

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

EUCLID OIL INC,)	
Petitioner,)	
v.)	14-TT-212
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
Respondent.)	

NOTICE OF FILING

TO: James E. Dickett, Ltd.
Attorney James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, Illinois, 60558

Email: jdickett@aol.com

The undersigned representative for the Illinois Department of Revenue (the "Department") certifies that, on December 11, 2014, she filed the Department's Answer with the Illinois Independent Tax Tribunal.



Susan Budzileni
Special Assistant Attorney General

CERTIFICATE OF SERVICE

The undersigned representative for the Illinois Department of Revenue certifies that, on December 11, 2014, she served the Department's Answer on the individual identified above, at the email addresses shown above.



Susan Budzileni
Special Assistant Attorney General

Illinois Department of Revenue
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ANSWER

NOW COMES Respondent, the Illinois Department of Revenue of the State of Illinois (the “Department”), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its Answer to Euclid Oil Inc.’s, (“Petitioner”) Petition respectfully pleads as follows:

1. Petitioner is an Illinois corporation located at 1950 Plum Grove, Rolling Meadows, Illinois, 60008, and can be reached at 630-363-3530.

ANSWER: The information contained in Paragraph 1 is required by Illinois Independent Tax Tribunal Regulation (“Rule”) 310(a) (1) (A) (86 Ill. Adm. Code §5000.310) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). To the extent an answer is required, Department admits the factual allegations contained in Paragraph 1.

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.

ANSWER: The information contained in Paragraph 2 is required by Rule 310(a) (1) (B) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2).

3. Petitioner’s Taxpayer (Account) ID is 26-3239202.

ANSWER: The information contained in Paragraph 3 is required by Rule 310(a) (1) (C) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). To the extent an answer is required, Department admits the factual allegations in Paragraph 3.

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.

ANSWER: Department admits that the Department is an agency of the State of Illinois and that the Department is responsible for enforcing the Illinois Income Tax Act (35 ILCS 5/101 et seq.), which is relevant to the legal claims raised in Taxpayer's Petition. The term "tax laws" is vague and therefore the Department denies all other allegations contained in Paragraph 5 and demands strict proof thereof.

NOTICE

5. On September 10, 2014, Petitioner received three Notice of Deficiency letters for form IL-1120-ST, Small Business Corporation Replacement Tax returns ("Notices") for the tax years 2009, 2010, and 2011. The Notices, in aggregate, reflect \$16,986 in tax due, plus penalties and interest. The Notices are attached hereto as Exhibit 1.

ANSWER: The Notices speak for themselves. Department admits Exhibit 1 of Taxpayer's Petition contain copies of Notices issued by the Department to Taxpayer. Department admits it issued three Notices to Taxpayer for the tax years 2009, 2010 and 2011 with deficiencies in the amount of \$16,766.99, \$3,639.43, and \$1,788.30 respectively.

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: Department admits the factual allegations in Paragraph 6.

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.

ANSWER: Department admits the factual allegations in Paragraph 7.

BACKGROUND

8. Petitioner is a petroleum retailer located in the northwest suburbs.

ANSWER: Upon information and belief, Department admits that Taxpayer is a petroleum retailer located in the northwest suburbs of Chicago in the State of Illinois.

9. Defendant audited Petitioner's books and records for sales tax for the period 2009 to 2012, and, based on that audit, the Department projected the business income tax assessments at issue herein without providing the proper allowance for cost of goods sold (zero allowance in 2009).

ANSWER: Department admits it audited Petitioner's books and records for sales tax for the period commencing 7/1/2009 through 6/30/2012. For business income tax for years ending 12/31/2009, 12/31/2010, and 12/31/2011, the Department admits that it did not provide an allowance for cost of goods sold because Petitioner did not provide any information/documentation to the Department relating to its cost of goods sold, and the Department used its best judgment and information available when it determined the business income tax assessments.

COUNT I

10. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 9, inclusive, hereinabove.

ANSWER: Department incorporates and repeats its answers to Paragraphs 1 through 9 as if fully set forth herein.

11. The Department assessed the tax liabilities contained in the Notices based on the sales tax audit results without providing the proper allowance for cost of goods sold.

ANSWER: Department admits that the Notices based on the sales tax audit results did not allow for cost of goods sold because Petitioner did not provide any information/documentation to the Department relating to its cost of goods sold, and, the Department used its best judgment and information available when it determined the business income tax assessments as contained in the Notices.

12. By applying the Department's corporate sale tax audit results to the business income tax Notices herein, the Department drastically and unreasonabl[y] inflated Petitioner's corporate income tax liability.

ANSWER: Department denies paragraph 12 and demands strict proof thereof.

WHEREFORE, Department prays that the Illinois Independent Tax Tribunal enter an Order that:

- a. Allows the Department to assess, lien, levy, offset, or in any other way prosecute and collect the amount of the assessment plus penalties and interest as set forth on the Notices;
- b. Enters judgment in favor of the Department and against Petitioner and sustains the Notices, and;
- c. Grants such further relief to the Department as the Court deems appropriate under the circumstances.

COUNT II

13. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 12, inclusive, hereinabove.

ANSWER: Department incorporates and repeats its answers to Paragraphs 1 through 12 as if fully set forth herein.

14. In its Notices, the Department assessed late filing and late payment penalties.

ANSWER: Department admits Paragraph 14. The Notices of Deficiency speak for themselves.

15. Illinois law provides that neither late penalties nor negligence penalties apply if a taxpayer shows that its failure to pay tax at the required time was due to reasonable cause. 35 ILCS 735/3-8.

ANSWER: Department admits the existence, force and effect of 35 ILCS 735/3-8 referred to in Paragraph 15 and states that such law speaks for itself.

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code §700.400(b).

ANSWER: Department admits the existence, force and effect of 86 Ill. Admin. Code §700.400(b) referred to in Paragraph 16 and states that such law speaks for itself.

17. Petitioner exercised ordinary business care and prudence when it reasonably determined its business income liability during the audit period and clearly did not use the Department's proposed sale tax audit results.

ANSWER: Paragraph 17 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). To the extent an answer is required, Department denies the factual allegations contained in Paragraph 17.

WHEREFORE, Department prays that the Illinois Independent Tax Tribunal enter an Order that:

- a. Finds and declares that all penalties as assessed should be allowed;
- b. Allows the Department to take any action to assess, lien, levy, offset, or in any other way prosecute and collect the amount of penalties due on the Notices; and
- c. Enters judgment in favor of the Department and against the Petitioner, and;
- d. Grants any further relief to the Department this Tribunal deems just and appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois



By: _____
Special Assistant Attorney General

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