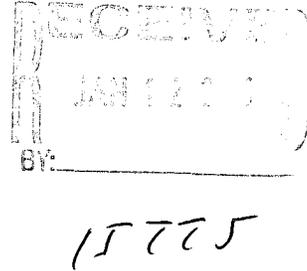


ILLINOIS INDEPENDENT
TAX TRIBUNAL

Hincky Dinks, Ltd.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT)
 OF REVENUE,)
)
 Respondent.)



PETITION

The Petitioner, Hincky Dinks, Ltd., hereby petitions the Illinois Independent Tax Tribunal to review and reverse and/or modify the Notice of Tax Liability, Notice of Penalty Liability, (“Notice”) issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

INTRODUCTION

1. The “Notice” was issued by the Department on May 7, 2014 assessing in the amount of \$42,243.00 in tax, \$32,339.00 in penalties and \$2,542.13 in interest for taxable periods 07/2010 – 12/2012. A copy of the “Notice” is attached to this Petition.
2. Petitioner is a corporation, with its principal place of business in Chicago, Illinois.
3. It is located at 3243 W. 111th Street, Chicago, IL 60655, and its telephone number is (773) 445-1598. The Taxpayer Account number is 2047-3494.

4. The amounts assessed per the audit of gross receipts are significantly greater than actual gross receipts and the "estimated" volume of types of purchases greatly increased the gross receipts numbers and thusly, the tax due per audit is incorrect.

BACKGROUND AND RELEVANT FACTS

5. Petitioner did not have a computerized cash register system prior to January 1, 2013, and relied on a manual nightly revenue system. During the relevant audit period when the Petitioner's revenues were down by approximately 15-40%, the audit estimates derived gross receipts numbers inflate the actual revenue numbers drastically.

6. Petitioner filed returns for taxable period 7/1/2010 - 12/31/12.

7. Since January 1, 2013, Petitioner does have computerized cash register taxes and the revenues for such subsequent periods are significantly less than the "estimates" per the audit.

ERROR I

8. The audit's estimated volume of type of purchases greatly inflated actual revenues subject to sales tax and therefore the amount of tax alleged to be owing is in error.

ERROR II

9. The assessment of a fraud penalty is in error as derivative from the erroneous sales tax figures.

ERROR III

10. The interest per audit is incorrect and not due as the sales tax amount alleged to be owing is in error.

CONCLUSION AND RELIEF REQUESTED

11. The Petitioner requests the notice of tax liability issued May 7, 2014 is in error and its assessment be modified or cancelled.

WHEREAS, Petitioner requests that the "Notice" be modified or canceled for the reasons contained herein.

NAME OF PETITIONER

Hinky Dink's Ltd.

By: 
Patrick M. Hincks, one of the Attorneys
Representing Petitioner.

Representatives:

Patrick H. Hincks
Sullivan Hincks & Conway
120 W. 22nd Street, Suite 100
Oak Brook, IL 60523
Ph: (630) 573-5021
pathincks@shlawfirm.com
ARDC# 6202489

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



#BWNKMGV
#CNXX X17X X396 7680#
HINKY DINKS LTD
HINKY DINKS PUB
3243 W 111TH ST
CHICAGO IL 60655-2730

May 7, 2014



Letter ID: CNXXX17XX3967680

Account ID: 2047-3494



We have audited your account for the reporting periods July 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	46,199.00	0.00	46,199.00
Late Payment Penalty Increase	9,240.00	0.00	9,240.00
Fraud Penalty	23,099.00	0.00	23,099.00
Interest	2,253.55	0.00	2,253.55
Assessment Total	\$80,791.55	\$0.00	\$80,791.55

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.

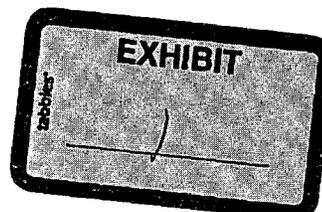
- If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must 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 July 07, 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



Taxpayer Statement



May 7, 2014

TDD 1 800 544-5304



Letter ID: CNXXXX6X83X896X1

#BWNKMGV
#CNXX XX6X 83X8 96X1#
HINKY DINKS LTD
HINKY DINKS PUB
3243 W 111TH ST
CHICAGO IL 60655-2730

Account ID: 2047-3494

Total amount due: \$80,791.55



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge

Account ID: 2047-3494

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2012	48,243.00	32,339.00	2,253.55	-	(2,044.00)	80,791.55

• \$80,791.55 of this amount is subject to protest.

SOA

Retain this portion for your records.

P-000507

Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)



Letter ID: CNXXXX6X83X896X1
HINKY DINKS LTD

Total amount due: \$80,791.55

Write the amount you are paying below.

\$ _____

Write your Account ID on your check.

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19006
SPRINGFIELD IL 62794-9006

\$80,791.55 is subject to protest.

Do not pay any Income Tax liability that you intend to protest.

