

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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<b>National Wound Care, LLC,</b>	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>14 -TT-235</b>
<b>ILLINOIS DEPARTMENT</b>	)	<b>Judge Brian F. Barov</b>
<b>OF REVENUE,</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:

**INTRODUCTION**

1. The "Notice" was issued by the Department on assessing a liability in the amount of \$25,129.00 in tax, \$3,769.00 in penalties and \$304.00 in interest for taxable periods 10/2010-12/2012. A copy of the "Notice" is attached to this Petition.

**ANSWER:** The Department admits that there is a Notice of Proposed Liability (Letter ID L1875253856) attached to the petition with the amounts indicated in paragraph 1 for audit periods 10/2010-12/2012. However, pursuant to the Tribunal's January 13, 2015 Order, the July 31, 2014 Notice of Tax Liability is attached as Exhibit A to this Answer. The Department admits that the July 31, 2014 Notice of Tax Liability assesses liability in an amount of remaining tax due of \$25,129.00, a late payment penalty increase of \$5,026.00 and interest of \$1,051.35. These amounts total a remaining assessed unpaid balance of \$31,206.35. The audit period for these amounts is October 1, 2010 through December 31, 2012.

2. Petitioner is LLC with its principal place of business in Champaign, IL.

**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. It is located at 4112B Fieldstone Rd and its telephone number is 217-355-2680. The taxpayer account number is 37-1401747.

**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. Further Answering, the Department denies that National Wound Care LLC is located at 4112B Fieldstone Road, and asserts that according to the audit file, National Wound Care LLC is located at 2906 W. Clark Road, Champaign, IL 61822. Further, the Department admits that the taxpayer's account number for withholding tax is 37-1401747. The Department adds that the taxpayer's account number for sales and use taxes is 2969-9479. Otherwise, the factual allegations contained within paragraph 3 are admitted.

### **ERROR**

1. According to Title 86 Part 130 Section 130.311 of the Illinois Department of Revenue Regulations, "with respect to medical appliances, the tax is imposed at the rate of 1%". The auditor Larry Farris, said that National Wound Care was the first medical equipment company that he had ever audited. The notice of liability had a portion of the revenue for the periods in question taxed at the 1% rate and a portion of the revenue for the periods in question taxed at a higher rate. The proposed liability in question was arrived at by the

calculating the difference between the 1% that was paid and amount that the auditor claimed should be taxed at a higher rate.

**ANSWER:** The first sentence of Error paragraph 1 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. The Department admits the existence, force, and effect of Title 86 Part 130 Section 130.311 of the Illinois Department of Revenue Regulations. The Department adds that the quoted text in Error paragraph 1 is incomplete. The Department denies that the auditor, Larry Farris, said that National Wound Care was the first medical equipment company he had ever audited. The Department objects to the characterization regarding how the auditor derived at the assessed amount of tax owed. The assessment was determined as indicated in the audit file, including the audit narrative. The Department further states that the liability proposed under the Notice 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 Error paragraph 1 are admitted.

#### **CONCLUSION AND RELIEF REQUESTED**

1. Petitioner's revenue is solely derived from medical appliances and was correctly paid at the 1% rate. Petitioner requests that said proposed liability be expunged and removed for that reason.

**ANSWER:** Denied.

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

- a. Deny each prayer for relief in the Petition;

- b. Find that the Department's Notice correctly reflects 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 10, 2015

Respectfully submitted,  
Illinois Department of Revenue

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

Seth Jacob Schriftman  
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# Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWNKMGV  
#CNXXX54 6557 92X0#  
NATIONAL WOUND CARE LLC  
4112B FIELDSTONE RD  
CHAMPAIGN IL 61822-8810

July 31, 2014



Letter ID: CNXXX54655792X0

Account ID: 2969-9479



We have audited your account for the reporting periods October 01, 2010, 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	25,426.00	(297.00)	25,129.00
Late Payment Penalty Increase	5,026.00	0.00	5,026.00
Interest	1,051.35	0.00	1,051.35
<b>Assessment Total</b>	<b>\$31,503.35</b>	<b>(\$297.00)</b>	<b>\$31,206.35</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 September 29, 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