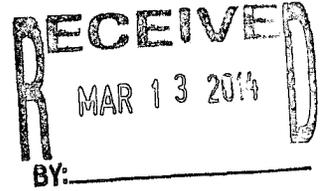


ILLINOIS INDEPENDENT  
TAX TRIBUNAL

COMMERCIAL TIRE SERVICE, INC.)  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS DEPARTMENT OF )  
REVENUE, )  
)  
Respondent. )



**COMMERCIAL TIRE SERVICE, INC., PETITION**  
**PROTESTING TAX LIABILITY**

1. The Petitioner herein is Commercial Tire Service, Inc., located at 1105 North 30th Avenue, Melrose Park, Illinois, 60160; (708) 345-3211; FEIN: 36-3662725; IBT: 2158-0561.

2. Attached hereto and marked as Exhibit A is a copy of the tax notice(s) being protested, covering 04/30/10 - 06/30/12.

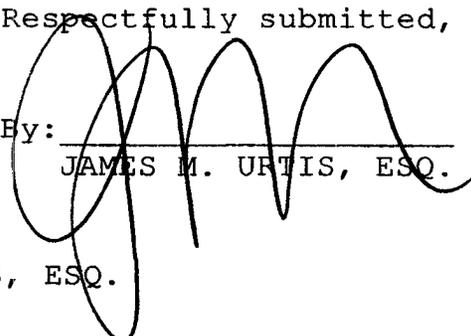
3. That the bases for this protest, among many other bases, is the following:

- a. IDOR inappropriately used the results of a prior audit in proposing adjustments to Petitioner's tax liability;
- b. IDOR failed to properly adjust Petitioner's account;

- c. IDOR failed to appropriately project Petitioner's tax liability;
- d. IDOR failed to properly assess Petitioner's compliance;
- e. IDOR failed to properly account for Petitioner's tax liability;
- f. IDOR failed to properly audit Petitioner's tax liability; and
- g. IDOR assumed erroneous facts and misapplied the law in determining Petitioner's tax liability.

WHEREFORE, the Petitioner, Commercial Tire Service, Inc., prays that this Honorable Tribunal deny the tax liability noticed Petitioner and declare, affirmatively, that Commercial Tire Service, Inc., is not liable for any tax liability under and pursuant to the attached notices covering 04/30/10 - 06/30/12.

Respectfully submitted,

By: 

JAMES M. URTIS, ESQ.

JAMES M. URTIS, ESQ.  
LAW OFFICES OF JAMES M. URTIS, ESQ.  
20 North Clark Street  
Suite 3200  
Chicago, Illinois 60602  
Tel: (312) 346-4500  
Fax: (312) 346-4505



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

January 17, 2014

James M. Urtis, Esq.  
Law Office of James M. Urtis, Esq.  
20 North Clark Street, Suite 3200  
Chicago, IL 60602

Re: **PROTEST DISMISSAL DUE TO LACK OF JURISDICTION**  
Commercial Tire Services, Inc.  
Account ID: 2158-0561  
Notice of Tax Liability (“NTL”)  
Letter ID: CNXXX152X9556164, dated November 14, 2013

Dear Mr. Urtis:

The Office of Administrative Hearings of the Illinois Department of Revenue received your protest and request for an administrative hearing on behalf of the above client. The mailing date of your protest and request for hearing indicate that the protest was sent within the 60-day protest period for requesting an administrative hearing stated on the above NTL. However, the amount of liability at issue for the protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest) for which the Department has jurisdiction for protests filed on or after January 1, 2014. For protests that exceed the statutory amount and are filed on or after January 1, 2014, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.* **Because the Department does not have jurisdiction over this protest, the Department is respectfully dismissing your client’s protest and request for administrative hearing.**

Because of these recent changes in Illinois law, the Department and the Tax Tribunal recognize that there may be instances, such as this, when a protest and request for an administrative hearing may be filed in the wrong jurisdiction. The Tax Tribunal’s website ([www.illinois.gov/taxtribunal](http://www.illinois.gov/taxtribunal)) contains draft proposed rules that include guidance on filing in the wrong jurisdiction and contact information for the Tax Tribunal. **The Tax Tribunal’s draft proposed rules provide that a timely protest that is dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal.** See Subsection (a)(3) of “Section 310



Pleadings” of the Tax Tribunal’s draft proposed 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,



Terry D. Charlton  
Chief Administrative Law Judge  
Illinois Department of Revenue

TDC

JAN 13 2014



Illinois Department of Revenue

**AH-4** Protest and Request For Administrative Hearing with the Illinois Department of Revenue  
(Applies to all sales, use, excise, and related taxes)  
Do not use this form for hearing requests that are under the Independent Tax Tribunal jurisdiction.

