such as, in Mexico, Canada, Barbados, Maryland, Texas, North Carolina and Virginia, but never in Illinois. A copy of the Company's revenue schedule reflecting the equipment use by state was attached to the Company's protest letter.

(i) Ultimately, a majority of equipment at issue was returned or disposed of in 2013 as demand has not materialized and the business unit has remained unprofitable.

(j) Illinois imposes a use tax on the privilege of using, in Illinois, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See, 86 Ill. Adm. Code 150.101.

(k) However, there is no use tax on the temporary storage in Illinois of tangible personal property which is acquired outside of Illinois and which subsequent to being brought into Illinois and stored here temporarily is used solely outside of Illinois. 35 ILCS 105/3-55(e); 86 Ill. Adm. Code 150.310(a)(4).

(l) Here, the equipment at issue was acquired in the United Kingdom.

(m) The equipment was then brought into Illinois and stored here temporarily.

(n) The equipment was then used solely outside of Illinois.

(o) Because the use of the property falls within the Temporary Storage Exemption of 35 ILCS 105/3-55(e), no use tax should be imposed.

(p) Further, because no use tax should be imposed, late filing penalties, late payment penalties and interest should be abated.

WHEREFORE, Petitioner prays that this Court try this case, determine that there is no deficiency as determined by Respondent and grant such other and further relief as the Court may deem fit and proper.

Respectfully submitted,

Wachs Valve and Hydrant Services, LLC

Dated: February 12, 2014

By: _____
One of their attorneys

David B. Shiner
Chuhak & Tecson, P.C.
30 South Wacker Drive
Suite 2600
Chicago, IL 60606
312-444-9300
dshiner@chuhak.com

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS	)	
	)	**No. 13-ST-0448**
	)	**11 NTL'S (See Attached List)**
v.	)	
	)	
WACHS VALVE & HYDRANT SERVICES, LLC, TAXPAPER	)	
	)	**Kenneth J. Galvin, Administrative Law Judge**

ORDER

This matter, coming on to be heard on the Taxpayer's "Motion to Transfer Case to Illinois Independent Tax Tribunal," (hereinafter "Tribunal"), filed January 20, 2014, the Administrative Law Judge being fully advised in the premises,

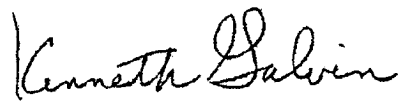
IT IS HEREBY ORDERED THAT:

1. Taxpayer's Motion, making a statutory election to transfer jurisdiction over this case from the Department of Revenue to the Tribunal, is granted.
2. The Taxpayer's election to transfer jurisdiction to the Tribunal is irrevocable.
3. The administrative hearing record for this case will be transferred to the Tribunal.
4. Taxpayer will be required to perfect its protest before the Tribunal in accordance with 35 ILCS 1010/1-1 *et seq.*

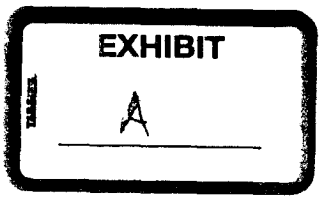
WHEREFORE, for the reasons stated above, it is hereby ordered that all further proceedings in this matter are cancelled and the proceedings before the Administrative Hearings Division of the Illinois Department of Revenue are closed.

Date: January 22, 2014

ENTER:



