

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

ANAR, INC.,)	
)	
Petitioner,)	
)	
v.)	14-TT-234
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Respondent.)	

ANSWER

NOW COMES the Department of Revenue of the State of Illinois (the "Respondent"), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its Answer to Anar, Inc.'s (the "Petitioner") Petition (the "Petition") respectfully pleads as follows:

PARTIES

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

ANSWER: The Respondent admits the allegations in Paragraph 1 of the Petition.

2. Petitioner's principal place of business is located at, [sic] 935 E. 79th Street, Chicago, IL 60619

ANSWER: The Respondent admits the allegations in Paragraph 2 of the Petition.

3. Petitioner's telephone number is (847)414-6147

ANSWER: The Respondent denies the allegations in Paragraph 3 of the Petition.

4. Petitioner's tax identification number is 36-3866236

ANSWER: The Respondent admits that the tax identification number of 36-3866236 is used in connection with audits of the Petitioner concerning a type of tax other than that relevant in this matter. The Respondent affirmatively states that the Account ID used by the Respondent in connection with the relevant sales tax audit in this matter is 2423-5709.

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: The Respondent admits the allegations in Paragraph 5 of the Petition.

JURISDICTION

6. Petitioner brings action [sic] pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 10101-1 to 35 ILCS 10101-100 [sic].

ANSWER: The Respondent admits that the Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act, 35 ILCS 1010/1-1 through 35 ILCS 1010/1-100. The Respondent denies the remaining allegations in Paragraph 6 of the Petition.

7. ON [sic] or about October 23, 2014, the Department issued a Notice of Tax Liability to Petitioner asserting additional tax due in the amount of \$93,908.93 for the period of July 1, 2009 through December 31, 2011. (A copy of the October 23, 2014 notice is attached hereto and incorporated herein as Exhibit “B”).

ANSWER: The Respondent denies the allegation in Paragraph 7 of the Petition, that the Notice of Tax Liability issued by the Respondent to the Petitioner, for the periods of July 1, 2009 through December 31, 2011 (the “Periods”), dated October 23, 2014 and with Letter ID CNXXX2X2283X3525, attached to the Petition as Exhibit “B” (the “Notice”) asserts additional tax due in the amount of \$93,908.93, and affirmatively states that the Notice reflects \$93,908.93 in additional tax, penalties and interest. A copy of the Notice is not a material allegation of fact, and therefore does not require an answer pursuant to Illinois Independent Tax Tribunal Regulation 310(b)(2) (86 Ill. Adm. Code § 5000.310(b)(2)), but to the extent an answer is required, the Respondent admits issuing the Notice and states that the Notice speaks for itself. The Respondent admits the remaining allegations in Paragraph 7 of the Petition.

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 October 23, 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 October 23, 2014 notice. See 35 ILCS 1010/1-45 and 35 ILCS 1010/1-50.

ANSWER: The Respondent admits the allegations in Paragraph 8 of the Petition.

BACKGROUND

9. Petitioner is a Food & Liquor [sic] establishment engaged in the sale of retail products to the public.

ANSWER: The Respondent strongly objects to Paragraph 9 of the Petition, to the extent it seeks an answer concerning a tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 9 of the Petition, and affirmatively states that during the Periods the Petitioner operated a grocery store which was engaged in the sale at retail of various items of tangible personal property, including, but not limited to, food and liquor.

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

ANSWER: The Respondent objects to Paragraph 10 of the Petition in that it is vague and ambiguous as to the “tax returns” to which the Petitioner is referring, and as to the character of the “amounts due.” The Respondent also strongly objects to Paragraph 10 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 10 of the Petition refers to any Forms ST-1, Sales and Use Tax and E911 Surcharge Returns filed by the Petitioner with respect to the Periods, the Respondent denies the allegations in Paragraph 10 of the Petition. The Respondent denies any remaining allegations in Paragraph 10 of the Petition.

PROCEDURAL HISTORY

11. At some point before October 23, 2014 the Department initiated an audit of the returns filed by the Petitioner for the period of July 1, 2009 through December 31, 2011 (the “Audit Period”).

ANSWER: The Respondent objects to Paragraph 11 of the Petition in that it is vague and ambiguous as to the “returns” to which the Petitioner is referring. The Respondent also strongly objects to Paragraph 11 of the Petition, to the extent it seeks an answer concerning an audit or type of tax that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 11 of the Petition refers to any Forms ST-1, Sales and Use Tax and E911 Surcharge Returns filed by the Petitioner with respect to the Periods, the Respondent admits that it initiated an audit of Petitioner’s Account ID 2423-5709 before October 23, 2014, for the Periods. The Respondent denies the remaining allegations in Paragraph 11 of the Petition.

