IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

R BELLA BARCA INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No.**
	)	
ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Respondent.	)	

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PETITION

Petitioner, R Bella Barca Inc., by its attorney Schain Banks, petitions this Tribunal as follows;

A. The name, address, and telephone number of the petitioner is:

R Bella Barca Inc.
3511 Silverside Road, Suite 105
Wilmington, DE 19810-4902

B. The name, address, telephone number and email address of the petitioner's representatives are:

Kevin Wolfberg, Esq.
Patrick J. McGuire, Esq.
SCHAIN BANKS
70 W. Madison Street, Suite 5300
Chicago, IL 60602
Ph. 312.345.5700
kwolfberg@schainbanks.com
pmcguire@schainbanks.com

C. The taxpayer's identification number is:

Account ID No.: 20079-81568

D. A copy of the Statutory Notice at issue is attached hereto as **Exhibit A**.

E. The years or periods involved are:

Tax Year(s): January 1, 2007 through December 31, 2007.

F. **Statement of Claim**:

1. **Petitioner is a Delaware corporation with a current address of 3511 Silverside Road, Suite 105, Wilmington, Delaware 19810 and a FEIN of 20-5820067.**

2. **Petitioner purchased a 2007 Pama Pilothouse motor yacht on or about December 15, 2006 (the "Watercraft") from Dave Adams Yacht Sales in North Palm Beach, Florida.**

3. **Petitioner took delivery of the Watercraft in the State of Florida on December 15, 2006.**

4. **The Watercraft embarked on a journey commonly referred to as "America's Great Loop" on or about December 16, 2006.**

5. **According to the America's Great Loop Cruisers Association, "America's Great Loop" is a journey on the continuous waterway that encompasses the eastern portion of North America and includes the Atlantic Ocean and Gulf Intercostal Waterways, The Great Lakes, the Canadian Heritage Canals and inland rivers in the United States.**

6. **The "America's Great Loop" journey took the Watercraft through Florida, Georgia, Illinois, Maryland, Michigan, New Jersey, New York, North Carolina, South Carolina, Virginia, Wisconsin and Canada.**

7. **The Watercraft travels at approximately eight (8) miles per hour during this journey, only travels during daylight and is restricted by any inclement weather.**

8. **The Watercraft arrived in Illinois waters on or about August 5, 2007.**

9. **The Watercraft left Illinois waters, on or about August 11, 2007.**

10. **On or about August 19, 2007, while in the State of Michigan, the Watercraft developed an exhaust leak between its turbo chargers and the exhaust system.**

11. **The nearest Volvo D-9 certified mechanic was Turk Diesel and Marine in Trevor, Wisconsin.**

12. **At the request of the mechanics from Turk Diesel and Marine, the Watercraft was repaired in Winthrop Harbor, Illinois.**

13. **The Watercraft was in Winthrop Harbor for fourteen (14) days while waiting for parts, the installation of such parts, and the custom spacers needed for the repairs which were manufactured for the Watercraft by Chip Manning in Wisconsin.**

14. **On or about September 14, 2007, the repairs were completed and the Watercraft travelled south to leave Illinois waters on the Illinois River.**

15. **On or about September 23, 2007, the Watercraft was out of Illinois waters.**

16. **On or about November 23, 2007, the Watercraft finished the America's Great Loop voyage in the State of Florida.**

17. **After this trip through Illinois in 2007, the Watercraft has not been in, or near, the State of Illinois.**

18. **On or before March 6, 2013, petitioner was audited by the Illinois Department of Revenue for the purchase of the Watercraft.**

19. **During the course of the audit, representatives of the Illinois Department of Revenue determined that the Watercraft was subject to Illinois Use Tax as it was acquired for use in Illinois.**

20. **Taxpayer contends that it did not acquire the Watercraft for use in Illinois and that its temporary storage in the State while traveling on a multi-state and multi-county journey was simply temporary storage of the Watercraft in the State.**

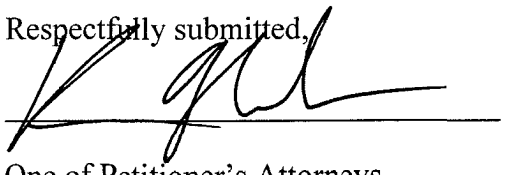
21. **Accordingly, this petition is timely and petitioner is entitled to the relief sought herein.**

G. The relief sought by the petitioner is:

Petitioner seeks the entry of an order finding that the Watercraft at issue was not subject to Illinois Use Tax and granting Petitioner the following relief: a) judgment in favor of the Petitioner and against the Illinois Department of Revenue; b) nullification of the audit performed by the Illinois Department of Revenue; and, c) such other and further relief that this Tribunal deems equitable and just.

Kevin Wolfberg, Esq.
Patrick J. McGuire, Esq.
SCHAIN BANKS
70 West Madison Street, Suite 5300
Chicago, Illinois 60602
(312) 345-5700
Attorney Number: 46538
pmguire@schainbanks.com

Respectfully submitted,



One of Petitioner's Attorneys

Notice of Tax Liability

for Form EDA-95, Auditor-prepared Motor Vehicle Use Tax Report

STATE OF **Illinois** DEPARTMENT OF REVENUE tax.illinois.gov

#BWNKMGV
#CNXX X1X6 57X9 5362#
R BELLA BARCA INC
ATTN: DAVID RUSSO
3511 SILVERSIDE RD STE 105
WILMINGTON DE 19810-4902

October 2, 2014

Letter ID: CNXXX1X657X95362

Account ID: 20079-81568
Date brought into IL: Aug 05, 2007

MV: 025002335
ID: PYI54010J607

We have audited your account for the transaction listed above. As a result, we have assessed the amounts shown below.

	Liability	Payments/Credit	Unpaid Balance
Audit Tax	47,672.00	0.00	47,672.00
Amnesty Interest	12,327.23	0.00	12,327.23
Interest	12,327.23	0.00	12,327.23
Assessment Total	$72,326.46	$0.00	**$72,326.46**

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 **December 01, 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.

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