

ILLINOIS INDEPENDENT
TAX TRIBUNAL

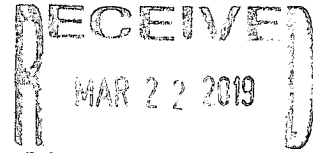
TADANO AMERICA CORPORATION,)

Petitioner,)

v.)

ILLINOIS DEPARTMENT
OF REVENUE,)

Respondent.)



BY: _____

197743

PETITION

Tadano America Corporation (“Tadano”), by its attorneys of record, Morgan, Lewis & Bockius LLP, pursuant to Section 1-50 of the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010/1-5 *et. seq.*], complains of the Illinois Department of Revenue (“Department”), as follows:

JURISDICTION AND VENUE

1. This timely Petition involves a Notice of Tentative Denial of Claim (“Notice of Tentative Denial”), dated January 23, 2019, which denies a refund claim in excess of \$15,000.00 in sales and use tax. Based on the foregoing, the Tax Tribunal has jurisdiction to review this Petition. A copy of the Notice of Tentative Denial is attached to this Petition as Exhibit A.

2. Tadano accepts the Tax Tribunal’s designation of its office in Cook County to conduct the hearing on this matter.

BACKGROUND AND RELEVANT FACTS

The Parties

3. Tadano is a corporation with its principal office located at 4242 West Greens Road, Houston, Texas 77066, and its telephone number is 281-869-0030. Tadano's Illinois Account ID is 3976-1861.

4. Tadano manufactures and distributes hydraulic cranes and aerial work platforms.

5. The Illinois Department of Revenue is an executive agency authorized, among other functions, to administer and enforce the sales and use tax provisions under Chapter 35 of the Illinois Compiled Statutes.

The Controversy

6. Tadano received a Taxpayer Statement (attached as Exhibit B), dated January 6, 2016, which states that Tadano has "available credits of \$30,711.00" resulting from overpayments in the taxable periods ending September 30, 2015 and November 30, 2015 in the amounts of \$33.00 and \$31,018.00, respectively.

7. Tadano received a Taxpayer Statement (attached as Exhibit C), dated February 2, 2016, which states that Tadano has "available credits of \$30,711.00" resulting from overpayments in the taxable periods ending September 30, 2015, November 30, 2015 and December 31, 2015 in the amounts of \$27.00, \$31,000.00, and \$290.00, respectively.

8. Tadano received a Taxpayer Statement (attached as Exhibit D), dated July 5, 2016, which states that Tadano has "available credits of \$30,710.00" resulting from overpayments in the taxable periods ending September 30, 2015, November 30, 2015 and December 31, 2015 in the amounts of \$26.00, \$31,000.00 and \$290.00, respectively.

9. Tadano received a Taxpayer Statement (attached as Exhibit E), dated April 3, 2017, which states that Tadano has “available credits of \$30,709.00” resulting from overpayments in the taxable periods ending September 30, 2015, November 30, 2015 and December 31, 2015 in the amounts of \$25.00, \$31,000.00 and \$290.00, respectively.

10. Tadano received a Taxpayer Statement (attached as Exhibit F), dated January 3, 2019, which states that Tadano has “available credits of \$30,708.00” resulting from overpayments in the taxable periods ending September 30, 2015, November 30, 2015 and December 31, 2015 in the amounts of \$24.00, \$31,000.00 and \$290.00, respectively.

11. On January 5, 2019, Tadano filed a ST-6 (Claim for Sales and Use Tax Overpayment/ Request for Action on a Credit Memorandum) based on the above-mentioned Taxpayer Statements issued by the Department from 2016 to 2019 (hereafter, collectively, the “Taxpayer Statements”), which all plainly state the credits available and owed to Tadano, as recently as January 3, 2019.

12. The Department issued the Notice of Tentative Denial on January 23, 2019, which denied Tadano’s ST-6 claim for a sales and use tax refund. *See* the Notice of Tentative Denial, attached to this Petition as Exhibit A.

ARGUMENT

The Department improperly denied Tadano’s refund claim for sales and use tax.