12. The business operated by the taxpayer is primarily a food and liquor store.

ANSWER: The Respondent strongly objects to Paragraph 12 of the Petition, to the extent it seeks an answer concerning a tax period that is beyond the scope of the relevant sales tax audit in this matter. The Respondent also objects to Paragraph 12 of the Petition in that it is vague as to the “taxpayer” to which the Petitioner is referring. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 12 of the Petition refers to the Petitioner as the “taxpayer,” Respondent denies the allegations in Paragraph 12 of the Petition, and affirmatively states that during the

Periods the Petitioner operated a grocery store which was engaged in the sale at retail of various items of tangible personal property, including, but not limited to, food and liquor.

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

ANSWER: The Respondent strongly objects to Paragraph 13 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objection, and without waiving the same, and to the extent Paragraph 13 of the Petition refers to the sales tax audit in this matter, and the suppliers of the Petitioner during the Periods, the Respondent admits that its auditor, upon completing the sales tax audit in this matter, determined the liability reflected in the Notice based upon, in part, information received from such suppliers of the Petitioner. The Respondent denies any remaining allegations in Paragraph 13 of the Petition.

14. In calculating the deficiency the department failed to consider that numerous purchases included [sic] member's fees that were charged to the taxpayer as well as supplies and other items that are not for resale.

ANSWER: The Respondent objects to Paragraph 14 of the Petition in that it is vague as to the "deficiency," the "purchases," the "member's fees," the "taxpayer," the "supplies," and the "other items" to which the Petitioner is referring. The Respondent also strongly objects to Paragraph 14 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant

sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 14 of the Petition refers to the liability reflected in the Notice, and to the Petitioner as the “taxpayer,” the Respondent denies the allegations in Paragraph 14 of the Petition. The Respondent denies any remaining allegations in Paragraph 14 of the Petition.

15. In addition the Department of Revenue failed to account for the various taxes that were included in the liquor and beer purchases and instead of providing the proper credit, they [sic] charged a markup in addition to the amount of the Cook County Tax [sic].

ANSWER: The Respondent objects to Paragraph 15 of the Petition in that it is vague and ambiguous as to the “various taxes,” the “Cook County Tax,” the “liquor and beer purchases,” and how the “various taxes” and the “Cook County Tax” were included in or added to such “purchases.” In addition, the Respondent strongly objects to Paragraph 15 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 15 of the Petition refers to the liability reflected in the Notice, the Respondent denies the allegations in Paragraph 15 of the Petition. The Respondent denies any remaining allegations in Paragraph 15 of the Petition.

16. As a result on October 23, 2014 the audit was completed and the audit assessment was issued.

ANSWER: The Respondent objects to Paragraph 16 of the Petition in that it is vague as to the phrase “[a]s a result,” and as to the “audit” and the “audit assessment,” to which the Petitioner is referring. The Respondent also strongly objects to Paragraph 16 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 16 of the Petition refers to the sales tax audit in this matter, and the Notice, the Respondent admits that such sales tax audit was completed on August 20, 2014, and that the Notice was issued on October 23, 2014. The Respondent denies any remaining allegations in Paragraph 16 of the Petition.

17. The Department’s calculations based upon the audit are in error since [sic] they do not include information from the books and records that the petitioner provided.

ANSWER: The Respondent objects to Paragraph 17 of the Petition in that it is vague as to the “audit” and the “books and records” to which the Petitioner is referring. The Respondent also strongly objects to Paragraph 17 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 17 of the Petition refers to the sales tax audit in this matter, and the Petitioner’s books and records relevant to such audit, the Respondent denies the allegations in Paragraph 17 of the Petition. The Respondent denies any remaining allegations in Paragraph 17 of the Petition.

COUNT I

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

ANSWER: The Respondent incorporates and repeats its answers to Paragraphs 1 through 17 of the Petition as if fully set forth herein.

19. The Department failed to properly assess the tax since [sic] 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 Respondent objects to Paragraph 19 of the Petition in that it is vague as to the “tax,” the “books and records,” the “taxpayer,” the “report,” and the “company” to which the Petitioner is referring. The Respondent also strongly objects to Paragraph 19 of the Petition, to the extent it seeks an answer concerning an audit, type of tax, or tax period that is beyond the scope of the relevant sales tax audit in this matter. Notwithstanding said objections, and without waiving the same, and to the extent Paragraph 19 of the Petition refers to the sales tax audit in this matter, the Petitioner’s books and records relevant to such audit, the Petitioner as the “taxpayer,” and the liability reflected in the Notice, the Respondent denies the allegations in Paragraph 19 of the Petition. The Respondent denies any remaining allegations in Paragraph 19 of the Petition.

WHEREFORE, the Respondent prays that the Tribunal enter an order to:

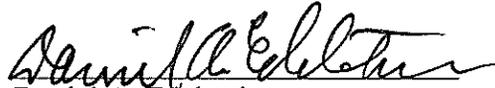
- a. deny each prayer for relief in the Petitioner’s Petition;

- b. find that the Notice (as that term is defined in the answer to Paragraph 7 of the Petition) is correct as issued;
- c. order judgment in favor of the Respondent and against the Petitioner; and
- d. grant such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By:



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