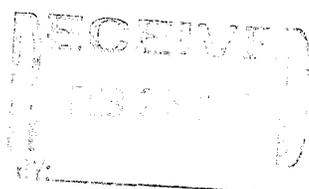


STATE OF ILLINOIS
IN PROCEEDINGS BEFORE THE
INDEPENDENT TAX TRIBUNAL

CALLA CALIS, LLC)
)
Petitioner,)
)
v.)
)
ILLINOIS DEPARTMENT OF)
REVENUE and BRIAN A. HAMER in)
His official capacity as Director of the)
Illinois Department of Revenue,)
)
Respondent.)

Docket No. 15-_____



15 TT 41

PETITION

Petitioner hereby petitions for a redetermination of the tax liabilities set forth in the Notice of Tax Liability issued by the Illinois Department of Revenue dated December 22, 2014, against Calla Calis, LLC ("Petitioner"). As the basis for its case, Petitioner alleges as follows:

JURISDICTIONAL STATEMENT

1. Jurisdiction before the Independent Tax Tribunal is appropriate, as this Petition arises from Notices of Tax Liability issued on December 22, 2014 by the Illinois Department of Revenue against Petitioner for an Illinois tax liability in excess of \$15,000.00 in the aggregate.
2. On December 22, 2014 the Department issued three Notices of Tax Liability (Letter #CNXXX1X726249120; Letter #CNXXX1341X6X3686; and Letter #CNXXX187793128X2) (the "Notices"), proposing an assessment of the following taxes for the following periods, plus penalties and interest:

3.

Letter # CNXXX1X726249120			
	Liability	Payments/Credit	Unpaid Balance
Tax	92,766.00	0.00	92,766.00
Late Payment Penalty Increase	18,875.00	0.00	18,875.00
Fraud Penalty	36,344.00	0.00	36,344.00
Interest	200.00	0.00	200.00
Assessment Total	\$151,641.73	\$0.00	\$151,641.73

Letter # CNXXX1341X6X3686			
	Liability	Payments/Credit	Unpaid Balance
Tax	4,239.00	0.00	4,239.00
Late Payment Penalty Increase	848.00	0.00	848.00
Fraud Penalty	1,972.00	0.00	1,972.00
Interest	124.24	0.00	124.24
Assessment Total	\$7,183.24	\$0.00	\$7,183.24

Letter # CNXXX187793128X2			
	Liability	Payments/Credit	Unpaid Balance
Tax	3,540.00	0.00	3,540.00
Late Payment Penalty Increase	708.00	0.00	708.00
Fraud Penalty	1,607.00	0.00	1,607.00
Interest	104.06	0.00	104.06
Assessment Total	\$5,959.06	\$0.00	\$5,959.06

Copies of the Notices are attached hereto as Exhibits A, B, and C, and are incorporated herein by reference.

FACTUAL BACKGROUND

4. Petitioner is a limited liability company whose address is 760 E Grand Ave, Carbondale, Illinois 62901-3368 and whose phone number is (618) 529-5494.
5. Petitioner is engaged in the business of operating a bar and grill in Carbondale, Illinois.
6. Petitioner's Taxpayer Identification Number is 27-0276315.
7. Respondent issued assessments of additional sales tax liability for the periods of July 1, 2011, through September 30, 2013; October 1, 2013 through October 31, 2013; and November 1, 2013, through November 30, 2013.

ERROR IN DETERMINATION OF PETITIONER'S LIABILITY

8. Respondent erroneously determined that Petitioner underreported its tax liability for the periods identified in the Notices.

9. Respondent erroneously determined that Petitioner is liable for the failure to pay penalty under 35 ILCS 735/3-3 of the Illinois Uniform Penalty and Interest Act.

10. Section 3-8 of the Uniform Penalty and Interest Act states that the penalty under § 3-3 does not apply if the taxpayer exercised reasonable cause. Reasonable cause exists if the taxpayer made a good faith effort to determine the proper tax liability by exercising ordinary business care and prudence.

11. The Petitioner in this case exercised ordinary business care and prudence and made a good faith effort to determine the proper tax liability.

12. If it is determined that an underpayment exists, the underpayment is due to reasonable cause, and no penalty applies.

13. Respondent also erroneously determined that Petitioner is liable for a fraud penalty under § 3-6 of the Uniform Penalty and Interest Act.

14. The fraud penalty only applies to a taxpayer who filed a return with intent to defraud. 35 ILCS 735/3-6.

15. Respondent has the burden of establishing intent to defraud by clear and convincing evidence. *Brown Specialty Co. v. Allphin*, 75 Ill. App. 3d 845 (1979).

16. Respondent has not presented clear and convincing evidence that Petitioner filed any return with intent to defraud.

WHEREFORE, Petitioner prays that this Tribunal hear its Petition and determine its liability for tax, penalties and interest in accordance with the assertions of errors and facts set forth hereinabove, and for all other appropriate relief.

