

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

One Stop Enterprises, Inc.)
)
) Petitioner,
)
) Vs.
)
Illinois Department of Revenue,)
)
) Respondent.)

157165

RECEIVED
MAY 13 2015
BY _____

NOW COMES the Petitioner, **ONE STOP ENTERPRISES, INC.** by and through its attorneys, **THE LAW OFFICES OF ROBINS & ASSOCIATES, LLC.**, and hereby petitions the Illinois Independent Tax Tribunal to review and reverse and or modify the November 13, 2014 tax assessment for the period of January 1, 2011 through September 30, 2013 and as reason therefore, states as follows:

INTRODUCTION

1. The Notice was issued by the Department on November 13, 2014, for the years January 1, 2011 through September 30, 2013 a copy of said notice is attached hereto and marked as "Petitioner's Exhibit A".
2. Said Notice assessed Sales Tax liability in the amount of \$129,933.00, leaving an unpaid balance of \$116,193.00.
3. Said Notice assessed a Late Payment Penalty Increase of \$23,239.00 and a Late Filing Penalty Increase of \$190.00.
4. Said Notice assessed Interest at \$5,769.00.
5. The petitioner is an Illinois Corporation with its principal place of business located at 15600 Frances Lane, Orland Park, Illinois 60462 with its telephone number or (708) 259-4539. The taxpayer Account Number is: 3839-3298.

BACKGROUND AND RELEVANT FACTS

6. The Petitioner timely filed its Illinois Sales Tax Returns for the periods of January 1, 2011 through September 30, 2013.

7. Thereafter, the petitioner became the subject of an audit by the Illinois Department of Revenue.

8. The petitioner operates a gasoline station and convenience store. It sells both gasoline, food, beverages and ancillary items.

8. Said audit was conducted in a way that was inconsistent with proper accounting procedure in the following ways:

ERRORS

9. The petitioner states that the Illinois Department of Revenue committed the following errors:

A. The auditor disallowed the total reported food sales by the petitioner in the amount of \$610,669.00. The auditor received confirmation from third party vendors which provided food and beverages to the petitioner of said sales and was taxed and reported by the petitioner at the low sales tax rate of 2%. The auditor disallowed any reductions for food as low sales tax and assessed the high sales tax of 9% to all food resulting in an additional tax liability of \$58,240.19.

B. The auditor considered 100% of all items purchased or reported by third party vendors to be actually sold to the customer disallowing any deduction for food spoilage, waste, inventory shrinkage or any other inventory control issue. The petitioner should have been allowed to declare 3% waste or shrinkage.

C. The auditor accepted the amount of the gallons of gasoline sold, but rejected the reported price of the sales of gasoline by gallon. The auditor imputed the average price of gasoline upon the gallons sold without considering the location or competition or type of gasoline sold. This approach is incorrect both from an accounting/audit approach as well as a statistical approach.

D. The auditor considered all items purchased for the garage parts as sold to customers without any allocation to year end inventory, thus imputing tax on items added to inventory but not sold.

CONCLUSION AND RELIEF REQUESTED

The petitioner request that this Honorable Tribunal find that the Illinois Department of Revenue applied an incorrect audit approach to arrive at its assessment and that the Notice be modified or cancelled for the reasons contained herein.

Respectfully submitted,

ROBINS & ASSOCIATES, LLC



One of the attorneys for the petitioner

Michael J. Robins, Esq.
Robins & Associates, LLC
33 N. Dearborn, Suite 502
Chicago, IL 60602
Attorney No: 6200303

November 13, 2014

TDD 1 800 544-5304

#BWNKMGV
#CNXX XX24 5617 12X4#
ONE STOP ENTERPRISES INC
15600 FRANCES LN
ORLAND PARK IL 60462-7706



Letter ID: CNXXXX24561712X4

Account ID: 3839-3298
Total amount due: \$145,391.00



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: 3839-3298

| Period | Tax | Penalty | Interest | Other | Payments/Credits | Balance |
|-------------|------------|-----------|----------|-------|------------------|------------|
| 30-Sep-2013 | 119,788.00 | 23,429.00 | 5,769.00 | | (3,595.00) | 145,391.00 |

• \$131,651.00 of this amount is subject to protest.

SOA

Retain this portion for your records.

F-000178

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

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



Letter ID: CNXXXX24561712X4
ONE STOP ENTERPRISES INC

Total amount due: \$145,391.00

Write the amount you are paying below.

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

\$ _____
Write your Account ID on your check.

\$131,651.00 is subject to protest.
Do not pay any Income Tax liability that you intend to protest.

000 006 005492888484 731 123199 3 0000014539100

#BWNKMGV #CNXX XX14 7746 8323# ONE STOP ENTERPRISES INC 15600 FRANCES LN ORLAND PARK IL 60462-7706

November 13, 2014



Letter ID: CNXXXX1477468323

Account ID: 3839-3298



We have audited your account for the reporting periods January 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, 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 January 12, 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

Handwritten notes and a circular stamp, including the number 1477468323.