

CT 95-1  
Tax Type: CIGARETTE TAX  
Issue: Possession of Unstamped Cigarettes

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

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THE DEPARTMENT OF REVENUE )  
OF THE STATE OF ILLINOIS )  
 )  
 )  
 v. ) No.  
 )  
 TAXPAYER )  
 )  
 )  
 Taxpayer ) Alfred M. Walter  
 ) Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: No appearance was filed on behalf of either party.

On October 17, 1995, a hearing was convened pursuant to timely notice issued and served upon the captioned taxpayer.

The Department's exhibits, together with the testimony of the taxpayer and Special Agent James Kinsella, of the Illinois Department of Revenue, established that on July 16, 1994 the Chicago police, acting on an anonymous tip, obtained permission from this taxpayer's sister, XXXXX, to search her residence. Upon doing so they seized 1997 packages of unstamped cigarettes and ascertained that the cigarettes had been stolen from a terminal in Wisconsin. The taxpayer and his sister were placed under arrest and the cigarettes were turned over to the Department of Revenue Bureau of Criminal Investigation.

At a later date, this taxpayer appeared before a judge in the Criminal Court of Cook County and pleaded guilty to possession of unstamped cigarettes with intent to sell the same. As a result this taxpayer was found guilty, placed on probation for a period of five years, and ordered to pay restitution (fined) to the Illinois Department of Revenue in the

amount of \$29,955.00.

Based upon the fact that a penalty was imposed in the Criminal case, I recommend that the Department refrain from imposing another fine or penalty on this taxpayer. I further recommend that the cigarettes seized by the Department be confiscated and forfeited to the State of Illinois, to be disposed of in accordance with the statute in such case made and provided.

Alfred M. Walter  
Administrative Law Judge