Respectfully Submitted,

MATHIS, MARIFIAN & RICHTER, LTD.

By: _____


Philip D. Speicher, #6285192
Attorneys for Petitioner
23 Public Square, Suite 300
Belleville, IL 62220
(618) 234-9800
(618) 234-9786 (fax)
pspeicher@mmrltd.com

EXHIBIT A

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



#BWNKMGV
#CNXX X1X7 2624 9120#
CALLA CALIS LLC
CALLAHANS CALIS
760 E GRAND AVE
CARBONDALE IL 62901-3368

December 22, 2014



Letter ID: CNXXX1X726249120

Account ID: 3958-7614



We have audited your account for the reporting periods July 01, 2011, through September 30, 2013. As a result we have assessed the amounts shown below.

Table with 4 columns: Description, Liability, Payments/Credit, Unpaid Balance. Rows include Tax, Late Payment Penalty Increase, Fraud Penalty, Late Filing Penalty Increase, Interest, and Assessment Total.

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.
• 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 February 20, 2015.
• 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 B

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



#BWNKMGV
#CNXX X134 1X6X 3686#
CALLA CALIS LLC
CALLAHANS CALIS
760 E GRAND AVE
CARBONDALE IL 62901-3368

December 22, 2014



Letter ID: CNXXX1341X6X3686

Account ID: 3958-7614



We have audited your account for the reporting periods November 01, 2013, through November 30, 2013. As a result we have assessed the amounts shown below.

	Liability	Payments/Credit	Unpaid Balance
Tax	4,239.00	0.00	4,239.00
Late Payment Penalty Increase	848.00	0.00	848.00
Fraud Penalty	1,972.00	0.00	1,972.00
Interest	124.24	0.00	124.24
Assessment Total	\$7,183.24	\$0.00	\$7,183.24

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 February 20, 2015. 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.

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TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

EXHIBIT C

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



#BWNKMGV
#CNXX X187 7931 28X2#
CALLA CALIS LLC
CALLAHANS CALIS
760 E GRAND AVE
CARBONDALE IL 62901-3368

December 22, 2014



Letter ID: CNXXX187793128X2

Account ID: 3958-7614



We have audited your account for the reporting periods October 01, 2013, through October 31, 2013. As a result we have assessed the amounts shown below.

Table with 4 columns: Description, Liability, Payments/Credit, Unpaid Balance. Rows include Tax, Late Payment Penalty Increase, Fraud Penalty, Interest, and Assessment Total.

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.

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• 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.

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STATE OF ILLINOIS
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His official capacity as Director of the)
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Respondent.)

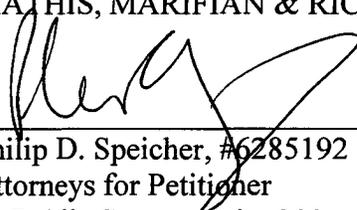
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 20, 2015, copies of Petitioner's Petition, Entry of Appearance and Request for Telephone Appearance were served upon the Illinois Department of Revenue via U.S. First Class mail, postage prepaid, and addressed to:

Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7-900
Chicago, IL 60601

MATHIS, MARIFIAN & RICHTER, LTD.

By: _____


Philip D. Speicher, #6285192
Attorneys for Petitioner
23 Public Square, Suite 300
Belleville, IL 62220
(618) 234-9800
(618) 234-9786 (fax)
pspeicher@mmrltd.com

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Docket No. 15-_____

RECEIVED
15 TT 41

ENTRY OF APPEARANCE

COMES NOW Philip D. Speicher of Mathis, Marifian & Richter, Ltd., and enters his appearance as attorney of record for Petitioner, Calla Calis, LLC. The undersigned is an attorney and is duly admitted to practice before the courts of the State of Illinois.

Respectfully Submitted,

MATHIS, MARIFIAN & RICHTER, LTD.

By: _____

Philip D. Speicher, #6285192
Attorneys for Petitioner
23 Public Square, Suite 300
Belleville, IL 62220
(618) 234-9800
(618) 234-9786 (fax)
pspeicher@mmrltd.com

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Docket No. 15-_____

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REQUEST FOR PERMISSION TO APPEAR BY TELEPHONE

COMES NOW Petitioner, Calla Calis, LLC, and respectfully requests that this honorable Tribunal allow Petitioner and/or Petitioner's counsel to appear telephonically before this Court for all status conferences, motion hearings and hearings on other matters as deemed appropriate by this Tribunal.

Respectfully Submitted,

MATHIS, MARIFIAN & RICHTER, LTD.

By: _____


Philip D. Speicher, #6285192
Attorneys for Petitioner
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Belleville, IL 62220
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pspeicher@mmrltd.com