ILLINOIS INDEPENDENT
TAX TRIBUNAL

Cheesie's Wicker Park, LLC,	)	26 TT 26
	)	
Petitioner,	)	
v.	)	
	)	
Illinois Department of Revenue,	)	
	)	
Respondent.	)	

PETITION

NOW COMES the petitioner Cheesie's Wicker Park, LLC, an Illinois limited liability company ("Petitioner") by and through its undersigned attorney, Kristen Duffy of Duffy Law, LLC, and for its Petition before the Illinois Independent Tax Tribunal ("Tribunal") hereby complains of the Respondent, the Illinois Department of Revenue ("Respondent") and alleges:

PARTIES

1. Petitioner is an Illinois limited liability company having a principal address of 958 W Belmont Ave, Chicago, IL 60657 and phone number 847-309-9909.

2. Petitioner is represented by attorney Kristen Duffy of Duffy Law, LLC located at 130 N Garland Ct #4702, Chicago, IL 60602 and having phone number 312-980-1259 and email address Kristen@DuffyLawLLC.com.

3. Petitioner's Federal Employer Identification Number is 36-4774541 and Illinois Account ID is 4131-7998.

4. Respondent is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. See 20 ILCS 5/5-15.

NOTICES

5. Respondent issued Petitioner a Notice of Tentative Denial of Claim dated September 2, 2025 ("NTDC") for the period January 2021 through November 2021 ("Period at Issue") tentatively denying Petitioner's claims for credit on its Sales/Use Tax & E911 Surcharge account totaling $46,453 alleging the statute of limitations prohibits it from honoring Petitioner's claims. A copy of the NTDC is attached hereto as **Exhibit A**.

JURISDICTION

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 *et seq*.

7. On or about October 28, 2025, Petitioner filed a timely protest and request for an administrative hearing in connection with the NTDC.

8. On December 4, 2025, the Respondent's Office of Administrative Hearings dismissed Petitioner's timely protest and request for administrative hearing for lack of jurisdiction. A copy of the letter dated December 4, 2025 is attached as **Exhibit B**.

9. On or about January 17, 2026, within 60 days of the issuance of Respondent's December 4, 2025 letter, Petitioner, through its Enrolled Agent, filed a non-conforming petition with the Tribunal in Docket Number 26 TT 10.

10. On January 25, 2026, the Tribunal entered an Order in Docket Number 26 TT 10 dismissing the non-conforming petition and giving Petitioner 45 days to retain an attorney to file a proper petition in compliance with the Tribunal's rules ("Order"). A copy of the Order is attached as **Exhibit C**.

11. The Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because (i) Petitioner's claims for credit exceeds $15,000 and (ii) Petitioner timely

filed this petition within the time the Tribunal specified in the Order.

BACKGROUND

12. Petitioner operates a restaurant in Chicago, Illinois.

13. Petitioner discovered that it had been overpaying sales tax by inadvertently including tips and failing to adjust for sales tax paid through its marketplace facilitator on its filed ST-1 Sales and Use Tax and E911 Surchage Returns.

14. As a result, Petitioner claimed credits by filing ST-1-X Amended Sales and Use Tax and E911 Surcharge Returns for the periods January 2021 through December 2023.

15. Respondent audited Petitioner's books and records for Sales/Use Tax & E911 Surcharge for the Audit Period 01/2022 through 04/2025 ("Audit").

16. The undersigned attorney did not represent Petitioner in the Audit. As such, Petitioner's allegations contesting the NTDC are being made in the nature of a protective claim to preserve all issues before the Tribunal. At such times as the attorney for Petitioner is provided with a copy of Respondent's complete Audit file and/or other information sufficient to identify all relevant issues and determine all defenses, an amended Petition raising additional arguments and/or defenses, or providing more specificity as to Petitioner's basis for contesting the NTDC can be filed if necessary.

17. On information and belief, during the Audit, Respondent fully approved Petitioner's claimed credits for years 2022 and forward, as those years were included in the initial Audit Period. See Email dated January 14, 2026 attached as **Exhibit D**.

ARGUMENT

18. Petitioner realleges and incorporates by reference the allegations made in paragraphs 1 through 17 above as and for this paragraph 18.

19. On information and belief, during the Audit, Petitioner and Respondent agreed to extend the time for issuing a notice of tax liability which allowed Petitioner's filed claims for credit for the Period at Issue.

20. Respondent is unjustly enriched by its now tentative denial of Petitioner's claims for credit for the Period at Issue.

21. Petitioner reserves the right to raise additional arguments as may be supported by the applicable facts and law.

WHEREFORE, Petitioner prays that the Tribunal enters an order granting Petitioner's claims for credit/refund in the amount of $46,453 and for such other relief as this Court deems appropriate.

