

ILLINOIS INDEPENDENT TAX TRIBUNAL

TEXAS CAPITALIZATION RESOURCE)	
GROUP INC.,)	
)	
Petitioner,)	20 TT 93
)	
v.)	Hon. Brian F. Barov
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Respondent.)	

**PETITIONER TEXAS CAPITALIZATION RESOURCE GROUP INC.’S
UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR
SUMMARY JUDGMENT ON INCORRECT TAXPAYER ISSUE**

Petitioner Texas Capitalization Resource Group Inc., by its undersigned attorneys and pursuant to the Illinois Code of Civil Procedure and the Tax Tribunal’s Rules, respectfully requests that this Tribunal grant Petitioner’s Unopposed Motion for Extension of Time to File Motion for Summary Judgment on the Incorrect Taxpayer Issue. At the status conference on November 25, 2020, the Tribunal set January 8, 2021 as the date for Petitioner to file its Motion for Summary Judgment. Through this Motion for Extension, Petitioner requests that it be granted an extension until January 22, 2021 to file the Motion for Summary Judgment.

In support of its request for an extension, Petitioner states as follows:

1. As the Tribunal knows, Petitioner respectfully submits that because it did not purchase the Gulfstream GIV-X (G450), serial number 4057 (the “Aircraft”) at issue in this proceeding, and is thus not the legal owner, Petitioner is the incorrect entity upon which to assess the alleged tax under the Aircraft Use Taxation Law, 35 ILCS 157/10-1 *et seq.* Rather, the buyer of the Aircraft is TCRG SN4057, LLC, whose indirect parent is Petitioner.

2. Despite not being the legal owner of the Aircraft, the Department issued a Notice of Audit Initiation, two accompanying Records Requests, Form EDA-70, Notice of Proposed Audit Findings, and Notice of Tax Liability to Petitioner. And the Informal Conference Board also issued its “Action Letter” to Petitioner. It is Petitioner’s position that the entire audit, and the conclusions reached during the audit that culminated in the Notice of Tax Liability, are fatally flawed.

3. The Department issued a “Notice of Audit Initiation” dated November 30, 2020 to the purchaser of the Aircraft, TCRG SN4057, LLC (“TCRG”). Due to COVID-19 and the fact that businesses have shifted to remote work arrangements, TCRG’s representative did not receive this Notice of Audit Initiation until recently because it was only sent via U.S. Mail.

4. Petitioner believes that issuance of this new Notice of Audit Initiation against the buyer, TCRG, effectively resolves the forthcoming Motion for Summary Judgment in Petitioner’s favor. Thus, to conserve the party and judicial resources necessary to draft and decide the Motion for Summary Judgment, Petitioner reached out to the Illinois Department of Revenue (the “Department”) on December 23, 2020, and requested that the Department agree to resolve this issue short of summary judgment. Specifically, Petitioner requested that the Department agree to entry of an order before the Tribunal that declares null and void the Notice of Tax Liability against the incorrect taxpayer, in exchange for which Petitioner will voluntarily dismiss the proceeding pending before the Tribunal.

5. Counsel for the Department responded that the Department is considering this request, but due to the holidays and the need for consultation with Audit and review within the Department, the Department would not object to extending the Motion for Summary Judgment deadline.

6. Because this issue could result in rendering the Motion for Summary Judgment moot, Petitioner respectfully seeks this extension so that the parties can attempt to resolve this potentially dispositive issue under circumstances where Petitioner is not simultaneously expending resources to prepare the Motion for Summary Judgment.

7. As mentioned above, the Department does not object to this Motion for Extension.

8. If this Motion for Extension is granted, Petitioner would not object to a similar adjustment of subsequent briefing dates by two weeks.

WHEREFORE, Petitioner Texas Capitalization Resource Group Inc. respectfully requests that this Tribunal grant it until January 22, 2021 to file its Motion for Summary Judgment on the Incorrect Taxpayer Issue.

Dated: December 31, 2020

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Thomas G. Weber, Petitioner's attorney, hereby certify that on December 31, 2020, a copy of Petitioner Texas Capitalization Resource Group Inc.'s Unopposed Motion for Extension of Time to File Motion for Summary Judgment on Incorrect Taxpayer Issue and a copy of the accompanying Notice of Motion was sent via certified mail and e-mail to:

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/s/ Thomas G. Weber

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