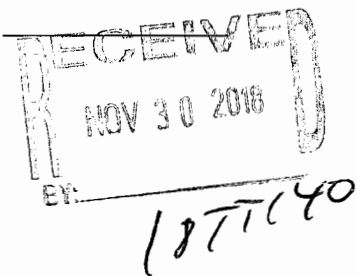


**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

SPECIALTY CARE RX, LLC )  
(D/B/A CUREXA), )  
 )  
Petitioner, )  
v. )  
 )  
ILLINOIS DEPARTMENT )  
OF REVENUE, )  
 )  
Respondent. )

Docket No. \_\_\_\_\_



**PETITION**

Petitioner, SPECIALTY CARE RX, LLC, by and through its attorneys, LAVELLE LAW, LTD., and petitions the Illinois Independent Tax Tribunal to review and reverse and or modify the Notice of Tax Liability (the “**Notice**”) issued by the Respondent, the ILLINOIS DEPARTMENT OF REVENUE, for the reasons stated below:

**INTRODUCTION**

1. The Notice was issued by Respondent on September 12, 2018, assessing sales tax, and interest against Petitioner in the amounts of \$263,390.00 and \$24,386.65, respectively, for the tax periods of January 1, 2015, through June 30, 2017. See *Notice of Tax Liability attached hereto as Exhibit A*.

2. Petitioner is a limited liability company with its principal place of business at 236 East Jimmie Leeds Road, Suite C, Galloway, New Jersey 08205.

3. Petitioner’s Account ID is 4126-7729 and its telephone number is 855-927-0390.

**BACKGROUND AND RELEVANT FACTS**

4. Petitioner is an independent community pharmacy operating in the Edgewater

neighborhood of Chicago, Illinois.

5. In December 2013, Petitioner was purchased by three pharmacists from New Jersey, who owned independent pharmacies in New Jersey, and were seeking to expand into the specialty drug market.

6. Petitioner's client base in Chicago is one of the most underserved and vulnerable populations in the city, as approximately eighty percent (80%) of the patients are infected with HIV and approximately ninety percent (90%) are considered indigent and receive benefits such as Medicaid or Medicare.

7. When Petitioner began operating in Chicago, it contacted Respondent for clarifications of Petitioner's sales tax obligations; a representative of Respondent directed Petitioner to legal guidance published on Respondent's website that stated, "In general, sales made to Medicare and Medicaid are exempt from tax."

8. Based on this guidance from Respondent, Petitioner operated as if its sales to Medicare and Medicaid plans administered by third parties were not subject to Illinois sales tax and therefore did not collect and remit sales taxes on these sales.

9. Petitioner did not learn that these sales were subject to sales tax until Respondent commenced a sales tax audit of Petitioner in November 2017.

#### **APPLICABLE LAW**

##### ***Sales Tax Imposed on Gross Receipts***

14. Section 10 of the Retailer's Occupation Tax Act (the "ROTA") imposes a "sales" tax at a general rate of 6.25% on gross receipts from sales of tangible personal property made in the course of business. *35 ILCS § 120/2-10.*

**Medicare and Medicaid Tax Exemption**

15. Sales made to Medicare and Medicaid generally are exempt from sales tax under the ROTA as sales to a governmental body; however, only the portions paid by Medicare and Medicaid, rather than third parties, are exempt. *ST 16-0031 GIL*.

**Reliance on Department's Guidance**

17. Respondent has the power and duty to abate taxes and penalties assessed based upon erroneous written information or advice given by Respondent. *86 Ill. Adm. Code 205.20*.

**COUNT I**

**ABATEMENT OF TAXES BASED ON ERRONEOUS ADVICE**

18. Petitioner re-alleges and incorporates by reference Paragraphs 1-17 as Paragraph 18 of Count I as though fully set forth herein.

19. Respondent provided erroneous advice to Petitioner, which indicated that all Medicare and Medicaid sales are exempt from sales tax under the ROTA, when in fact, only direct sales to government-run programs are exempt.

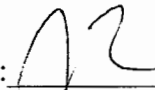
20. Petitioner did not collect sales tax on certain taxable sales based on Respondent's erroneous advice, and as a result now faces a liability of \$287,776.65, including tax and interest.

22. Respondent must abate all tax and interest set forth on the Notice in light of the erroneous advice it provided Petitioner.

**RELIEF REQUEST**

WHEREAS, for the reasons set forth herein, Petitioner requests that Respondent be ordered to abate all taxes and interest assessed under the.

Respectfully Submitted,  
Specialty Care Rx, LLC

By:  \_\_\_\_\_  
One of their attorneys

Dated: November 13, 2018

Joshua A. Nesser  
Lavelle Law, Ltd., #27743  
141 W. Jackson #2800  
Chicago, IL 60604  
(847) 755-7555  
Dir 312-888-4113  
Fax 847.241-1526  
[jnesser@lavellelaw.com](mailto:jnesser@lavellelaw.com)

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## **EXHIBIT A**

# Notice of Tax Liability



#BWNKMGV  
#CNXX X2X8 24X5 1685#  
SPECIALTY CARE RX, LLC  
SPECIALTY CARE RX CHICAGO  
236 E JIMMIE LEEDS RD STE C  
GALLOWAY NJ 08205

September 12, 2018



Letter ID: CNXXX2X824X51685

Account ID: 4126-7729  
Reporting period: June 30, 2017

We have audited your Sales/Use Tax & E911 Surcharge account for the reporting periods January 01, 2015, through June 30, 2017, and the liability has been processed on Form EDA-105-R, ROT and E911 Surcharge Audit Report. As a result, we have assessed the amounts shown below.

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 protest this notice within specific time periods. See the "Protest Rights" section on the following page of this notice for additional information and instructions.

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.

Note: If you are under bankruptcy protection, see the "Bankruptcy Information" section on the following pages of this notice for additional information and instructions.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	263,390.00	0.00	263,390.00
Interest	24,386.65	0.00	24,386.65
<b>Assessment Total</b>	<b>\$287,776.65</b>	<b>\$0.00</b>	<b>\$287,776.65</b>

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.

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

217 785-6579