

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

Tomas J. Zanzola)	
)	
Petitioner,)	
v.)	15-TT-81
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Respondent.)	

NOTICE OF FILING MOTION

TO: Kathleen M. Lach, Esq.
Arnstein & Lehr LLP
120 South Riverside Plaza, Suite 1200
Chicago, Illinois 60606

Electronic mail: kmlach@arnstein.com

PLEASE TAKE NOTICE that on May 11, 2015, the Illinois Department of Revenue's (the "Department") Motion to Dismiss was filed with the Illinois Independent Tax Tribunal by email to ITT.TaxTribunal@Illinois.gov Chicago, Illinois 60601, a copy of which is attached hereto.

1. The Motion is not agreed upon by Taxpayer.
2. The Department does not seek an oral argument.



Susan Budzileni
Special Assistant Attorney General

PROOF OF SERVICE

The undersigned representative for the Illinois Department of Revenue certifies that, on May 11, 2015, she served the Department's Motion to Dismiss on the individual identified above, at the email address shown above.



Susan Budzileni
Special Assistant Attorney General

LISA MADIGAN
ATTORNEY GENERAL OF ILLINOIS
Illinois Department of Revenue
100 West Randolph Street Level 7-900
Chicago, IL 60601
(312) 814-1716

ILLINOIS INDEPENDENT TAX TRIBUNAL

Tomas J. Zanzola)	
)	
Petitioner,)	
v.)	15-TT-81
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Respondent.)	

**RESPONDENT’S AMENDED MOTION TO DISMISS
PURSUANT TO §2-619 OF THE ILLINOIS CODE OF CIVIL PROCEDURE**

NOW COMES the Department of Revenue (“Department”) of the State of Illinois, through Lisa Madigan, Attorney General of and for the State of Illinois, by Susan Budzileni, Special Assistant Attorney General, and for its Motion pursuant to Section 2-619 of the Code of Civil Procedure states as follows:

1. Illinois Code of Civil Procedure (735 ILCS 5/1-101 et seq.) section 2-619 provides: “(a) Defendant may, within the time for pleading, file a motion for dismissal of the action or for other appropriate relief upon any of the following grounds. . . . (1) “That the court does not have jurisdiction of the subject matter of the action, provided the defect cannot be removed by a transfer of the case to a court having jurisdiction.” 735 ILCS 5/2-619(a)(1).

2. A section 2-619 motion may be filed before or after the filing of an Answer. *Dever v. Simmons*, 292 Ill.App.3d 70, 74 (1st Dist. 1997).

3. On February 27, 2015, the Department issued a Notice of Personal Liability to Petitioner as a responsible officer, partner or individual of Geez Enterprises, Inc. for Illinois Withholding Income Tax for periods ending June 30, 2012, September 30, 2012, December 31, 2012, and December 31, 2013 (hereinafter referred to “Tax Periods at Issue”) in the amount of \$28,045.09 including tax, penalties and interest through February 27, 2015.

4. On or about February 11, 2015, Petitioner submitted a payment plan request¹ to the Department, which the Department approved on April 15, 2015. See Exhibit A.

5. Petitioner timely filed a protest with the Independent Tax Tribunal on April 21, 2015.

6. Petitioner's payment plan request identifies Geez Enterprises, Inc. as the business and identifies himself as the person responsible for remitting payments. Petitioner identifies the tax period as 2012 and the tax liability was set at \$10,361.25, which pertains to Geez Enterprises, Inc.'s Illinois Withholding Income Tax, penalties and interest accrued through April 14, 2015, for the periods 6/30/2012, 9/30/2012, and 12/31/2012, which are the same tax periods included in the Tax Periods at Issue with the exception of the period ending December 31, 2013². See Exhibit B.

7. To date, Petitioner remitted two payments totaling \$700, which have been applied to the outstanding Illinois withholding tax for the period ending June 30, 2012.

8. The fully executed installment payment plan evidences the fact that Petitioner agreed to the tax liability and correspondingly there is no legal issue in dispute in this matter.

9. The Department alleges that this Tribunal lacks subject matter jurisdiction of the allegations and claims raised in the Petition in the above-captioned action, and this defect cannot be removed by a transfer of the case to a court having jurisdiction. 735 ILCS 5/2-619(a)(1).

WHEREFORE, Department prays this Tribunal enter an Order

- a. Granting the Department's Motion to Dismiss, with prejudice, and;
- b. Grants any further relief to the Department this Tribunal deems just and appropriate under the circumstances.

