

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>SOODAN CORP.</b>	)	
	)	
<b>Petitioner</b>	)	
<b>v.</b>	)	<b>15-TT-92</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
	)	
<b>Defendant</b>	)	

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**NOTICE OF FILING**

TO: James E. Dickett  
The Law Office of James E. Dickett, Ltd.  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558  
708-784-3200 telephone  
708-784-3201 facsimile  
Email: [jdickett@aol.com](mailto:jdickett@aol.com)

PLEASE TAKE NOTICE, that on June 16, 2015, the undersigned representative for the Illinois Department of Revenue (the "Department") filed the Department's Answer to Soodan Corporation's Petition with the Illinois Tax Tribunal, located at 160 North LaSalle Street, Room N506, Chicago, IL 60601.

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Rickey A. Walton  
Special Assistant Attorney General

Rickey A. Walton  
Illinois Department of Revenue  
100 West Randolph Street, 7-900  
Chicago, IL 60601  
(312) 814-1016 phone  
(312) 814-4344 facsimile  
[rick.walton@illinois.gov](mailto:rick.walton@illinois.gov)

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**ANSWER**

Petitioner, Soodan Corp. (“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 920 West Lincoln Highway, Dekalb, Illinois, 60115, and can be reached at 630-408-5407.

**ANSWER:** The information contained in Paragraph 1 is required by Illinois Independent Tax Tribunal Regulation (“Rule”) 310(a)(1)(A) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). Notwithstanding the above, Department admits the factual allegations contained in Paragraph 1.

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.

**ANSWER:** The information contained in Paragraph 2 is required by Rule 310(a) (1) (B) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). Notwithstanding the above, Department admits the factual allegations contained in Paragraph 2.

3. Petitioner's Taxpayer (Account) ID is 36-4376709.

**ANSWER:** The information contained in Paragraph 3 is required by Rule 310(a)(1)(C) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). Notwithstanding the above, Department admits the factual allegations contained in Paragraph 3.

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.

**ANSWER:** The Department admits that the Department is an agency of the State of Illinois. However, the term "Illinois tax laws" is vague, and therefore the Department denies all other allegations contained in Paragraph 4 and demands strict proof thereof.

#### **NOTICE**

5. On or about April 9, 2015, Petitioner received four (4) Notice of Deficiency letters for Form IL-1120-ST, Small Business Corporation Replacement Tax returns ("Notices") for the years 2007, 2008, 2009, and 2011. The Notices, in aggregate, reflect more than \$15,000 in tax due, plus penalties and interest. The Notices are attached hereto as Exhibit 1.

**ANSWER:** The Department admits that the Notices of Deficiency (“Notices”) for tax years ending December 31, 2007, December 31, 2008, December 31, 2009 and December 31, 2011 (the “Years at Issue”) are dated April 9, 2015 and that the aggregate tax assessed for the four Notices is more than \$15,000 plus penalties and interest. Further, copies of the Notices are required to be attached to the Taxpayer’s Petition pursuant to Rule 310(a) (1) (D) and are not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). The Department denies all other allegations contained in Paragraph 5 and demands strict proof thereof.

### **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.

**ANSWER:** The Department admits Paragraph 6.

7. This Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this petition within 60 days of the Notices.

**ANSWER:** The Department admits that this Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act. However, whether the Petition was timely filed is a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). Department admits the existence, force and effect at all relevant times of the statute set forth or referred to in Paragraph 7 and states that such statute speaks for itself.

## **BACKGROUND**

8. Petitioner is a petroleum retailer located in the far northwest suburbs.

**ANSWER:** The Department admits that Petitioner is a petroleum retailer located in DeKalb, Illinois.

9. Defendant audited Petitioner's books and records for sales tax for the period 2007 to 2011, and based on that audit, the Department projected the business income tax assessments at issue herein without providing the proper allowance for cost of goods sold.

**ANSWER:** The Department admits that it audited Petitioner's books and records for sales tax for the period 2007 to 2011. The Department denies all other allegations contained in Paragraph 9 and demands strict proof thereof.

## **COUNT I**

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

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 9 as if fully set forth herein.

11. The Department assessed the tax liabilities contained in the Notices based on the sales tax audit results without providing the proper allowance for cost of goods sold.

**ANSWER:** Denied.

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

**ANSWER:** The Department denies the allegations contained in Paragraph 12 and demands strict proof thereof.

**WHEREFORE,** Department prays that the Tribunal enter an order:

- a. denying each prayer for relief in Count I of the Petitioner's Petition;
- b. entering judgment in favor of the Department and upholding the Notices;
- c. authorizing the Department to take any action to assess, lien, levy, offset or any other way to prosecute and collect the amount shown due in the Notices; and
- d. granting such further relief as this Tribunal deems appropriate under the circumstances.

## **COUNT II**

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

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 12 as if fully set forth herein.

14. In its Notices, the Department assessed late penalties.

**ANSWER:** Admit.

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

**ANSWER:** Paragraph 15 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). The Department denies any factual allegations in Paragraph 15 and demands strict proof thereof.

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).

**ANSWER:** Paragraph 16 contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). The Department denies any factual allegations contained in Paragraph 16 and demands strict proof thereof.

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.

**ANSWER:** Paragraph 17 contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b) (2). The Department denies any factual allegations contained in Paragraph 17 and demands strict proof thereof.

**WHEREFORE**, Department prays that the Tribunal enter an order:

- a. affirming that the Petitioner has not established reasonable cause to justify abatement of the penalties imposed in this matter;
- b. finding that the Notices are correct as issued, and therefore upholding each Notice;
- c. ordering judgment in favor of the Department and against the Petitioner;
- d. authorizing the Department to take any action to assess, lien, levy, offset or any other way to prosecute and collect the amount shown due in the Notices; and
- e. granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

**LISA MADIGAN**  
Attorney General  
State of Illinois

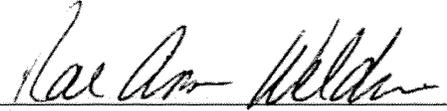
By: \_\_\_\_\_  
Rickey A. Walton  
Special Assistant Attorney General

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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the Department's Answer to Soodan Corporation's petition are true and correct to the best of her knowledge and belief, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

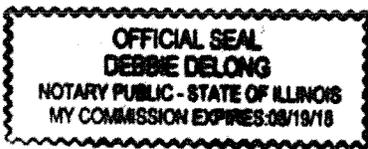


Rae Ann Weldin  
Revenue Auditor  
Illinois Department of Revenue  
Springfield, Illinois

Subscribed and Sworn to  
Before me this 16 day of  
June, 2015



Notary Public



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**CERTIFICATE OF SERVICE BY ELECTRONIC MAIL**

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The Law Office of James E. Dickett, Ltd.  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558  
708-784-3200 telephone  
708-784-3201 facsimile  
Email: [jdickett@aol.com](mailto:jdickett@aol.com)

Please take notice that the undersigned Representative for the Illinois Department of Revenue (the "Department") certifies that, on June 16, 2015, he served the Department's Answer to Soodan Corporation's Petition by electronic mail at the electronic mail address shown above at the time shown on the electronic transmission confirmation.

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Special Assistant Attorney General

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