ADMINISTRATIVE HEARINGS

**General Information**

In order to protect your legal rights and make the process easier, you may use this form if you wish to file an official protest and request an administrative hearing in regard to any Notice of Tax Liability or denial of a claim for credit issued against you by the Department. This applies to any sales, use, excise and related taxes. Do not use this form to protest a Notice of Deficiency or denial of claim for income taxes, either business or personal. Note: An administrative hearing is a formal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. An attorney representing the Department will be present. You may represent yourself or have your own attorney there to represent you.

**Step 1 - Where do I send this protest and request for an administrative hearing?**

You must mail or otherwise deliver this protest on or before the date specified on the notice you are protesting to the address below. If you do not act within this period, you will lose your right to be heard.

To: Illinois Department of Revenue  
Office of Administrative Hearings MC 5-500  
101 W. Jefferson Street  
P.O. Box 19014  
Springfield, Illinois 62794-9014



**Step 2 - What information must I provide?**

Provide the following information so that we can act on your protest in a timely manner and docket the matter for hearing.

1	COMMERCIAL TIRE SERVICES, INC.	7	2158-0561
	Taxpayer(s) name(s)		Account ID
2	1105 N. 30TH AVENUE		
	Current address		If you have included a copy of the notice you are protesting, you may skip Lines 8 through 11. If not, please provide the following:
3		8	CNXXX152X9556164
	PO Box, if applicable		Letter ID from Notice of Tax Liability
4	MELROSE PARK IL 60160	9	11/14/2013
	City State ZIP		Date issued
5		10	04/01/2010-6/30/2012
	E-mail address (if any)		Liability period
6	(708) 345-3211	11	\$ 120,515
	Phone #		Amount issued

**If you are protesting a denial of a claim:**

If you are protesting the denial of a claim for credit, please provide the following information:

Date claim was filed	Liability period	Date claim was denied	Amount of claim denied
____/____/____	_____	____/____/____	\$ _____
____/____/____	_____	____/____/____	\$ _____

**Step 3 - Signature Verification** Protests must be signed.

I (we) hereby protest the notices as indicated above and specifically request an administrative hearing to show the Department is wrong. I fully understand the nature of this proceeding and the legal responsibilities required.

Taxpayer(s) signature	<i>[Signature]</i>	Date	1/13/2014
Signature of taxpayer's representative(s)	<i>[Signature]</i>	Date	1/13/2014

Note: If a taxpayer representative signs this form, a Form IL-2848-AH, Power of Attorney, must accompany the filing of this protest. Form IL-2848-AH is available through the Department's website at [tax.illinois.gov](http://tax.illinois.gov).

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



November 14, 2013



Letter ID: CNXXX152X9556164

Account ID: 2158-0561

#BVNKMVG  
#CNXX X152 X955 6164#  
COMMERCIAL TIRE SERVICES, INC  
ATTN: POA-CRAY, KAISER LTD  
1901 S MEYERS RD STE 230  
OAKBROOK TERRACE IL 60181-5206

We have audited your account for the reporting periods April 01, 2010, through June 30, 2012. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	96,545.00	0.00	96,545.00
Late Payment Penalty Increase	19,308.00	0.00	19,308.00
Interest	4,661.55	0.00	4,661.55
<b>Assessment Total</b>	<b>\$120,514.55</b>	<b>\$0.00</b>	<b>\$120,514.55</b>

If you do not agree, you may file a protest and request an administrative hearing within 60 days of the date of this notice, which is **January 13, 2014**. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. 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.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are listed below.