¹ Department's form: CCP-1 Payment Installment Plan Request (personal identity information removed).

² The Department's NPL dated February 27, 2015, included four (4) periods, namely 6/30/2012, 9/30/2012, 12/31/2012, and 12/31/2013. On March 15, 2015, the Department received Taxpayer's IL-941 for period ending 12/31/2013, which reported Zero compensation subject to withholding and the Department accepted the same and reduced the tax liability for said period to Zero (\$0).

Respectfully submitted,

Illinois Department of Revenue
By: LISA MADIGAN,
Attorney General, State of Illinois



Special Assistant Attorney General

Susan Budzileni
Special Assistant Attorney General
Illinois Department of Revenue
100 West Randolph St., 7-900
Chicago, IL 60601
Phone: (312) 814-1716
Fax: (312) 814-4344
Susan.Budzileni@Illinois.gov

Step 3: Describe your debt and payment installment plan request

5 Have all your tax returns been filed? Yes No
For this agreement to be considered, all returns must be filed.

6 Identify the tax periods covered by this agreement.

2012

7 Total amount of your unpaid tax liability. 7 \$ 10,000
If your liability is over \$5,000, you must file Form EG-13-I or Form EG-13-B.

8 Write the amount of your good faith downpayment. 8 \$ 350

9 Subtract Line 8 from Line 7. Write the amount of the balance. 9 \$ 10,361.25

10 Describe your payment installment plan to pay the amount on Line 9. Write your first payment date 7/15/2015 and complete one of the following options.

a One per month: Date during month 15th Amount \$ 350

b One per week: Day of week _____ Amount \$ _____

c One every other week: Day of week _____ Amount \$ _____

Step 4: Provide your financial institution and account information

11 McHenry Saving Bank

Financial institution's name

353 Bank Dr. McHenry IL 60020
Mailing address City State ZIP
Tom Zanzola

Names on the account (list all names)

Routing number _____ Checking or Savings
Find your routing number at the bottom of your check (for checking accounts) or contact your financial institution for the routing number (for savings accounts).

Account number _____

12 Sign to authorize electronic payments (taxpayer, authorized officer, or partner)

The Illinois Department of Revenue is authorized to use the information on this form to make monthly withdrawals (ACH debits) from the account listed on Line 11 in accordance with the Department of Revenue Law of the Civil Administrative Code of Illinois and all applicable Illinois tax acts. This authorization shall remain in effect until the department receives written notification from the taxpayer.

Tom Zanzola 7/15/15
Your signature Month day, year

Step 5: Read the statement and sign below

I agree to make the scheduled payments as described on Line 10. I understand that, if the department does not agree to the payment plan described in Step 3, additional information about my financial condition may be requested and I may be required to pay a higher amount. I understand that I must complete Form EG-13-I or Form EG-13-B if my liability is over \$5,000. In addition, liens may be filed at the department's discretion, including, but not limited to, when the department determines there is a risk of non-payment. I will make all payments as scheduled and I will file all future required returns and pay any tax owed for those periods. If I do not remit the scheduled payment and file all required returns, my payment installment plan may be canceled; the entire unpaid balance will become due immediately; and enforcement action may be taken, which could include a levy of my bank account or wages.

Under penalties of perjury, I state that I have examined this form and, to the best of my knowledge, it is true, correct, and complete.

Tom Zanzola 7/15/15
Your signature Month day, year

Illinois Department of Revenue



Collections Integrated Programs Debt Summary for Field Collectors

Name: GEEZ ENTERPRISES INC
Address:

CHICAGO IL 60606-3910

Taxpayer Type: S- Corporation

IL Business Income Tax						Account ID:	
Filing Period	# Description	Tax	Penalty	Interest	Other	Payments	Balance
31-Dec-2013	1 Original	823.00	82.30	20.64	-	(307.00)	618.94
Potential:		823.00				Sub Total:	618.94
IL Withholding Income Tax						Account ID:	
Filing Period	# Description	Tax	Penalty	Interest	Other	Payments	Balance
30-Jun-2012	1 Original	3,943.37	573.21	199.63	-	(700.00)	4,016.21
30-Sep-2012	1 Original	3,217.77	486.14	139.82	-	-	3,843.73
31-Dec-2012	2 Original	1,538.52	284.62	59.23	-	-	1,882.37
Potential:		0.00				Sub Total:	9,742.31
						Grand Total:	10,361.25

Exhibit B