

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

PREMIER SOUND & DESIGN INC.)
)
 v.)
)
)
)
)
)
)
)
)
ILLINOIS DEPARTMENT)
OF REVENUE)

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PETITION

Petitioner, Premier Sound & Design Inc. (“Petitioner”) by and through its attorneys, Sorling Northrup, John R. Simpson and Brian D. Jones, of counsel, complains of the Illinois Department of Revenue (“Department”), and alleges as follows:

JURISDICTION, VENUE AND PARTIES

1. Petitioner brings this action pursuant to Rule Section 5000.310 of the Tax Tribunal 86 Ill.Admin. Code § 5000.310.
2. The Petitioner is Premier Sound & Design Inc., 1104 N. Prospect Avenue, Champaign, Illinois 61820.
3. The Petitioner’s identification number is Account ID 2884-2294.
4. The Department audited Petitioner and issued to Petitioner certain Notices of Tax Liability which are attached as Exhibit A and which involve the periods July 1, 2008 through March 31, 2011 (Periods at Issue).
5. The Tax Tribunal has jurisdiction over this matter pursuant to the Illinois Tax Tribunal Act of 2012, 35 ILCS 1010/1-1 et seq.

6. Petitioner is a corporation qualified to do business in Illinois.

STATEMENT OF FACTS

7. The tax involved herein is the Illinois retailers' occupation tax imposed under the Illinois Tax Act, 35 ILCS 5/120 et seq.

8. Petitioner maintains its commercial domicile in Champaign, Illinois.

9. Petitioner operates a business which provides a funds deposit system and also sells tangible personal property such as telecommunications equipment. Customers deposit money in the funds deposit system which funds can be used for multiple purposes.

10. Petitioner was registered to do business with the Department under Illinois Business Tax Number 2884-2294 during the Periods at Issue.

11. Illinois imposes an occupation tax upon sales of tangible personal property equipment.

12. During the Periods at Issue, Petitioner made sales to Illinois customers and filed returns regarding its telecommunications equipment sales.

COUNT I

Petitioner realleges and incorporates by reference the allegations made in Paragraphs 1 through 12, inclusive, hereinabove.

13. The Department audited the Petitioner for the Periods at Issue.

14. The Department issued the Notices of Tax Liability seeking to assess additional retailers' occupation taxes against Petitioner in the amount of \$16,859.00 plus interest and penalty.

15. The Department asserted that the deposit funds resulted in retailers' occupation taxes being due by Petitioner.

16. Petitioner is not a retailer as to the funds deposit portion of its business.

17. As a result of its determination, the Department recalculated the retailers' occupation tax liability of Petitioner.

18. This recalculation of Petitioner's retailers' occupation tax liability is not supported by the facts and is contrary to the law.

19. There is an actual controversy between Petitioner and the Department concerning Petitioner's entitlement to a refund of all or a portion of the protest payment.

WHEREFORE, Petitioner requests that the Tax Tribunal enter an order that finds and declares that Petitioner is not subject to Illinois Retailers' Tax on the funds deposit.

COUNT II

Petitioner realleges and incorporates by reference the allegations made in Paragraphs 1 through 19, inclusive, hereinabove.

20. The Notices of Tax Liability calculate penalty and interest.

21. Section 3-8 of the Uniform Penalty and Interest Act, 35 ILCS 735/3-8 states:

No penalties if reasonable cause exists. The penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department. A taxpayer may protest the imposition of a penalty under Section 3-3, 3-4, 3-5, or 3-7.5 on the basis of reasonable cause without protesting the underlying tax liability.

22. Petitioner was filing and paying its retailers occupation tax in conformity with existing regulations and rulings.

23. Petitioner was filing and paying its retailers occupation tax in conformity with a long established system of determining property used as telecommunications or telephone cards.

24. Petitioner had reasonable cause not to pay amounts in the proposed Notices of Tax Liability.

WHEREFORE, Petitioner requests that the Tax Tribunal enter an Order that:

- (a) Finds and declares that the Petitioner had reasonable cause not to pay the unagreed liability as proposed; and
- (b) Grants such further relief as the Court deems appropriate under the circumstances.

**PREMIER SOUND & DESIGN INC.,
Petitioner,**

By: 
One of Its Attorneys

Sorling Northrup
John R. Simpson and
Brian D. Jones, of Counsel
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, IL 62705
Telephone: 217-544-1144
Fax: 217-522-3173
E-Mail: jrsimpson@sorlinglaw.com

PROOF OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served by placing same in a sealed envelope addressed:

Illinois Department of Revenue
Office of Legal Services
100 W Randolph Street, 7-900
Chicago, IL 60601

and by depositing same in the United States mail in Springfield, Illinois, on the 3rd day of November, 2014, with postage fully prepaid.



A handwritten signature in black ink, appearing to be 'A. M. D.', is written over a horizontal line.

