

**ILLINOIS INDEPENDENT TAX TRIBUNAL**

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<b>DOLLAR ISLAND &amp; LINEN, INC.</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
v.	)	<b>Case No. 14 TT 225</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE</b>	)	<b>Judge Brian F. Barov</b>
	)	
	)	
<b>Respondent</b>	)	

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**ANSWER**

The Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, answers the Taxpayer’s Petition as follows:

Petitioner, DOLLAR ISLAND & LINEN, INC. by and through its attorneys Akram Zanayed and Associates, who are duly authorized to represent Petitioner in this regard pursuant to the Power of Attorney attached hereto as Exhibit "A", complains of Respondent, Illinois Department of Revenue, as follows:

**ANSWER:** The information contained in the preceding unnumbered paragraph is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations, nor is it a numbered paragraph. The Respondent denies that the IL-2048 Power of Attorney form is marked as “Exhibit ‘A’.” Otherwise, the factual allegations contained within the preceding paragraph are admitted.

**PARTIES**

1. Petitioner, DOLLAR ISLAND & LINEN, INC. ("Petitioner"), is a corporation duly organized and existing under the laws of the state of Illinois.

**ANSWER:** The information contained in Paragraph 1 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits that the Petitioner is a corporation which was duly organized and exists in Illinois.

2. Petitioner's principal place of business is located at, 5209 W. Fullerton Chicago, IL 60639

**ANSWER:** The information contained in Paragraph 2 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Otherwise, the factual allegations contained in paragraph 2 are admitted.

3. Petitioner's telephone number is (708)307-4967

**ANSWER:** The information contained in Paragraph 3 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Otherwise, the Department is without sufficient information to admit or deny the factual allegations contained within paragraph 3.

4. Petitioner's tax identification number is 26-1317672

**ANSWER:** The information contained in Paragraph 4 is required by Illinois Tax Tribunal Regulations Section 310(a) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax

Tribunal Regulations. Otherwise, the factual allegations contained in paragraph 4 are admitted.

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:** Paragraph 5 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

### **JURISDICTION**

6. Petitioner brings action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 10101-1 to 35 ILCS 10101-100.

**ANSWER:** Paragraph 6 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, the "Tribunal Act" is comprised of 35 ILCS 10101-1 to 10101-100. The Department admits the existence, force and effect of the Tribunal Act, and states that the Act speaks for itself.

7. ON or about September 26, 2014, the Department issued a Notice of Tax Liability to Petitioner asserting additional tax due in the amount of \$63,179.62 for the period of July 30, 2009 through October 31, 2014. (A copy of the September 26, 2014 notice is attached hereto and incorporated herein as Exhibit "B").

**ANSWER:** The Petitioner denies paragraph 7 on the basis that the amounts and audit period listed are incorrect and no statutory notice is attached to the original or amended Petition as "Exhibit B." Further answering, the amended Petition has no Notices of Tax

Liability attached. However, based on the two September 26, 2014 Notices of Tax Liability attached to the original Petition submitted by the Petitioner, the Department admits:

- 1) On September 26, 2014, the Department issued a Notice of Tax Liability (Letter ID CNXXX13X1X6416X0) for an assessment total of \$19,627.75. This amount is comprised of \$11,144.00 of tax, \$4,457.00 for late payment penalty increase, \$25.00 for a late filing penalty increase, and \$4,001.75 for interest. This Notice of Tax Liability covers the periods of January 1, 2008 through June 30, 2009. (Attached as Exhibit A to this Answer for the Tribunal's convenience)
- 2) On September 26, 2014, the Department issued a Notice of Tax Liability (Letter ID CNXXX19871912645) for an assessment total of \$43,065.62. This amount is comprised of \$33,763.00 for tax, \$6,753.00 for late payment penalty increase, and \$2,549.62 for interest. This Notice of Tax Liability covers the periods of July 1, 2009 through December 31, 2012. (Attached as Exhibit B to this Answer for the Tribunal's convenience)

The Department admits that the assessed total of these two Notices of Tax Liability combined is \$62,693.37. The Department further states that the liability proposed under the Notices are deemed *prima facie* correct and are deemed *prima facie* evidence of the correctness of the amount of tax due. *See 35 ILCS 120/4.*

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 September 26, 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 26, 2014 notice. See 35 ILCS 1010/1-45 and 35 ILCS 1010/1-50.

**ANSWER:** Paragraph 8 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. Further answering, the Department admits the existence, force and effect of Sections 1-45 and 1-50 of the Tribunal Act, and states that the Act speaks for itself.

### **BACKGROUND**

9. Petitioner is a discount store establishment engaged in the sale of retail products to the public (Dollar Store).

**ANSWER:** The Department denies that all items in the store were for sale for a dollar. Otherwise, the factual allegations contained within paragraph 9 are admitted.

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

**ANSWER:** The term "all tax returns" is vague and ambiguous as to what tax returns the Petitioner is referring, and the Department denies that term on this basis. Further answering, the other factual allegations contained within paragraph 10 are denied.

### **PROCEDURAL HISTORY**

11. At some point before September 26, 2014 the Department initiated an audit of the returns filed by the Petitioner for the period of July 30, 2009 through October 31, 2014 (the "Audit Period").

**ANSWER:** The Department denies that the Audit Period was from July 30, 2009 through October 31, 2014. Based on the aforementioned two Notices of Tax Liability, the Audit Period was from January 1, 2008 through December 31, 2012. The underlying audit information

can be found in the audit file, including the audit narrative. Otherwise, the factual allegations contained within paragraph 11 are admitted.