13. By the Department’s own admission in the Taxpayer Statements issued from 2016 to 2019, Tadano, as of January 3, 2019, was rightfully owed \$30,708.00.

14. Tadano’s intention behind filing the ST-6 was to request a refund of the credits already issued to Tadano by the Department. Again, the Department has consistently conceded, as recently

as January 3, 2019, that such credits are available and owed to Tadano, as evidenced by the Taxpayer Statements.

15. Under ILCS Chapter 35 § 120/6, the Department is required to refund credits issued to a taxpayer provided there are available appropriations. *See also* 86 Ill. Admin. Code 130.1510.

WHEREFORE, Tadano prays that the Tax Tribunal find and determine that the Department improperly denied Tadano's refund claim for sales and use tax.

CONCLUSION AND RELIEF REQUESTED

WHEREFORE, Tadano respectfully requests that the Notice of Tentative Denial be reversed for the reasons contained herein.

TADANO AMERICA CORPORATION

Illinois Account ID: 3976-1861
Taxpayer Phone: 281-869-0030
Tax Type: Sales/Use
Tax Years: 2015

By: 
Adam P. Beckerink, one of its attorneys

Adam P. Beckerink
adam.beckerink@morganlewis.com
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, Fifth Floor
Chicago, IL 60601
312-324-1495 (Direct)
312-324-1001 (Fax)

EXHIBIT A

Notice of Tentative Denial of Claim
for Form ST-1, Sales and Use Tax and E911 Surcharge Return



#BWNKMGV

#CNXX X2X7 9X24 X8X4#

TADANO AMERICA CORP
4242 W GREENS RD
HOUSTON TX 77066-4854

January 23, 2019



Letter ID: CNXXX2X79X24X8X4

Account ID: 3976-1861

We have reviewed the claim described on the last page of this letter and have tentatively denied it because the statute of limitations prohibits us from honoring your claim[lpstrS].

If you do not agree, you may contest this notice by following the instructions listed below.

If the amount of tax tentatively denied, exclusive of penalty and interest, is more than \$15,000, or if no tax is being denied but the total penalties and interest being denied is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).

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. 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 tentative denial of claim 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 are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

If you have questions regarding this matter, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are below.

Nicholas Fox
Revenue Tax Specialist II

SALES TAX PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19013
SPRINGFIELD IL 62794-9013

(217) 782-5906
(217) 785-7852 fax

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NAVIGATION
My Accounts
Account: 3976-1881
Quarter-Monthly Payments

QUARTER-MONTHLY PAYMENTS



Illinois Department of Revenue

RR-3 Sales and Use Tax Quarter-Monthly Payment

Legal Name: TADANO AMERICA CORP

DBA Name:

Account ID: 3976-1881

Add your payments - you may schedule up to four quarter-monthly payments

Period: 11/30/2015

Amount due per payment: **31,018.00** (This amount is based on the previous year's liability)

For each quarter-monthly payment, you must pay either -
22.5 percent of the current month's liability; or
25 percent of the liability for the same month of the previous year which is shown above.

Click the "Add Payment" hyperlink below for each payment you would like to schedule. You will have the option to change the payment's debit date, amount, and banking information.

When you have finished adding payments, click the "Submit Payments" button at the top of the screen. In the table below, payments that have been added will have a checkmark in the "payment added" column with banking information displayed. Clicking the "Submit Payments" button at the top of the screen will submit only those that have been successfully added.

Note: You may have your available credit applied as your quarter-monthly payment(s) for this period by faxing us a copy of your credit memorandum or Taxpayer Statement, at least one day before the due date. Fax this information to: 217 524-8282.

You must add a payment before using the "Submit Payments" button above.