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

217 785-6579

### **Taxpayer Bill of Rights**

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond within specified time periods to department notices by asking questions, paying the amount due, or providing proof to refute the department's findings.
- You have the right to appeal department decisions in many instances within specified time periods by asking for department review, or by taking the issue to court.
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other department procedures, you may write or call us. Our address and telephone number are on the front of this notice.

### **Penalty, Fee, Interest, and Credit Information**

**Note:** A general explanation of the penalties, fees, and interest that may have been assessed is below. For more detailed information, including specific rates in effect for different liability periods, see Publication 103, Penalties and Interest for Illinois Taxes, available on our web site at [tax.illinois.gov](http://tax.illinois.gov) or by calling 1 800 356-6302.

- \* You owe a **late-filing penalty** if you do not file a processable return by the due date.
- \* You owe a **late-payment penalty** if you
  - are required to make quarter-monthly tax payments and do not do so, or do not pay the required amount by the payment due date.
  - do not pay the amount you owe by the original due date of the return.
- \* You owe an **additional late-payment penalty** if you do not pay the full amount of tax required to be shown due on a return (and that is not shown) within 30 days of the date we send you a notice of arithmetic error or a final assessment.
- \* You owe an **underreporting penalty** if you do not report the correct amount of tax required to be shown due on your return before the due date of the return.
- \* You owe a **bad check penalty** if your remittance is not honored by your financial institution.
- \* You owe a **cost of collection fee** if you do not pay the amount you owe (including penalties and interest) within 30 days of the date printed on an assessment.

Interest is charged on tax not paid when due and is calculated on tax from the day after the original due date of your return through the date you pay the tax. For returns due January 1, 1994, through December 31, 2000, interest also accrues on penalties.

The discount rate is 1.75 percent (.0175). If you made an error when figuring the discount, it is included in the tax calculation. You may not take a discount on returns filed late or on tax paid late.

The credit applied by the Department of Revenue is from a current credit balance in your account.

# Taxpayer Statement



November 14, 2013

TDD 1 800 544-6304



Letter ID: CNXXX17697876168

Account ID: 2158-0561

Total amount due: \$120,522.49

#BWVKMGV  
#CNXX X176 9787 6168#  
COMMERCIAL TIRE SERVICES, INC  
ATTN: POA-CRAY, KAISER LTD  
1901 S MEYERS RD STE 230  
OAKBROOK TERRACE IL 60181-5206

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: 2158-0561

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	126,300.00	41,591.00	33,635.50	-	(22,321.00)	Not Included*
* This liability is under protest and is not reflected in the balance. * This period is in Administrative Hearings. * \$179,205.50 of this amount is subject to protest.						
31-Mar-2010	56,202.00	6,505.00	3,410.88	-	(23,677.00)	Not Included*
* This liability is under protest and is not reflected in the balance. * This period is in Administrative Hearings. * \$42,440.88 of this amount is subject to protest.						
30-Jun-2012	136,957.00	19,308.00	4,669.49	-	(40,412.00)	120,522.49
* \$120,522.49 of this amount is subject to protest.						

SOA

Retain this portion for your records.

P-000168

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

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



Letter ID: CNXXX17697876168  
COMMERCIAL TIRE SERVICES, INC

Total amount due: \$120,522.49

Write the amount you are paying below.

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

\$ \_\_\_\_\_  
Write your Account ID on your check.

\$342,168.87 is subject to protest.  
Do not pay any Income Tax liability that you intend to protest.

000 006 015862727849 731 123199 4 0000012052249

**Final Notice of Tax Due**  
for Form ST-1, Sales and Use Tax and E911 Surcharge Return



\_\_\_\_\_ #BWNKMGV  
 #CNXX X185 2812 1287#  
 COMMERCIAL TIRE SERVICES, INC  
 1105 N 30TH AVE  
 \_\_\_\_\_ MELROSE PARK IL 60160-3062

January 28, 2014 TDD 1 800 544-5304



Letter ID: CNXXX18528121287

Account ID: 2158-0561  
 Reporting Period: June 2012



**The Notice of Tax Liability issued on November 13, 2013 is final.** Any correspondence and/or amended figures received for this liability have been processed.