12. The business operated by the taxpayer is primarily a Dollar Store.

**ANSWER:** The Department denies that all items in the store were for sale for a dollar. Otherwise, the factual allegations contained within paragraph 12 are admitted.

13. Upon completing the audit the auditor determined that an amount is due based upon receiving information from Various Suppliers.

**ANSWER:** The Department denies the characterization contained within paragraph 13, and also objects to the term “Various Suppliers” as vague and ambiguous, and therefore denies that term on that basis. The Department admits that the auditor’s “best judgment and information” was used to determine the amount due for the Notices of Tax Liability. The Department further states that the liability proposed under the Notices is deemed *prima facie* correct and is deemed *prima facie* evidence of the correctness of the amount of tax due. *See 35 ILCS 120/4*. Further answering, this information included, but was not limited to, information from suppliers. Such information can be found in the audit file, including the audit narrative. Otherwise, the factual allegations contained within paragraph 13 are denied.

14. In calculating the deficiency the department failed to consider that numerous purchases provided by the suppliers were sold at other establishments but built to this location.

**ANSWER:** The Department admits that the auditor’s “best judgment and information” was used to determine the amount due for the Notices of Tax Liability. The Department further states that the liability proposed under the Notices is deemed *prima facie* correct and is deemed *prima facie* evidence of the correctness of the amount of tax due. *See 35 ILCS 120/4*. The

Department denies the characterization contained within paragraph 14, and therefore denies this paragraph on that basis. The audit calculations are as reflected in the audit file, including the audit narrative. Otherwise, the factual allegations contained within paragraph 14 are denied.

15. As a result on September 26, 2014 the audit was completed and the audit assessment was issued.

**ANSWER:** The Department denies that the audit was completed on September 26, 2014. The audit was completed prior to September 26, 2014. Otherwise, the factual allegations contained within paragraph 15 are admitted.

16. 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:** The Department denies the characterization contained within paragraph 16, and therefore denies the allegations contained within this paragraph on this basis. The audit calculations are as reflected in the audit file, including the audit narrative, and reflect that the audit included information from the books and records provided by the Petitioner. The Department admits that the auditor's "best judgment and information" was used to determine the amount due for the Notices of Tax Liability. The Department further states that the liability proposed under the Notices is deemed *prima facie* correct and is deemed *prima facie* evidence of the correctness of the amount of tax due. *See 35 ILCS 120/4*. Otherwise, the factual allegations contained within paragraph 16 are denied.

#### COUNT I

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

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 17 as though fully set forth herein.

18. 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:** The Department objects to the terms “a company” and “a company that is no longer in business” as vague and ambiguous, and therefore denies these allegations on that basis. The Department also denies the characterization contained within paragraph 18, and denies this paragraph on that basis. The audit calculations are as reflected in the audit file, including the audit narrative, and reflect that the audit included information from the books and records provided by the Petitioner, as well as purchase information confirmed by the Petitioner’s suppliers. The Department further states that the liability proposed under the Notices is deemed *prima facie* correct and is deemed *prima facie* evidence of the correctness of the amount of tax due. *See 35 ILCS 120/4.* Otherwise, the factual allegations contained within paragraph 18 are denied.

**WHEREFORE,** the Department respectfully requests this Tribunal:

- a. Deny each prayer for relief in the Petition;
- b. Find that the Department’s Notices correctly reflect the Petitioner’s liability including interest and penalties.
- c. Enter judgment in favor of the Department and against the Petitioner; and
- d. Grant any further relief this Tribunal deems just and appropriate.

Dated: February 9, 2015

Respectfully submitted,  
Illinois Department of Revenue

By: /s/ Seth Jacob Schriftman  
Seth Jacob Schriftman  
Special Assistant Attorney General

Seth Jacob Schriftman  
Illinois Department of Revenue  
100 West Randolph Street, 7-900  
Chicago, IL 60601  
312-814-1591  
seth.schriftman@illinois.gov



**Notice of Tax Liability**  
for Form EDA-105-R, ROT Audit Report



September 26, 2014



Letter ID: CNXXX13X1X6416X0

Account ID: 3860-0803

#BWNKMGV  
 #CNXXX13X 1X64 16X0#  
 DOLLAR ISLAND & LINEN INC  
 5209 W FULLERTON AVE # 15  
 CHICAGO IL 60639



We have audited your account for the reporting periods January 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	11,144.00	0.00	11,144.00
Late Payment Penalty Increase	4,457.00	0.00	4,457.00
Late Filing Penalty Increase	25.00	0.00	25.00
Interest	4,001.75	0.00	4,001.75
<b>Assessment Total</b>	<b>\$19,627.75</b>	<b>\$0.00</b>	<b>\$19,627.75</b>

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 25, 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

**Notice of Tax Liability**  
for Form EDA-105-R, ROT Audit Report



#BWNKMGV  
#CNXXX198 7191 2645#  
DOLLAR ISLAND & LINEN INC  
5209 W FULLERTON AVE # 15  
CHICAGO IL 60639

September 26, 2014



Letter ID: CNXXX19871912645

Account ID: 3860-0803



We have audited your account for the reporting periods July 01, 2009, through December 31, 2012. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	33,763.00	0.00	33,763.00
Late Payment Penalty Increase	6,753.00	0.00	6,753.00
Interest	2,549.62	0.00	2,549.62
<b>Assessment Total</b>	<b>\$43,065.62</b>	<b>\$0.00</b>	<b>\$43,065.62</b>

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.

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- 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 25, 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.

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217 785-6579

EXHIBIT B