

5. Petitioner is a corporation with its place of business in 7100 N. Clark Street, Chicago, IL 60626-2408. Its telephone number is 312-636-6823. The Petitioner is represented by James T. Hyun, Attorney at Law whose contact number is 847-501-2900. The Taxpayer ID is 27-0515232.

6. A copy of the letters of Notice of Deficiency is attached hereto as Exhibit A.

JURISDICTION

7. This Tribunal has original jurisdiction over all Department determinations reflected on Notices of Deficiency, and among other notices, where the amount issue exceeds \$15,000, exclusive of penalties and interest. 35Ill.Comp.Stat. section 1010/1-45.

STATEMENT OF CLAIMS

8. The Petitioner operates a restaurant in Chicago, Illinois.

9. As part of its business, the petitioner purchases food, drinks and other supplies.

10. Petitioner sells to the general public food and drinks.

11. It is usual and customary in the restaurant industry to "mark up" the cost of food and drinks purchased so that a restaurant can realize a profit.

12. The Petitioner applied a "mark up" in varying percentages to the food and drinks it sells which is considered to be standard in restaurant industry.

13. The Petitioner was audited by the Illinois Department Revenue for a period of January 1, 2010 to April 30, 2012.

14. During the course of the audit, representatives of the Illinois used incorrect methods and formulas to determine petitioner's tax liability; rejected all of the POS system daily sales report; incorrectly calculated sales from the vendor's invoices (EDA-20) and bank systems; and incorrectly assumed that all checks written by Petitioner as "cash" or himself were counted as cost of goods sold which resulted in gross mark-up of sales during the audit period.

15. As a result of the Illinois Department of Revenue wrongful audit procedure, the petitioner was assessed in an incorrect and inflated tax liability.

16. The current Business Income Tax Liability arises from the sales tax audit findings which is currently pending under the case number 14 TT 164.

17. That the Petitioner has made a good faith effort to determine its proper tax liability in a timely manner pursuant to 86 Ill. Admin. Code 700.400(b).

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

- a. Finds and declares that all tax liabilities be fully abated or cancelled.
- b. Enjoin the Department from taking any action to assess, lien levy, offset or any other way prosecute and collect the amount due on the Notices.
- c. Consolidate this matter with the Case No. 14 TT 164.
- d. Grant such further relief as the Tribunal deems appropriate under the circumstances.

CHINA HUT 3 INC., An Illinois Corporation

BY:

A handwritten signature in black ink, appearing to read 'J. Hyun', is written over a solid horizontal line.

James T. Hyun

Attorney at Law

550 W. Frontage Road, Suite 3785

Northfield, IL 60093

Tel: 847-501-2900: Email: jthyunlaw@gmail.com ARDC: 6203220



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

January 29, 2015

James T. Hyun
Hyun Law Group
550 W. Frontage Rd, Suite 3785
Northfield, IL 60093

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
China Hut 3 Inc.,
Taxpayer ID: 27-0515232
2 Notice of Deficiency (“NODs”), September 11, 2014
Letter ID: CNXXX191216X5280
Letter ID: CNXXX153X5221283

Dear Mr. Hyun:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing for China Hut 3 Inc. regarding the above NODs. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary hearing for China Hut 3 Inc. for the above NODs.

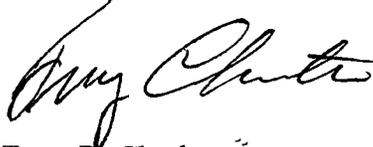
The amount of liability at issue for the protests for this taxpayer exceed the statutory amount (\$15,000, exclusive of penalties and interest) or (\$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for late discretionary hearings that are granted 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 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

Notice of Deficiency

for Form IL-1120-ST, Small Business Corporation Replacement Tax Return

Exhibit A



September 11, 2014



Letter ID: CNXXX191216X5280

#BWNKMGV
#CNXX X191 216X 5280#
CHINA HUT 3 INC
7100 N CLARK ST
CHICAGO IL 60626-2408

Taxpayer ID: 27-0515232
Audit ID: A1954813952
Reporting period: December 2011
Total Deficiency: \$11,681.63
Balance due: \$11,681.63



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, 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 deficiency 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 balance due 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.

If you have questions, call us at the telephone number shown below.

Sincerely,

Brian Harmer
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 524-2230

Notice of Deficiency

for Form IL-1120-ST, Small Business Corporation Replacement Tax Return

Exhibit

A



September 11, 2014



Letter ID: CNXXX153X5221283

#BWNKMGV
#CNXX X153 X522 1283#
CHINA HUT 3 INC
7100 N CLARK ST
CHICAGO IL 60626-2408

Taxpayer ID: 27-0515232
Audit ID: A1954813952
Reporting period: December 2010
Total Deficiency: \$9,027.51
Balance due: \$9,027.51



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax, (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, 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 deficiency 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 balance due 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.

If you have questions, call us at the telephone number shown below.

Sincerely,

Brian Hamer
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 524-2230

Statement

Date: September 11, 2014
Name: CHINA HUT 3 INC
Taxpayer ID: 27-0515232
Letter ID: CNXXX191216X5280

Computation of deficiency

Reporting Period: 31-Dec-2011

| | |
|---|--------------|
| Unmodified base income or loss | |
| Total unmodified base income or loss | \$650,476.00 |
| Income or loss | |
| Other additions | \$0.00 |
| Total income or loss | \$650,476.00 |
| Income allocable to Illinois | |
| Nonbusiness income or loss | \$0.00 |
| Non-unitary partnership business income/loss | \$0.00 |
| Business income or loss | \$650,476.00 |
| Apportionment formula | |
| Total sales everywhere | \$0.00 |
| Total Illinois sales | \$0.00 |
| Apportionment factor | 1.000000 |
| Business income/loss apportionable to IL | \$0.00 |
| Non-business income/loss allocable to IL | \$0.00 |
| Non-unitary part bus income/loss apprt n to IL | \$0.00 |
| Base income or net loss allocable to IL | \$0.00 |
| Net income | |
| Base income or net loss | \$650,476.00 |
| Illinois net loss deduction (NLD) | \$0.00 |
| Net income | \$650,476.00 |
| Net replacement tax | |
| Replacement tax | \$9,757.00 |
| Recapture of investment credits | \$0.00 |
| Replacement tax before investment credits | \$9,757.00 |
| Replacement tax investment credits | \$0.00 |
| Total net replacement tax due | \$9,757.00 |
| Minus tax previously assessed | -\$521.00 |
| Total tax deficiency | \$9,236.00 |
| Plus late-filing penalty | \$184.72 |
| UPIA-5 late-payment penalty (Audit) | \$1,847.20 |
| Plus interest on tax through September 11, 2014 | \$413.71 |