

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

ROOSEVELT OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	No. 14 TT 233
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
)	Judge Brian Barov
)	
Respondent.)	

DEPARTMENT’S ANSWER TO PETITION

NOW COME the Respondent, the Illinois Department of Revenue (the “Department”), by and through its attorney, Lisa Madigan, Illinois Attorney General, and for its Answer to Petitioner’s Petition (“Petition”), hereby states as follows:

PARTIES

1. The Notice was issued by the Department on March 8, 2013 and again on November 1, 2013 assessing in the amount of \$494,434.00 in tax, \$197,774.00 in penalties and \$14,296.00 in interest for taxable periods January 1, 2010 through December 31, 2012. A copy of the Notice is attached to this Petition.

ANSWER: The Department admits the existence, force and effect, at all relevant times of the documents attached to the Petition as an exhibit and referred to in paragraph 1 and state that such documents speak for themselves.

2. Petitioner is a corporation with its principal place of business in Cicero, Illinois.

ANSWER: The Department admits the allegations contained in paragraph 2.

3. It is located at 4801 West Roosevelt Road, and its telephone number is 708-863- 6653. Petitioner’s account ID is 2015-2787.

ANSWER: The Department admits the allegations contained in paragraph 3.

4. Petitioner filed ST-1 returns for each month for taxable period January 1, 2010 through December 31, 2012.

ANSWER: The Department admits the allegations contained in paragraph 4.

5. On September 25, 2012 the Department issued a Notice of Audit Initiation for audit periods January 2010 through June 2011.

ANSWER: The Department admits the allegations contained in paragraph 5.

6. The Department later added the periods July 2011 through December 2012 to said audit

ANSWER: The Department admits the allegations contained in paragraph 6.

7. The Department then issued the Notice due to Petitioner not producing the requested books and records.

ANSWER: The Department denies the allegations contained in paragraph 7 and further affirmatively states that it issued its Notice of Demand for Books and Records prior to the time it issued its Notice of Audit Expansion.

8. On May 3, 2013 the Petitioner filed an Informal Conference Board Review request. This request was rejected on June 13, 2013; reason being that counsel signed the statute of limitation waiver.

ANSWER: The Department admits that the Informal Conference Board denied Petitioner's request for review and affirmatively state such denial was because Petitioner's counsel signed the mandatory waiver of the statute. Counsel for taxpayers can sign such document on behalf of taxpayer, provided a properly executed Power of Attorney authorizing such action is on file with the Department. In this matter, no such Power was on file. Without such a Power of Attorney on file, only the taxpayer can sign the mandatory waiver of the statute of limitations.

9. The Petitioner was not able to produce the requested books and records due to the accountant who previously represented Petitioner moving and Petitioner not being able to locate the accountant to retrieve said books and records.

ANSWER: Paragraph 9 is not a material allegation of fact but an attempted justification for Petitioner's lack of records, which justification is irrelevant and as such does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code §5000.310(b).

10. Once the Petitioner was able to finally retrieve said books and records, this matter had reached collections and collections proceedings had commenced.

ANSWER: Paragraph 10 is not a material allegation of fact and consequently does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code §5000.310(b).

APPLICABLE LAW

11. Petitioner files this Petition with this honorable tribunal based a request filed with the Office of Administrative Hearings of the Department whereby requesting a late discretionary hearing.

ANSWER: The Department admits the allegations contained in paragraph 11.

12. The Honorable Chief Administrative Law Judge issued a letter dated December 3, 2014 whereby the request for the late discretionary hearing was granted based on review of books and records submitted by the Petitioner to the Administrative Law Judge. A copy of the Letter is attached to this Petition.

ANSWER: The Department admits the existence, force and effect, at all relevant times of the document attached to the Petition as an Exhibit and referred to in paragraph 12 and state that such document speaks for itself.

ERROR

13. The error in this matter is that Audit issued the Notice based after conducting an audit without the Petitioner having the opportunity to produce the relevant books and records.

ANSWER: The Department denies the allegations contained in paragraph 13.

14. As a result of the inability of the Petitioner to produce the relevant books and records, an assessment of liability was issued that does not reflect what may actually be owed based on actual sales, purchases, allowable deductions, etc.

ANSWER: Although paragraph 14 is not an allegation of material fact but a legal conclusion, the Department denies the allegations/legal conclusions contained in paragraph 14.

15. The relevant books and records will actually show that the Petitioner will more than likely not have any tax liabilities upon a review of said books and records.

ANSWER: Paragraph 15 is not a material allegation of fact but Petitioner's speculation as to what might occur if its books and records were examined again and as such does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code §5000.310(b).

WHEREFORE, the Department prays:

- A) That Judgment be entered against the Petitioner and in favor of the Department in this matter;
- B) That the Department's Notice(s) of Tax Liability be determined to be correct;
- C) That this Tribunal grant such other additional relief it deems just and proper.

Illinois Department of Revenue
100 West Randolph Street, 7-900
Chicago, IL. 60601
(312) 814-6697; FAX (312) 814-4344

Respectfully submitted,



Michael Coveny
Special Assistant Attorney General

CERTIFICATE OF SERVICE

I, Michael Coveny, an attorney for the Illinois Department of Revenue, state that I served a copy of the attached Department's Verified Answer to Petitioner's Verified Petition upon:

Fadi Y. Rafati
Rafati, Ward & Associates, P.C.
10607 South Harlem Avenue
Suite C
Worth, IL 60482

By email attachment to fracati@rwa-law.com on January 27, 2015.