

ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

GMODELO CORP., INC.,)	
)	
Petitioner,)	
)	
v.)	14-TT-0082
)	James M. Conway, Chief Judge
)	
ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant.)	

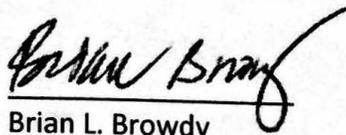
CERTIFICATE OF SERVICE BY ELECTRONIC MAIL TRANSMISSION

TO:

Rickey A. Walton
rick.walton@illinois.gov
Special Assistant Attorney General
Illinois Department of Revenue
100 W. Randolph Street, Level 7-900
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The undersigned certifies that on June 9, 2014, he served the Petitioner's Motion to Reconsider Stay on the foregoing individual, at the electronic mail address shown above.

Respectfully submitted,



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PETITIONER'S MOTION TO RECONSIDER STAY

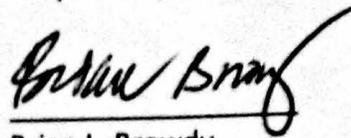
Petitioner, GModelo Corp., Inc., hereby moves this Tribunal to reconsider its order granting the Department of Revenue's Motion To Stay. For the reasons stated below, the stay is not appropriate:

1. Section 909(e) of the Income Tax Act provides that if the Department of Revenue ("Department") has failed to deny a refund claim within 6 months after the date the claim is filed, the taxpayer may treat it as denied and protest accordingly.
2. This section is not a statutory "wake up call" for the Department to commence an audit; rather, this provision entitles a taxpayer to a hearing by this Tribunal where, despite ample opportunity to do so, the Department has failed to timely consider the taxpayer's claim.
3. While there is no caselaw or legislative history relating to this provision, its obvious purpose is to expedite, not delay, resolution of taxpayer claims.
4. The claims here were filed in January 2013.

5. The Department speculates that its auditor might complete his or her review of Petitioner's claims some six months from now—which (presumably) does not include the extensive additional time normally required to complete the multiple levels of internal review and approval before the results of the audit are finalized.
6. As of the date of this filing, the Department has not contacted Petitioner regarding any audit of the claims at issue.
7. If this case is stayed, even by the Department's own perhaps optimistic timetable, it will not be until some time in 2015, more than two years after filing, that the audit of Petitioner's claims will be complete.
8. This is not in keeping with section 909(e), which gives the Department 6 months to review a claim before the claim is turned over for adjudication by this Tribunal.
9. Moreover, while the Department says that it is more "efficient" for its auditor, rather than its counsel, to evaluate the allegations in the Petition, it makes no attempt to explain why this may be so. If anything, the Department's requested approach adds another layer of complexity that will make the progress of this case *less* efficient.
10. The Illinois Independent Tax Tribunal Act and the accompanying regulations give the Department a wide range of discovery powers. See 35 ILCS 1010/1-60, 86 Ill. Admin. Code 5000.325. Any information the Department needs to handle this appeal is available to it through standard discovery requests.
11. Petitioner requests a hearing on this motion.

WHEREFORE, Petitioner requests that this Tribunal enter an order lifting the stay, and directing the Department to file an Answer.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian Browdy", written over a horizontal line.

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