000 006 011985231521 731 123199 3 0000008079155



Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS
Willard Ice Building
101 West Jefferson Street – Level 5SW
Springfield, IL 62702
(217)782-6995

November 14, 2014

Patrick M. Hincks
Sullivan Hincks & Conway
120 W. 22nd Street, Suite 100
Oak Brook, IL 60523

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Hinky Dinks Ltd.

Account ID: 2047-3494

Notice of Tax Liability (NTL) dated May 7, 2014

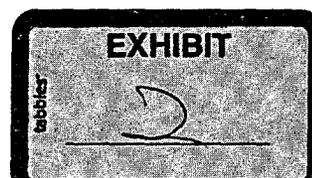
Letter ID: CNXXX17XX3967680

Dear Mr. Hincks:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing regarding the above Notice of Tax Liability. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary hearing for the above NTL.

The amount of liability at issue for this protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest) or (\$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for late discretionary hearings that are granted on or after January 1, 2014. For late discretionary hearings that are granted on or after January 1, 2014 and that exceed the statutory amount, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.*

The Tax Tribunal's website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer shall file a petition with the Tax Tribunal within 60 days and shall attach a copy of the letter granting the late discretionary hearing.** See Subsection (a)(5) of Section 5000.310 of the Tax Tribunal's rules. Please note that the Tax Tribunal has different requirements than the Department



for filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

I recommend that you review the information provided on the Tax Tribunal's website and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry D. Charlton". The signature is written in a cursive style with a large initial "T".

Terry D. Charlton
Chief Administrative Law Judge
Illinois Department of Revenue

TDC

mb
6/6/2013
lbt#2047-3494

Chicago, Illinois
Summary of Liquor and Beer purchases
for the period July 1, 2011 through December 31, 2012



Based on ST-1 reported Beer and Liquor purchases:
7/1/2010 - 3/31/2011 ST-1

	<u>Purchased</u>			<u>Total</u>	<u>ss: ST-1 Report</u>	<u>Unreported</u>		
	<u>Amounts</u>	<u>Pct.</u>	<u>Markup</u>	<u>Gr. Receipts</u>	<u>Receipts</u>	<u>Gr. Receipts</u>	<u>Tax</u>	<u>Tax Due</u>
Beer	\$56,412	55%	3.1	\$174,877.20				
Kegs	\$11,282	11%	2.4	\$27,076.80				
Liquor	\$34,873	34%	3.4	\$118,568.20				
Total	\$102,567	100%		\$320,522.20	\$181,487.00	\$139,035.20	9.75%	\$ 13,555.93

4/1/2011 - 3/31/2012

	<u>Amounts</u>	<u>Pct.</u>	<u>Markup</u>					
Beer	\$89,179	55%	3.1	\$276,455.52				
Kegs	\$17,836	11%	2.4	\$42,806.02				
Liquor	\$55,129	34%	3.4	\$187,438.46				
Total	\$162,144	100%		\$506,700.00	\$293,715.00	\$212,985.00	9.69%	\$ 20,638.25

Note: Tax Rate is weighted due to rate change - 4/1/11 - 12/31/11 rate is 9.75% and 1/1/12 - 3/31/12 rate is 9.50%.

4/1/2012 - 12/31/2012 ST-1

	<u>Amounts</u>	<u>Pct.</u>	<u>Markup</u>					
Beer	\$56,377	55%	3.1	\$174,769.32				
Kegs	\$11,275	11%	2.4	\$27,061.06				
Liquor	\$34,851	34%	3.4	\$118,494.62				
Total	\$102,504	100%		\$320,325.00	\$193,909.00	\$126,416.00	9.50%	\$ 12,009.52
	Note 1	Note 3	Note 4					\$ 46,203.70

Notes:

1. Purchased amount represent alcoholic purchases taken from ST-1s.
2. Reported taxable receipts reported on ST-1s.
3. The percentages represent estimated volume of type of purchases.
4. See markup tab. Projected gross receipts based on purchase markup.
5. Applicable sales tax rates, the 9.69 rate is weighted.



Illinois Department of Revenue

Sales Tax Audit System
Projected Data Results

Date: 01/09/2014
Time: 11:23:55
Page: 1

Auditor: Ray N. Barnes

Taxpayer: 2047-3494/HINKY DINKS LTD Audit Period: 07/01/2010 through 12/31/2012

Selection Criteria

Tax Code: 10 ROT/SOT Receipts Adjustment

Exam Type: 100 ROT/SOT Receipts Adjustment

Additional Tax Base: \$478,658.17

<u>Location</u>	<u>Name</u>	<u>Rate</u>	<u>Rate Period</u>	<u>Taxable Amount</u>	<u>Tax Due</u>
016 0001 1	CHICAGO	09.50	2012 01 - Current	\$179,884.45	\$17,089.01
016 0001 1	CHICAGO	09.75	2010 07 - 2011 12	\$298,773.72	\$29,130.39
				<u>\$478,658.17</u>	<u>\$46,219.40</u>