Kenneth J. Galvin
Administrative Law Judge



DOR v. Wachs Valve and Hydrant Services LLC, 12390-21568

Taxpayer, Wachs Valve & Hydrant Services LLC, ID#12390-21568

Assessment Amount - $15,364.06, Issue Date-10-21-13, Audit Period-3-28-11
Assessment Amount - $7,029.34, Issue Date-10-21-13, Audit Period-4-27-11
Assessment Amount - $569.92, Issue Date-10-21-13, Audit Period-5-10-11
Assessment Amount - $7,721.36, Issue Date-10-21-13, Audit Period-6-9-11
Assessment Amount - $1,192.14, Issue Date-10-21-13, Audit Period-7-1-11
Assessment Amount - $2,421.11, Issue Date-10-21-13, Audit Period-8-24-11
Assessment Amount - $4,879.44, Issue Date-10-21-13, Audit Period-9-16-11
Assessment Amount - $3,316.36, Issue Date-10-21-13, Audit Period-1-19-12
Assessment Amount - $715.30, Issue Date-10-21-13, Audit Period-2-29-12
Assessment Amount - $432.75, Issue Date-10-21-13, Audit Period-11-1-12
Assessment Amount - $3,370.50, Issue Date-10-21-13, Audit Period-12-23-12

Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X185 5597 92X4#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX185559792X4

Account ID: 12390-21568
Date of purchase: Mar 28, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	12,106.00	0.00	12,106.00
Audit Late Payment Penalty	605.30	0.00	605.30
Late Payment Penalty Increase	1,816.00	0.00	1,816.00
Late Filing Penalty Increase	242.00	0.00	242.00
Interest	594.76	0.00	594.76
Assessment Total	$15,364.06	$0.00	**$15,364.06**

You may file a protest and request an administrative hearing within 60 days of the date of this notice, which is December 20, 2013. 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 give up your right to a hearing and this liability will become final. An administrative hearing is a formal legal proceeding conducted under the rules of evidence and presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.

If you have questions, please write us or call our Springfield office weekdays between 8:30 a.m. and 4:30 p.m. Our address and telephone number are below.

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

217 785-6579

EXHIBIT
B

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond within specified time periods to department notices by asking questions, paying the amount due, or providing proof to refute the department's findings.
- You have the right to appeal department decisions in many instances within specified time periods by asking for department review, or by taking the issue to court.
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other department procedures, you may write or call us. Our address and telephone number are on the front of this notice.

Penalty, Fee, Interest, and Credit Information

Note: A general explanation of the penalties, fees, and interest that may have been assessed is below. For more detailed information, including specific rates in effect for different liability periods, see Publication 103, Penalties and Interest for Illinois Taxes, available on our web site at tax.illinois.gov or by calling 1 800 356-6302.

* You owe a **late-filing penalty** if you do not file a processable return by the due date.
* You owe a **late-payment penalty** if you
  - are required to make quarter-monthly tax payments and do not do so, or do not pay the required amount by the payment due date.
  - do not pay the amount you owe by the original due date of the return.
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* You owe a **cost of collection fee** if you do not pay the amount you owe (including penalties and interest) within 30 days of the date printed on an assessment.

Interest is charged on tax not paid when due and is calculated on tax from the day after the original due date of your return through the date you pay the tax. For returns due January 1, 1994, through December 31, 2000, interest also accrues on penalties.

The discount rate is 1.75 percent (.0175). If you made an error when figuring the discount, it is included in the tax calculation. You may not take a discount on returns filed late or on tax paid late.

The credit applied by the Department of Revenue is from a current credit balance in your account.

Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX XX51 342X 64X1#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXXX51342X64X1

Account ID: 12390-21568
Date of purchase: Apr 27, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	5,549.00	0.00	5,549.00
Audit Late Payment Penalty	277.45	0.00	277.45
Late Payment Penalty Increase	832.00	0.00	832.00
Late Filing Penalty Increase	111.00	0.00	111.00
Interest	259.89	0.00	259.89
Assessment Total	$7,029.34	$0.00	**$7,029.34**

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ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

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Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X158 7162 4644#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX15871624644

Account ID: 12390-21568
Date of purchase: May 10, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	462.00	0.00	462.00
Audit Late Payment Penalty	23.10	0.00	23.10
Late Payment Penalty Increase	69.00	0.00	69.00
Late Filing Penalty Increase	9.00	0.00	9.00
Interest	6.82	0.00	6.82
Assessment Total	$569.92	$0.00	**$569.92**

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ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

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STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X1X5 X291 5525#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX1X5X2915525

