

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

IMAN GROUP INC.,)	
Petitioner)	
)	
V)	No. 14 TT 217
ILLINOIS DEPARTMENT)	Chief Judge James M. Conway
OF REVENUE,)	
Respondent)	
)	

ANSWER

Now comes the Department of Revenue of the State of Illinois (“the Department”) by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, and for its Answer to Taxpayer’s Petition states as follows:

1. Petitioner is an Illinois corporation formerly located at 6300 West Foster Avenue, Chicago, Illinois, 60630, and can be reached at 630-292-5604.

ANSWER: The Department admits the allegations in paragraph 1 of the petition.

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 Department admits the allegations in paragraph 2 of the petition.

3. Petitioner's Taxpayer (Account) ID is 3287-5045.

ANSWER: The Department admits the allegations in paragraph 3 of the petition.

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: The allegations in paragraph 4 of the petition consist of legal conclusions and are thus denied.

5. On September 23, 2014 and October 9, 2014, Petitioner received a total of three Notice of Tax Liability letters ("Notice") from the Department for a sales/use tax audit for the tax periods January 1, 2007 to February 28, 2011. The Notice reflects \$113,018 in aggregate tax due, plus penalties and interest. The Notice is attached hereto as Exhibit 1.

ANSWER: The Department admits the allegations in paragraph 5 of the petition.

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 allegations in paragraph 6 of the petition consist of legal conclusions and are thus denied.

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: The allegations in paragraph 7 of the petition consist of legal conclusions and are thus denied.

8. Petitioner (now defunct) was a petroleum retailer located on the northwest side of Chicago.

ANSWER: The Department admits that the Petitioner (now defunct) was a retailer that operated a gasoline station and mini mart located on the northwest side of Chicago. The Department denies any remaining allegations in paragraph 8 of the Petition.

9. Defendants audited Petitioner's books and records for the tax periods January 1, 2007 to February 28, 2011, which is the day that the business ceased.

ANSWER: The Department admits the allegations in paragraph 9 of the petition.

10. The audit liability contained in the Notice is based on projections whereby the Department multiplied the Petitioner's purchases by estimated industry standard selling prices of Petitioner's products (e.g. gas and mini-mart items).

ANSWER: The Department admits that in determining Petitioner's sales, for purposes of calculating its tax liability, that the Department used Petitioner's purchases and marked them up based on industry average selling prices.

The Department further states that the Petitioner did not make any books and records available, and that therefore this was the best information available to the Department. The Department denies any remaining allegations in paragraph 10 of the petition.

COUNT I

11. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 10, inclusive, hereinabove.

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 10 as though fully set forth herein.

12. On audit, the Department calculated the audit liability by multiplying Petitioner's purchases (without regard to actual selling prices) by estimated prices.

ANSWER: The Department admits that in determining Petitioner's sales, for purposes of calculating its tax liability, that the Department used Petitioner's purchases and marked them up based on industry average selling prices.

The Department further states that the Petitioner did not make any books and records available, and that therefore this was the best information available to the Department. The Department denies any remaining allegations in paragraph 12 of the petition

13. By applying such estimated prices to all of Petitioner's purchases during the audit period, the Department unreasonably inflated Petitioner's audit liability because the Petitioner's selling prices during the audit period were lower than the estimates used by the Department especially with respect to gas and also with respect to mini-mart items like cigarettes and grocery food items.

ANSWER: The Department denies the allegations in paragraph 13 of the petition.

WHEREFORE, the Department prays that the Tribunal enter an order:

- a. denying the prayer for relief in the Petitioner's Petition in its entirety;

- b. finding that the Notices of Tax Liability at issue are correct as issued;
- c. ordering judgment in favor of the Department and against the Petitioner; and granting such further relief as this Tribunal deems appropriate under the circumstances.

COUNT II

14. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 13, inclusive, hereinabove.

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 13 as though fully set forth herein.

15. In its Notice, the Department assessed penalties based on the audit liability.

ANSWER: The Department states that the Notices of Tax Liability speak for themselves and therefore denies the characterization thereof and any and all other allegations in paragraph 15 of the petition.

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

ANSWER: The allegations in paragraph 16 of the petition consist of legal conclusions and are thus denied.

17. 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. 86 Ill. Admin. Code 00.400(b).

ANSWER: The allegations in paragraph 17 of the petition consist not of material allegations of fact, but primarily of factual and/or legal conclusions and are thus denied.

18. 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: The allegations in paragraph 18 of the petition consist not of material allegations of fact, but primarily of factual and/or legal conclusions and are thus denied.

19. Petitioner exercised ordinary business care and prudence when it reasonably determined its sales and use tax liability during the audit period and did not use estimated selling prices.

ANSWER: The allegations in paragraph 19 of the petition consist not of material allegations of fact, but primarily of factual and/or legal conclusions and are thus denied.

WHEREFORE, the Department prays that the Tribunal enter an order:

- a. denying the prayer for relief in the Petitioner's Petition in its entirety;
- b. finding that the Notices of Tax Liability at issue are correct as issued;
- c. ordering judgment in favor of the Department and against the Petitioner; and granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

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State of Illinois

By: 

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CERTIFICATE OF SERVICE

I, George Foster, an attorney, do hereby certify that on December 17, 2014 a copy of the Department's ANSWER was served on James E. Dickett, Romanoff & Dickett Ltd., by causing a copy to be sent by electronic mail to jdickett@aol.com.



A handwritten signature in blue ink, appearing to read "George Foster", is written over a horizontal line.