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWNKMGV
#CNXX XX73 3827 5526#
PREMIER SOUND & DESIGN INC
1104 N PROSPECT AVE
CHAMPAIGN IL 61820-2839

September 2, 2014



Letter ID: CNXXXX7338275526

Account ID: 2884-2294



We have audited your account for the reporting periods July 01, 2008, through June 30, 2009. As a result we have assessed the amounts shown below.

| | <u>Liability</u> | <u>Payments/Credit</u> | <u>Unpaid Balance</u> |
|-------------------------------|-------------------|------------------------|-----------------------|
| Tax | 628.00 | 0.00 | 628.00 |
| Late Payment Penalty Increase | 251.00 | 0.00 | 251.00 |
| Interest | 194.64 | 0.00 | 194.64 |
| Assessment Total | \$1,073.64 | \$0.00 | \$1,073.64 |

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 November 03, 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

Exhibit A-1

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWVKMGV
#CNXX X2X3 1391 2XX1#
PREMIER SOUND & DESIGN INC
1104 N PROSPECT AVE
CHAMPAIGN IL 61820-2839

September 2, 2014



Letter ID: CNXXX2X313912XX1

Account ID: 2884-2294



We have audited your account for the reporting periods July 01, 2009, through March 31, 2011. As a result we have assessed the amounts shown below.

| | Liability | Payments/Credit | Unpaid Balance |
|-------------------------------|--------------------|-----------------|--------------------|
| Tax | 16,231.00 | 0.00 | 16,231.00 |
| Late Payment Penalty Increase | 3,246.00 | 0.00 | 3,246.00 |
| Interest | 1,762.72 | 0.00 | 1,762.72 |
| Assessment Total | \$21,239.72 | \$0.00 | \$21,239.72 |

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 November 03, 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

217 785-8579

2014-05-20 10:30

Sorling Law 0 >> 2173555363



Illinois Department of Revenue

IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney. Do not send this form separately.

Step 1: Complete the following taxpayer information

| | |
|--|---|
| 1 <u>Premier Sound & Design Inc.</u> <small>Taxpayer's name</small> | 3 <u>1104 North Prospect Avenue</u> <small>Taxpayer's street address</small> |
| 2 <u>IBT No. 2884-2284; EIN 37-1368769</u> <small>Taxpayer's identification number(s)</small> | <u>Champaign</u> <u>IL</u> <u>61820</u> <small>City State ZIP</small> |

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

| | | |
|--|---|---|
| <u>John R. Simpson</u> <small>Name</small> | <small>Name</small> | <small>Name</small> |
| <u>Sorling Northrup</u> <small>Name of firm</small> | <small>Name of firm</small> | <small>Name of firm</small> |
| <u>1 N. Old State Capitol Pl., #200</u> <small>Street address</small> | <small>Street address</small> | <small>Street address</small> |
| <u>Springfield</u> <u>IL</u> <u>62701</u> <small>City State ZIP</small> | <small>City State ZIP</small> | <small>City State ZIP</small> |
| <u>(217) 544-1144</u> <small>Daytime phone number</small> | <small>Daytime phone number</small> | <small>Daytime phone number</small> |
| <u>jsimpson@sorlinglaw.com</u> <small>E-mail address</small> | <small>E-mail address</small> | <small>E-mail address</small> |
| <u>Sales Tax</u> <u>2008 - 2011</u> <small>Specific tax type Year or period</small> | <small>Specific tax type Year or period</small> | <small>Specific tax type Year or period</small> |

6 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above do not have the power to - Check only the items below you do not wish to grant.

- endorse or collect checks in payment of refunds.
- receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- execute consents extending the statutory period for assessments or collection of taxes.
- delegate authority or substitute another representative.
- file a protest to a proposed assessment.
- execute offers in compromise or settlement of tax liability.
- represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- obtain a private letter ruling on behalf of the taxpayer.
- perform other acts (explain) _____

8 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

| | | |
|---|---|---|
| <small>Name</small> | <small>Name</small> | <small>Name</small> |
| <small>Street address</small> | <small>Street address</small> | <small>Street address</small> |
| <small>City State ZIP</small> | <small>City State ZIP</small> | <small>City State ZIP</small> |
| <small>Daytime phone number</small> | <small>Daytime phone number</small> | <small>Daytime phone number</small> |
| <small>Date granted</small> | <small>Date granted</small> | <small>Date granted</small> |



2014-05-20 10:31

Sorling Law 0 >> 2173555363

7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

| | | |
|---|----------------------|----------------------|
| John R. Simpson Name | Name | Name |
| P. O. Box 5131 Street address | Street address | Street address |
| Springfield IL 62705 City State ZIP | City State ZIP | City State ZIP |
| (217) 544-1144 Daytime phone number | Daytime phone number | Daytime phone number |

Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

| | | |
|---|--------------------------------------|------------------------|
|  Taxpayer's signature | Owner Title, if applicable | 5-20-14 Date |
| Spouse's signature | Title, if applicable | Date |
| If corporation or partnership, signature of officer or partner | Title, if applicable | Date |

Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

- I declare that I am not currently under suspension or disbarment and that I am
 - a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
 - duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
 - enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

| | | | |
|---|--|--|------------------------|
| Attorney Designation (attorney, C.P.A., enrolled agent) | Illinois Jurisdiction (state(s), etc.) |  Signature | 5-20-14 Date |
| Designation (attorney, C.P.A., enrolled agent) | Jurisdiction (state(s), etc.) | Signature | Date |
| Designation (attorney, C.P.A., enrolled agent) | Jurisdiction (state(s), etc.) | Signature | Date |

Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

| | |
|----------------------|------|
| Signature of witness | Date |
| Signature of witness | Date |

appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

| | |
|---------------------|------|
| Signature of notary | Date |
|---------------------|------|

Notary seal