Account ID: 12390-21568
Date of purchase: Jun 09, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	6,124.00	0.00	6,124.00
Audit Late Payment Penalty	306.20	0.00	306.20
Late Payment Penalty Increase	919.00	0.00	919.00
Late Filing Penalty Increase	122.00	0.00	122.00
Interest	250.16	0.00	250.16
Assessment Total	$7,721.36	$0.00	**$7,721.36**

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PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

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Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X212 4X33 3760#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX2124X333760

Account ID: 12390-21568
Date of purchase: Jul 01, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	948.00	0.00	948.00
Audit Late Payment Penalty	47.40	0.00	47.40
Late Payment Penalty Increase	142.00	0.00	142.00
Late Filing Penalty Increase	19.00	0.00	19.00
Interest	35.74	0.00	35.74
Assessment Total	$1,192.14	$0.00	**$1,192.14**

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

217 785-6579

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Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX XXX2 6881 3765#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXXXX268813765

Account ID: 12390-21568
Date of purchase: Aug 24, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	1,930.00	0.00	1,930.00
Audit Late Payment Penalty	96.50	0.00	96.50
Late Payment Penalty Increase	290.00	0.00	290.00
Late Filing Penalty Increase	39.00	0.00	39.00
Interest	65.61	0.00	65.61
Assessment Total	$2,421.11	$0.00	**$2,421.11**

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If you have questions, please write us or call our Springfield office weekdays between 8:30 a.m. and 4:30 p.m. Our address and telephone number are below.

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

217 785-6579

Taxpayer Bill of Rights

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for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X11X X623 2XX7#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX11XX6232XX7

Account ID: 12390-21568
Date of purchase: Sep 16, 2011

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	3,901.00	0.00	3,901.00
Audit Late Payment Penalty	195.05	0.00	195.05
Late Payment Penalty Increase	585.00	0.00	585.00
Late Filing Penalty Increase	78.00	0.00	78.00
Interest	120.39	0.00	120.39
Assessment Total	$4,879.44	$0.00	**$4,879.44**

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

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Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX XX56 3752 2887#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXXX5637522887

Account ID: 12390-21568
Date of purchase: Jan 19, 2012

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	2,676.00	0.00	2,676.00
Audit Late Payment Penalty	133.80	0.00	133.80
Late Payment Penalty Increase	401.00	0.00	401.00
Late Filing Penalty Increase	54.00	0.00	54.00
Interest	51.56	0.00	51.56
Assessment Total	$3,316.36	$0.00	**$3,316.36**

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ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

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Notice of Tax Liability

for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X163 7494 1121#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX16374941121

Account ID: 12390-21568
Date of purchase: Feb 29, 2012

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	586.00	0.00	586.00
Audit Late Payment Penalty	29.30	0.00	29.30
Late Payment Penalty Increase	88.00	0.00	88.00
Late Filing Penalty Increase	12.00	0.00	12.00
Assessment Total	$715.30	$0.00	**$715.30**

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ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

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for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX XX29 5316 8320#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXXX2953168320

Account ID: 12390-21568
Date of purchase: Nov 01, 2012

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	355.00	0.00	355.00
Audit Late Payment Penalty	17.75	0.00	17.75
Late Payment Penalty Increase	53.00	0.00	53.00
Late Filing Penalty Increase	7.00	0.00	7.00
Assessment Total	$432.75	$0.00	**$432.75**

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PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

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for Form EDA-94, Auditor-prepared Use Tax Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X136 9X58 6567#
WACHS VALVE & HYDRANT SERVICES LLC
801 ASBURY DR
BUFFALO GROVE IL 60089-4525

October 21, 2013

Letter ID: CNXXX1369X586567

Account ID: 12390-21568
Date of purchase: Dec 23, 2012

We have audited your account for the transaction listed above. Below is a summary of the balance.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	3,090.00	0.00	3,090.00
Audit Late Payment Penalty	154.50	0.00	154.50
Late Payment Penalty Increase	464.00	0.00	464.00
Late Filing Penalty Increase	62.00	0.00	62.00
Assessment Total	$3,770.50	$0.00	**$3,770.50**

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