

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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<b>SHOP 4 LESS, INC.,</b>	)	
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>No. 14 TT 198</b>
	)	<b>Judge Brian F. Barov</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
	)	
<b>Respondent.</b>	)	

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**DEPARTMENT’S ANSWER TO PETITION**

Respondent, the Illinois Department of Revenue (the “Department”), by and through its attorney, Lisa Madigan, Illinois Attorney General, for its Answer to the Amended Petition (the “Petition”), hereby states as follows:

**PARTIES**

1. Petitioner, SHOP 4 LESS INC. ("Petitioner"), is a corporation duly organized and existing under the laws of the state of Illinois.

**ANSWER:** The Department admits the allegations contained in paragraph 1.

2. Petitioner’s principal place of business is located at 11221 S. Michigan Avenue, Chicago, IL, 60628.

**ANSWER:** The Department admits the allegations contained in paragraph 2.

3. Petitioner’s telephone number is (708) 845-6261.

**ANSWER:** The Department admits the allegations contained in paragraph 3.

4. Petitioner’s Tax identification number is 26-0298849.

**ANSWER:** The Department admits the allegations contained in paragraph 3.

5. Respondent, Illinois Department of Revenue (the “Department”) is an agency of the State of Illinois responsible for administering and enforcing the revenue laws of the State of Illinois.

**ANSWER:** The Department admits the allegations contained in paragraph 5.

### **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.

**ANSWER:** The Department admits the allegations contained in paragraph 6.

7. On or about September 25, 2014, the Department issued a Notice of Tax Liability to Petitioner asserting additional tax due in the amount of \$30,276.98 for the period of June I, 2010 through February 29, 2012. (A copy of the September 25, 2014 notice is attached hereto and incorporated herein as Exhibit "B"). In addition on or about November 6, 2014 the Department issued two notices of Tax Liability to Petitioner asserting additional tax due in the amount of \$ 14, 226.28 enclosed please find a copy of the two November 6, 2014 notices are attached hereto and incorporated jointly herein as Exhibit C.

**ANSWER:** The Department admits the existence, force and effect, at all relevant times of the documents attached to the Petition as Exhibits B and C referred to in paragraph 7 and state that such documents speak for themselves.

8. This tribunal has jurisdiction pursuant to Sections 1-45 and 1-50 of the Tribunal Act over the Department's determinations as reflected on the May 19, 2014 and November 6, 2014 notice, where the amount at issue exceeds \$15,000.00, exclusive of penalties and interest and because Petitioner timely filed this petition within 60 days of the September 25, 2014 notice. See 35 ILCS 101011-45 and 35 ILCS 101011-50.

**ANSWER:** Although paragraph 8 is not an allegation of a material fact but a legal conclusion, the Department admits the allegation/legal conclusion contained in paragraph 8.

### **BACKGROUND**

9. Petitioner is a Dollar Store engaged in the sale of retail foods.

**ANSWER:** The Department admits the allegations contained in paragraph 9.

10. Petitioner timely filed all tax returns and paid all amounts due on a regular and timely basis.

**ANSWER:** Although paragraph 10 is not an allegation of material fact but a legal conclusion, the Department denies the allegations/legal conclusions contained in paragraph 10.

### **PROCEDURAL HISTORY**

11. At some point before September 25, 2014 the Department initiated an audit of the returns filed by the Petitioner for the period of December 2008 through September 2013 (the "Audit Period").

**ANSWER:** The Department admits the allegations contained in paragraph 11.

12. The business operated by the taxpayer is primarily a Dollar Store which sells very little tobacco products.

**ANSWER:** The Department admits that Petitioner is a Dollar Store selling general merchandise but denies the remaining allegations in Paragraph 12.

13. Taxpayer has never purchased any tobacco products from an entity known as MY Enterprises.

**ANSWER:** The Department denies the allegations contained in paragraph 13.

14. Upon completing the audit the auditor determined that an amount is due strictly based upon receiving information from the organization known as My Enterprises.

**ANSWER:** The Department admits the allegations contained in paragraph 14.

15. Although the taxpayer provided all purchase invoices to match the IRS cost of goods sold and the income reported, the auditor never the less assessed a liability based upon the information obtained from My Enterprises.

**ANSWER:** The Department denies the allegations contained in paragraph 15.

16. As a result on September 25, 2014 the audit was completed and the audit assessment was issued. In addition on November 6, 2014 second and third notice of tax liability were issued for the amounts of \$20,367.98 and \$14,226.28.

**ANSWER:** The Department admits the existence, force and effect, at all relevant times of the documents attached to the Petition as Exhibits B and C and indirectly referred to or referenced in paragraph 16 and state that such documents speak for themselves.

17. The Department's calculations based upon the audit are in error since they do not include information from the books and records that the petitioner provided.

**ANSWER:** Although paragraph 17 is not an allegation of material fact but a legal conclusion, the Department denies the allegations/legal conclusions contained in paragraph 17.

### **COUNT I**

18. Petitioner hereby restates and realleges the allegations contained in paragraphs 1-17 as if fully set forth herein.

**ANSWER:** The Department repeats and incorporates its answers to paragraphs 1-17 as if fully set forth herein.

19. The Department failed to properly assess the tax since they did not accept the books and records of the taxpayer and had no evidence of any liability other than a report from a company that is no longer in business.

**ANSWER:** Although paragraph 19 is not an allegation of material fact but a legal conclusion, the Department denies the allegations/legal conclusions contained in paragraph 19.

20. There has been no proof that any payments were made to this company or any signatures obtained showing any delivery of product to this company from the alleged supplier My Enterprises.

**ANSWER:** Paragraph 20 is not a material allegation of fact but a statement of Petitioner's belief or position and as such does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code §5000.310(b).

WHEREFORE, the Department prays:

- A) That Judgment be entered against the Petitioner and in favor of the Department in this matter;
- B) That the Department's Notices of Tax Liability be determined to be correct;
- C) That this Tribunal grant such other additional relief it deems just and proper.

LISA MADIGAN  
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Respectfully Submitted,

LISA MADIGAN  
Illinois Attorney General



By \_\_\_\_\_  
Michael Coveny,  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I, Michael Coveny, an attorney for the Illinois Department of Revenue, state that I served a copy of the attached Department's Answer to Petitioner's Petition upon:

Akram Zanayed  
Akram Zanayed & Associates  
8500 South Harlem Avenue  
Suite G  
Bridgeview, IL 60455

By email to zanayedlaw@gmail.com on January 7, 2015.



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Michael Coveny,  
Assistant Attorney General