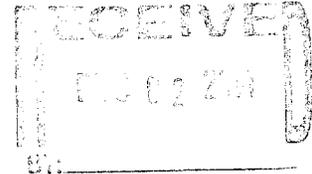


ILLINOIS INDEPENDENT
TAX TRIBUNAL

EF CLEANING SERVICES CORP.,)
)
Petitioner,)
v.)
) No.
ILLINOIS DEPARTMENT)
OF REVENUE,)
)
Respondent.)



PETITION

The Petitioner, EF CLEANING SERVICES CORP., hereby petitions the Illinois Independent Tax Tribunal to review and modify the Notice of Deficiency (“Notice”) issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

INTRODUCTION

The Notice was issued by the Department on September 24, 2014 assessing in the amount of \$23,533.64 in tax, \$5,478.89 in penalties and \$3,291.03 in interest for taxable periods of 03/2009, 06/2009, 09/2009 and 12/2009, resulting in a total balance due of \$32,303.56 for Illinois withholding tax. A copy of the Notice is attached to this Petition.

Petitioner is a corporation with an address of 1149 Shawford Way Ct., Elgin, IL 60120. Its phone number is (630) 247-3739. The Petitioner’s taxpayer ID is 36-4372437.

BACKGROUND AND RELEVANT FACTS

The Internal Revenue Service audited Petitioner regarding its classification of certain workers as independent contractors. The Petitioner had issued forms 1099 to each relevant worker. The Petitioner believed said workers were independent contractors. Their classification as such appeared to be permitted under Section 530 of the federal Revenue Act of 1978. By agreement with the Internal Revenue Service said workers were reclassified as employees for the year 2009. It was further agreed with the Internal Revenue Service that no penalties were assessed.

APPLICABLE LAW

Sections 701, 706, and 1005 of the Illinois Income Tax Act.

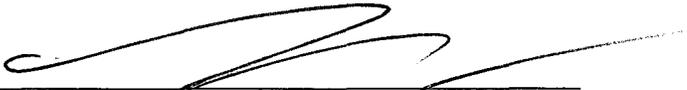
ERRORS OF FACT OR LAW

1. The Department imposed penalties on the Petitioner. The Petitioner had issued forms 1099 to each relevant worker. The Petitioner believed said workers were independent contractors. Their classification as such appeared to be permitted under Section 530 of the federal Revenue Act of 1978. The Internal Revenue Service imposed no penalties. Said penalties imposed by the Department must be abated as the Petitioner had reasonable cause. Section 1005(b)(4) of the Illinois Income Tax Act (35 ILCS 1005(b)(4)).
2. On information and belief, the Department failed to credit the Petitioner for taxes paid by the affected workers for which the Petitioner is entitled to credit pursuant to Section 706 of the Illinois Income Tax Act (35 ILCS 5/706).

CONCLUSION AND RELIEF REQUESTED

WHEREAS, Petitioner requests that the Illinois Independent Tax Tribunal abate the penalties and modify the Notice of Deficiency to reduce the amount owed by any amounts paid by the reclassified workers.

EF CLEANING SERVICES CORP.

By: 
One of the Attorneys Representing Petitioner

Representatives:

Michael C. Whelan, ARDC no. 6195511
E. Thomas Ryder, ARDC no. 6278366
Attorneys at Law
2860 River Road, Suite 240
Des Plaines, IL 60018

Phone: (847) 298-9275
Email: mcwhelanlaw@yahoo.com

Notice of Deficiency

for Form IL-941, Illinois Quarterly Withholding Tax Return



September 24, 2014



Letter ID: CNXXX19359474886

#BWNKMGV
#CNXX X193 5947 4886#
EF CLEANING SERVICES CORP
EF CLEANING SERVICES CORPORATI
1149 SHAWFORD WAY CT
ELGIN IL 60120-5010

Taxpayer ID: 36-4372437
Audit ID: A1878417408
Audit periods: 01/2009 - 12/2009
Tax due: \$23,533.64
Penalty due: \$5,478.89
Interest due: \$3,291.03
Balance due: \$32,303.56



We have audited your account for the period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to the deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, 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 deficiency 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 balance due 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, contact us at the telephone number shown below.

Sincerely,

Brian Hamer
Director

ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD, IL 62794-9012
(217) 524-2230

Statement

Date: September 24, 2014

Name:

Taxpayer ID: 36-4372437

Reasons for deficiency

We obtained information from the Internal Revenue Service under authorization of the Internal Revenue Code, Section 6103(d).

Penalties

We are imposing a late-filing or nonfiling penalty because you did not file a processable return by the due date. This penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on your return, after subtracting any payments made or credits allowed by the due date of the return. This penalty is imposed the day after the original due date of your return. This penalty cannot exceed \$250.

[35 ILCS 735/3-3(a-10)] (For liabilities due on or after 1/1/01: Tier 1)

We are imposing a late-payment penalty because you did not pay the required quarter-monthly or semi-monthly payments of withholding tax. This penalty is figured at increasing rates based on the number of days your payment is late. The penalty rates are

- 2 percent of any amount that is paid no later than 30 days after the due date;
- 10 percent of any amount that is paid later than 30 days after the due date.

[35 ILCS 735/3-3(b-20)(2)] (For liabilities due after 1/1/05)

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%.

[35 ILCS 735/3-3(b-20)(2)] (For liabilities due after 1/1/05)

Interest

Interest in the amount of \$3,291.03 has been computed through September 24, 2014.

Statement

Date: September 24, 2014

Name:

Taxpayer ID: 36-4372437

Audit Periods

Filing Period	Tax Balance	Penalty Balance	Interest Balance	Period Balance
03/2009	\$5883.41	\$1369.72	\$923.40	\$8176.53
06/2009	\$5883.41	\$1369.72	\$851.09	\$8104.22
09/2009	\$5883.41	\$1369.72	\$788.55	\$8041.68
12/2009	\$5883.41	\$1369.73	\$727.99	\$7981.13
	Tax Total	Penalty Total	Interest Total	Total
	\$23533.64	\$5478.89	\$3291.03	\$32303.56

Computation of balance due

Reporting Period: 01/2009 - 12/2009

Total deficiency (this notice)	\$29,012.53
Plus interest on tax through September 24, 2014	\$3,291.03
Total balance due	\$32,303.56