Respectfully submitted:

By: Kristen Duffy
Kristen Duffy, Attorney for Petitioner

Kristen Duffy
Duffy Law, LLC
130 N Garland Ct #4702
Chicago, Illinois 60602
(312) 980-1259
ARDC No. 6307765
Kristen@DuffyLawLLC.com

EXHIBIT A

Notice of Tentative Denial of Claim dated September 2, 2025

Notice of Tentative Denial of Claim

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX X157 1271 2723#
CHEESIE'S WICKER PARK, LLC
6515 W ARCHER AVE
CHICAGO IL 60638-2401

01/01

September 2, 2025

Letter ID: CNXXX15712712723

Account ID: 4131-7998

We have reviewed the claims for credit on your Sales/Use Tax & E911 Surcharge account described on the last page of this letter and have tentatively denied them because the statute of limitations prohibits us from honoring your claims.

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 case number and the bankruptcy court. The bankruptcy automatic stay does not change the fact you are required to file tax returns. For those under the bankruptcy protection, this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

If you have questions regarding this matter, write or call us weekdays between 8:00 a.m. and 4:30 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

Claim Detail

Batch Document Number	Reporting Period	Amount Claimed
25-155-820-01 006	01/2021	$5,645
25-155-820-01 010	02/2021	$4,609
25-155-820-01 011	03/2021	$4,736
25-155-820-01 012	04/2021	$4,233
25-155-820-01 007	05/2021	$3,931
25-155-820-01 008	06/2021	$3,418
25-155-820-01 009	07/2021	$3,383
25-155-820-01 013	08/2021	$3,485
25-155-820-01 014	09/2021	$4,117
25-155-820-01 015	10/2021	$4,376
25-155-820-01 016	11/2021	$4,520

EXHIBIT B

Office of Administrative Hearings
Letter dated December 4, 2025

Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS
Willard Ice Building
101 West Jefferson Street – MC 5-550
Springfield, IL 62702

December 4, 2025

Christopher Johnston
6515 W. Archer Ave.
Chicago, IL 60638
chris@cpgrestaurants.com

Re: **WRONG JURISDICTION**
Cheesie's Wicker Park, LLC. – Notice of Tentative Denial of Claim
Letter ID: CNXXX15712712723
Reporting period**: January 2021 – November 2021**

Mr. Johnston,

The Office of Administrative Hearings of the Illinois Department of Revenue received your **timely** protest and request for an administrative hearing regarding the above reporting period. However, the aggregate assessments at issue for the protest exceed the statutory amount for which the Department has jurisdiction for protests filed on or after January 1, 2014. **The Department, therefore, does not have jurisdiction over this protest and is respectfully dismissing your protest and request for administrative hearing.**

Jurisdiction for your protest is vested solely in the Illinois Independent Tax Tribunal ("Tax Tribunal"). *See* 35 ILCS 1010/1-1 *et seq*. **The Tax Tribunal's rules provide that a timely protest that is dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal.** *See* Subsection (a)(3) of Section 5000.310 of the Tax Tribunal's rules.

I recommend that you review the information provided on the Tax Tribunal's website and contact them if you have any questions.

Sincerely,

Melanie Patrick Neely

Melanie Patrick Neely
Chief Administrative Law Judge

EXHIBIT C

Order dated January 25, 2026

ILLINOIS INDEPENDENT

TAX TRIBUNAL

OLMAR CORP and CHEESIE'S WICKER PARK, LLC, Petitioner, v. ILLINOIS DEPARTMENT OF REVENUE, Respondent.	)))))))))	26 TT 10 Chief Judge James M. Conway

ORDER

The petition is not accepted for the following reasons:

1. The petition is filed by an enrolled agent. Only attorneys licensed or authorized to practice in Illinois can appear before the Tax Tribunal.

2. The petition improperly combines two separate entities- Olmar Corp. and Cheesie's Wicker Park, LLC.

3. Accordingly, the petition is dismissed.

4. Both entities will be given 45 days for each of them to retain an attorney and for a separate proper petition for each entity to be filed in compliance with the Tax Tribunal's rules which can be found at: https://taxtribunal.illinois.gov

_/s/ *James Conway*________
JAMES M. CONWAY
Chief Administrative
Law Judge

Date: January 25, 2026

EXHIBIT D

Email dated January 14, 2026

Kristen Duffy

From: Chris Johnston <chris@cpgrestaurants.com>
Sent: Wednesday, March 11, 2026 11:02 AM
To: Kristen Duffy
Subject: Fwd: Update

Categories: Smokeball

---------- Forwarded message ---------
From: **Behnen, Chad** <Chad.Behnen@illinois.gov>
Date: Wed, Jan 14, 2026 at 9:13 AM
Subject: Update
To: chris@cpgrestaurants.com <chris@cpgrestaurants.com>

Hello,

I finished both claims. They still need to be approved by my boss but the preliminary results were fully approving both claims. The total amount will fluctuate a small amount due to discounts, penalties, and interest but it won't be by much. If you have any questions, please reach out.

Thank You,

Chad Behnen

Revenue Auditor

Field Compliance

Phone: **779-279-2156**

Fax: **217-785-3251**

Chad.Behnen@illinois.gov