PAYMENT SCHEDULE

[Add Additional Payment](#) [Clear History](#)

Add payment	Date Due	Payment Date	Amount	Payment Added	Routing No.	Bank Account	Remove Payment
	09-Nov-2015	03-Dec-2015	31,018.00				
Add Payment	16-Nov-2015	03-Dec-2015	31,018.00				
Add Payment	23-Nov-2015	03-Dec-2015	31,018.00				
Add Payment	30-Nov-2015	03-Dec-2015	31,018.00				

PAYMENT REQUESTS FOR 11/30/2015

Status	Submitted	Payment	Amount	Account	ID	Confirmation #
Completed	09-Nov-2015	09-Nov-2015	31,018.00	ST1	3976-1881	1-323-268-640

MORE INFORMATION
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Field Color Guide: Required | Optional | Calculated | Needs correction | Field help | Caution | Attention Needed

EXHIBIT B

Taxpayer Statement



January 6, 2016

TDD 1 800 844-5304



Letter ID: CNXXX165184X9920

#BWNKMGV
#CNXX X165 184X 9920#
TADANO AMERICA CORP
4242 W GREENS RD
HOUSTON TX 77066-4854

Account ID: 3976-1861



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

Sales/Use Tax & E911 Surcharge		You have available credits of \$30,711.00			Account ID: 3976-1861	
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Sep-2015	17.00	-	-	-	(33.00)	(16.00)
30-Nov-2015	323.00	-	-	-	(31,018.00)	(30,695.00)

SOA

P-001001

If necessary, respond to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004

EXHIBIT C

Taxpayer Statement



February 2, 2016 TDD 1 800 544-5304



Letter ID: CNXXXX1689191846

Account ID: 3976-1861

#BWNKMGV

#CNXX XX16 8919 1846#

TADANO AMERICA CORP

4242 W GREENS RD

HOUSTON TX 77066-4854



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

Sales/Use Tax & E911 Surcharge		You have available credits of \$30,711.00			Account ID: 3976-1861	
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Sep-2015	17.00	-	-	-	(27.00)	(10.00)
30-Nov-2015	323.00	-	-	-	(31,000.00)	(30,677.00)
31-Dec-2015	266.00	-	-	-	(290.00)	(24.00)

90A

P-000404

If necessary, respond to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004

EXHIBIT D

Taxpayer Statement



July 5, 2016

TDD 1 800 544-3304



Letter ID: CNXXXXX9737384X9

Account ID: 3976-1861

#BWNKMGV
#CNXX XXX9 7373 84X9#
TADANO AMERICA CORP
4242 W GREENS RD
HOUSTON TX 77066-4854



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

Sales/Use Tax & E911 Surcharge		You have available credits of \$30,710.00			Account ID: 3976-1861	
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Sep-2015	17.00	-	-	-	(26.00)	(9.00)
30-Nov-2015	323.00	-	-	-	(31,000.00)	(30,677.00)
31-Dec-2015	266.00	-	-	-	(290.00)	(24.00)

SOA

P-001523

If necessary, respond to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004

EXHIBIT E

Taxpayer Statement



#BWNKMGV
#CNXX XX61 2722 2244#
TADANO AMERICA CORP
4242 W GREENS RD
HOUSTON TX 77066-4854

April 3, 2017

TDD 1 800 544-5304



Letter ID: CNXXXX612722244

Account ID: 3976-1861



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

Sales/Use Tax & E911 Surcharge		You have available credits of \$30,709.00			Account ID: 3976-1861	
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Sep-2015	17.00	-	-	-	(25.00)	(8.00)
30-Nov-2015	323.00	-	-	-	(31,000.00)	(30,677.00)
31-Dec-2015	266.00	-	-	-	(290.00)	(24.00)

SOA

P-002249


If necessary, respond to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004

EXHIBIT F

Taxpayer Statement



#BWNKMGV
#CNXX XX87 6867 6647#
TADANO AMERICA CORP
4242 W GREENS RD
HOUSTON TX 77066-4854

January 3, 2019 TDD 1 800 544-5304

Letter ID: CNXXX8768676647
Account ID: 3976-1861

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

Sales/Use Tax & E911 Surcharge		You have available credits of \$30,708.00			Account ID: 3976-1861	
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Sep-2015	17.00	-	-	-	(24.00)	(7.00)
30-Nov-2015	323.00	-	-	-	(31,000.00)	(30,677.00)
31-Dec-2015	266.00	-	-	-	(290.00)	(24.00)

2-000188

SOA

If necessary, respond to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19004
SPRINGFIELD IL 62794-9004