

# STATE OF ILLINOIS

## INDEPENDENT TAX TRIBUNAL

The following are instructions to the sample format Petition that may be used to prepare a tax Petition to be filed with the Tax Tribunal.

Petitions and all other documents filed in a case are available for viewing by the public on the Tribunal's website. Do not attach any copies of original tax return documents, schedules, or other attachments to the Petition or any other filing with the Tribunal. Petitioners may also redact any attachments to a Petition or other filing which contains any tax return information which is not relevant to any issue in the matter.

Every paragraph in a Petition must be numbered and each factual allegation should be set out in its own paragraph or subparagraph.

### CAPTION

List name of the taxpayer as identified in the tax assessment notice issued by the Illinois Department of Revenue ("Department") that is being protested.

### PETITION

#### INTRODUCTION

Paragraph No. 1 provides for a taxpayer to insert: (i) the date of the notice received from the Department; (ii) the amount and type of tax assessed (i.e., "income tax"); (iii) the amount of the interest and penalties as stated in the notice received from the Department and (iv) the tax period at issue.

The tax period may be identified as follows: January 1, 2013 through December 31, 2013 (for a year); or April 1, 2013 through April 30, 2013 (for a month).

Paragraph No. 1 may be repeated for each different type of tax assessment notice received by the Department.

The purpose of paragraph No. 2 is to identify the taxpayer, including the taxpayer's: (i) form of organization (i.e., corporation, partnership, trust, etc.) or whether the taxpayer is an individual, (ii) principal place of business (if not an individual, unless the matter concerns individual liability as a "responsible officer," in which case, the individual may identify the principal place of the business for which the individual is alleged to be a responsible officer) (iii) the taxpayer's address and phone number, and (iv) the taxpayer account number as stated on the notice received from the Department (DO NOT USE SOCIAL SECURITY NUMBERS).

Paragraph No. 3 is to summarize the general basis of the argument(s) that will be raised by the taxpayer in support of the Petition.

For example:

The Department did not exclude sales made to “Charity” which occurred in April 2012 and May 2012 and are shown in the business’ books with accompanying invoices. The Retailers’ Occupation Tax provides that sales such as this that are made to an exclusively charitable organization are not subject to tax.

The form suggests separate paragraphs for each different argument presented in the Petition.

### **BACKGROUND AND RELEVANT FACTS**

The purpose of this section is to identify for the Tax Tribunal the background information about the business and/or transaction at issue and relevant facts that will serve as the basis of the argument raised in the Petition. In general, each separate fact is individually numbered. Examples of “relevant facts” may include: (i) the date on which a return was filed, (ii) exemption certificates relied upon and (iii) written opinions given by either the Taxpayer or the Department. Referenced documents may be attached as exhibits to the Petition.

For example:

1. On April 3, 2014 Petitioner sold its wares to ABC (copy of sales invoice attached as Exhibit 1).
2. ABC is a 501(c)(3) charitable corporation (copy of IRS designation letter attached as Exhibit 2).
3. ABC gave Petitioner a copy of its State sales tax exemption letter (copy attached as Exhibit 3).
4. Petitioner did not charge ABC tax for the April 3, 2014 transaction (see Exhibit 1).
5. Department asserted that ABC should have been taxed (copy of Notice attached as Exhibit 4).

### **APPLICABLE LAW**

The purpose of this section is to identify the law or laws at issue (i.e., statutes, regulations, court decisions, etc.) and that will be relied upon by the taxpayer.

### **ERRORS**

The purpose of this section is to identify each alleged error for which relief is requested. Each alleged error may require a separate count in the Petition. You should state the applicable law as it applies to the relevant facts for each error.

For example:

ERROR 1  
(Nontaxable Charitable Sales)

1. The Department did not exclude from Retailers' Occupation Tax the April 3, 2014 sale made to ABC, a 501(c)(3) charitable organization.
2. The Retailers' Occupation Tax Act (ROTA) and the Department's clarifying regulations provide that such sales to 501(c)(3) charitable organizations are not taxable (citation).
3. The Department has also issued general and private letter rulings stating that such sales to 501(c)(3) charitable organizations are not to be subject to Retailers' Occupation Tax.
4. The Department's denial of such a tax-exempt transaction is contrary to the ROTA, the Department regulations and its general and private opinion letters.

**CONCLUSION AND RELIEF REQUESTED**

The purpose of this section is to inform the Tax Tribunal of the relief requested, which may include, among other things, cancellation of the tax assessment, refund, abatement of penalties, etc. For any penalties being challenged, list the penalties (i.e., late or negligence and its amount(s)) that you believe should be abated.

If an out-of-state, that is a non-Illinois attorney, will represent the Taxpayer, the *pro hac vice* paragraph must be completed and a copy of the court order granting practice via *pro hac vice* attached.

With the completed Petition form you must include:

Provide three (3) originals of this Protest Petition to the Tax Tribunal.

1. A copy of the Notice that is the subject of the Petition and you may also (but are not required) to submit copies of any other the document(s) received by the Department that you are disputing; and
2. Include a \$500 check or money order, payable to the "Illinois Independent Tax Tribunal."
3. Provide a completed copy of this Protest Petition to:

Illinois Department of Revenue  
Office of Legal Services  
555 W. Monroe St., Ste. 1100  
Chicago, Illinois 60661