

**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

V & V LIQUORS INC.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Defendant.)

No.

RECEIVED
SEP 28 2015
BY: _____

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PETITION

V & V Liquors Inc. (“Petitioner”), by and through its attorneys, The Law Office of James E. Dickett, Ltd., complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

PARTIES

1. Petitioner is an Illinois corporation located at 5500 South State Street, Chicago, Illinois, 60621, and can be reached at 773-251-6892.
2. Petitioner is represented by The Law Office of James E. Dickett, Ltd. attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or jdickett@aol.com.
3. Petitioner’s Taxpayer (Account) ID is 2097-6771.
4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

NOTICE

5. On or about August 25, 2015, the Department issued a Notice of Deficiency letter (“Notice”) to the Petitioner for business income tax for the tax period ending March 31, 2012. The tax is in excess of \$15,000. The Department’s September 22, 2016 letter granting a late discretionary hearing is attached hereto as Exhibit 1, and the Petitioner’s September 15, 2016 Taxpayer Statement is attached hereto as Exhibit 2.

JURISDICTION

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner obtained a late discretionary hearing from the Department dated September 22, 2016 (Exhibit 1), and then timely filed this Petition within 60 days of the Department’s letter granting the late discretionary hearing for Petitioner.

BACKGROUND

8. Petitioner is a corporation located on the south side of Chicago.

9. The Department’s business income tax audit liability is based on a sales tax audit of Petitioner for the same tax periods, but the sales tax audit is still pending in the Tax Tribunal and documents from the audit file in that matter reveal that the corporation was closed for most of the tax periods at issue herein.

COUNT I

Defendant’s audit methodology overstates Petitioner’s liability.

10. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the tax liabilities contained in the Notice based on a sales tax audit that is not final and that does not factor in the fact that the corporation was closed ^{for} most of the business income audit tax period..

12. By applying the Department's corporate sales tax audit results to the business income tax Notice, the Department drastically and unreasonable inflated Petitioner's corporate income tax liability.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) enters judgment in favor of Petitioner and against the Defendants and cancels the Notices; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notices.

COUNT II

All penalties should be abated based on reasonable cause.

13. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. In its Notices, the Department assessed penalties.

15. Illinois law provides that penalties do not apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

17. Petitioner exercised ordinary business care and prudence when it reasonably determined its business income liability during the audit periods and clearly did not use the Department's proposed sales tax audit results.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount of penalties due on the Notices; and
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Thank you for considering this Petition.

Respectfully submitted,

V & V Liquors Inc.,
Petitioner

By:



One of Petitioner's Attorneys

Date:

9-26-16

James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
jdickett@aol.com



Exhibit 1

**Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS**

Willard Ice Building
101 West Jefferson Street – Level 5SW
Springfield, IL 62702
(217)782-6995

September 22, 2016

Attorney James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
V & V Liquors Inc.
Account ID: 36-3626090
Notice of Deficiency dated August 25, 2015
Letter ID: CNXXX12734X82725

Dear Mr. Dickett:

The office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing regarding the above Notice of Deficiency. 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 Notice of Deficiency.

The amount of liability at issue for this protest exceeds the statutory amount for which the Department has jurisdiction. For late discretionary hearings that are granted 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 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.

I recommend that you review the information provided on the Tax Tribunal's website (www.illinois.gov/taxtribunal) and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton".

Terry D. Charlton
Chief Administrative Law Judge

TDC:vs

Taxpayer Statement

Exhibit 2



September 15, 2016



Letter ID: L1750245264

V & V LIQUORS INC
5500 S STATE ST
CHICAGO IL 60621-4110

Taxpayer ID: 36-3626090
Total amount due: \$222,254.13



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: 2097-6771

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Nov-2004	77,154.00	5,304.80	25,541.14	-	(90,760.95)	17,238.99
30-Jun-2009	154,910.00	23,232.00	13,331.00	-	(162,910.00)	28,563.00
29-Feb-2012	11,401.00	50.00	21.92	-	(11,201.00)	Not Included*

* This liability is under protest and is not reflected in the balance.
* This period is in Tax Tribunal.

31-Mar-2013	180,104.00	68,904.00	18,819.56	-	(8,367.00)	Not Included*
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* This liability is under protest and is not reflected in the balance.
* This period is in Tax Tribunal.
* \$252,729.56 of this amount is subject to protest.

IL Business Income Tax

Account ID: 16334-62272

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Mar-2012	135,764.00	27,237.60	13,526.54	-	(76.00)	176,452.14

SOC

P-003257

Retain this portion for your records.

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

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



Letter ID: L1750245264
V & V LIQUORS INC

Total amount due: \$222,254.13

Write the amount you are paying below.

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
SPRINGFIELD IL 62794-9035

\$ _____
Write your Taxpayer ID on your check.

\$252,729.56 is subject to protest.
Do not pay any Income Tax liability that you intend to protest.

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