As a result we have assessed the amounts shown below.

To avoid cost of collection fees, additional penalties and interest for this assessment, you must pay on or before February 27, 2014.

Please use the voucher on the enclosed Taxpayer Statement to make your payment.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	96,545.00	0.00	96,545.00
Late Payment Penalty Increase	19,308.00	0.00	19,308.00
Interest	5,264.84	0.00	5,264.84
<b>Assessment Total</b>	<b>\$121,117.84</b>	<b>\$0.00</b>	<b>\$121,117.84</b>

For questions, visit our web site or call one of the numbers above.

# Taxpayer Statement



January 28, 2014

TDD 1 800 544-6304



Letter ID: CNXXX19379478727

Account ID: 2158-0561

Total amount due: \$121,117.84

#BWNKMGV  
#CNXX X193 7947 8727#  
COMMERCIAL TIRE SERVICES, INC  
1105 N 30TH AVE  
MELROSE PARK IL 60160-3062



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: 2158-0561

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	126,300.00	41,591.00	34,276.60	-	(22,321.00)	Not Included*
* This liability is under protest and is not reflected in the balance. * This period is in Administrative Hearings. * \$179,846.60 of this amount is subject to protest.						
31-Mar-2010	56,202.00	6,505.00	3,611.27	-	(23,677.00)	Not Included*
* This liability is under protest and is not reflected in the balance. * This period is in Administrative Hearings. * \$42,641.27 of this amount is subject to protest.						
30-Jun-2012	136,957.00	19,308.00	5,264.84	-	(40,412.00)	121,117.84

SOA

Retain this portion for your records.

P-001579

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

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



Letter ID: CNXXX19379478727  
COMMERCIAL TIRE SERVICES, INC

Total amount due: \$121,117.84

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.

\$222,487.87 is subject to protest.  
Do not pay any Income Tax liability that you intend to protest.

000 006 010395166401 731 123199 2 0000012111784



Department of Treasury  
Internal Revenue Service  
Cincinnati OH 45999-0038

Notice	CP2768
Tax period	December 31, 2013
Notice date	February 10, 2014
Employer ID number	36-3662725
To contact us	Phone 1-800-829-0115
Page 1 of 2	

048033.262585.7058.1898 1 SF 0.500 373  




COMMERCIAL TIRE REPAIR SERVICE INC  
SERVICE INC 1105 N 30TH AVE  
MELROSE PARK IL 60160

048033

Courtesy reminder about your December 31, 2013 Form 941

## Your Federal Tax Deposit wasn't submitted correctly

Your Federal Tax Deposit for the quarter ending December 31, 2013 (Form 941) wasn't submitted correctly.

Though we usually charge a failure-to-deposit penalty for incorrect deposits, we decided to waive the penalty for this period. We encourage you to review the Federal Tax Deposit requirements so you can submit correct deposits and avoid penalties in the future.

### What you need to do

#### To avoid penalties

- Be sure to:
  - Deposit the correct amount of tax
  - Deposit by the correct date
  - Deposit according to your correct frequency (monthly or semiweekly)
  - Deposit electronically using the Electronic Federal Tax Payment System (EFTPS)

#### Learn more about Federal Tax Deposit requirements

- Visit [www.irs.gov](http://www.irs.gov) and search: "Tax Topic 757". You can also find the following online:
  - Employer's Tax Guide (Publication 15, "Circular E")
  - Agricultural Employer's Tax Guide (Publication 51, "Circular A")
  - Deposit Requirements for Employment Taxes (Notice 931)

If you have any questions about this notice or Federal Tax Deposit rules, please call us at 1-800-829-0115.

### Penalties

#### Failure-to-deposit

When you don't make your Federal Tax Deposit on time, in full, or electronically, we charge a penalty. (Internal Revenue Code section 6656)

The table below shows the rates used to calculate the failure-to-deposit penalty.

Penalty rate	Number of days deposit is late
2%	1-5 days late
5%	6-15 days late
10%	Over 15 days late, but no more than 9 days after we've billed you
10%	Amounts not deposited electronically using EFTPS
15%	More than 10 days after we've billed you

Continued on back...