

**MF 00-1**

**Tax Type: Motor Fuel Use Tax**

**Issue: Failure To Have Motor Fuel Use Tax Decal/Permit**

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

---

---

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

**JOHN DOE,  
Taxpayer**

**No.  
NTL No.**

**Mimi Brin  
Administrative Law Judge**

---

---

**RECOMMENDATION FOR DISPOSITION**

**Synopsis:**

This matter comes on for hearing pursuant to JOHN DOE's (hereinafter "DOE" or the "Taxpayer") protest of Notice of Tax Liability No. XXXXX (hereinafter "NTL") issued by the Illinois Department of Revenue (hereinafter "Department") as a result of taxpayer's failure to register and secure a motor fuel single trip permit while operating a commercial motor vehicle in Illinois. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department.

**Findings of Fact:**

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of

Tax Liability showing a penalty liability of \$1,000; Department Ex. No.

1

2. On September 8, 1999, taxpayer was an “agriculturist” residing in Wisconsin. Taxpayer Ex. No. 5; Testimony of JOHN DOE
3. On September 8, 1999, taxpayer operated a commercial motor vehicle in Illinois. Department Ex. No. 1; Taxpayer Ex. No. 4; Testimony of JOHN DOE
4. On September 8, 1999, taxpayer had neither a motor fuel use tax license and decal nor a single trip permit authorizing operation of his vehicle for a single trip through Illinois. Id.

**Conclusions of Law:**

The Illinois Motor Fuel Tax Law, 35 **ILCS** 505/1 *et seq.* (hereinafter the “IMFTL”) states, in pertinent part, that “ ...no motor carrier shall operate in Illinois without first securing a motor fuel use tax license and decals from the Department or a motor fuel use tax license and decals issued under the International Fuel Tax Agreement by any member jurisdiction.” 35 **ILCS** 505/13a.4 The IMFTL also provides, in pertinent part:

As to a commercial motor vehicle operated in Illinois in the course of interstate traffic by a motor carrier not holding a motor fuel use tax license issued under this Act, a single trip permit authorizing operation of such commercial motor vehicle for a single trip through the State of Illinois, or from a point on the border of this State to a point within and return to the border may be issued by the Department or its agents after proper application.

Id. at 505/13a.5

Taxpayer testified at hearing that he is a Wisconsin farmer, and although he does not make regular trips into Illinois to sell his farm goods, he did so on September 8, 1999.

Tr. pp. 5, 9, 11, 13 Taxpayer concedes that he did not have an IMFTL license or a single trip permit, when he was cited for this failure.

Following receipt of the citation, taxpayer did apply for and receive the necessary single trip permit, effective September 14-17, as he knew that he needed to again bring his produce into Illinois. Tr. p. 11; Taxpayer Exs. No. 1, 2 During that second trip, taxpayer purchased, in Illinois, fuel, and paid tax on this purchase, for his return to Wisconsin. Taxpayer Ex. No. 3

DOE defends this penalty assessment stating that he was unaware of the requirement for a single trip permit, that he purchased fuel in Illinois and paid tax on this fuel thereby negating the purpose of the permit and, that the \$1,000 penalty, as provided in IMFTL section 505/13.6, is excessive. Legally, taxpayer's defenses fail.

There is nothing within this statute that requires a taxpayer to have knowledge of his responsibilities thereunder. As an operator of a commercial motor vehicle,<sup>1</sup> the law mandates the purchase of a license and decal or a single trip permit. Ignorance of the law is not a legally sufficient defense. See DuMont Ventilation Co. v. Department of Revenue, 99 Ill. App.3d 263 (3<sup>rd</sup> Dist. 1981)

The purpose of the IMFTL is to ...”impose a tax upon the privilege of operating each motor vehicle...upon the public highways and the waters of this State, such tax to be based upon the consumption of motor fuel in such motor vehicle... .” 35 ILCS 505/17 Taxpayer argues, I believe, that when he does make such trips into Illinois, he purchases his return fuel in Illinois and thereby satisfies his obligation to pay for the privilege of using Illinois roads. Tr. pp. 6-7 He offers as proof his Wisconsin Department of

---

<sup>1</sup> DOE was cited for driving a tractor-trailer, commercial motor vehicle. Taxpayer Ex. No. 4 He offers no denial to this, testifying that he was delivering into Illinois, his farm product for sale.

Transportation Daily Vehicle Mileage and Fuel Report and purchase receipts for his September 14 trip into Illinois that indicates he purchased fuel in Lockport, Illinois. The fact that DOE purchased fuel in Illinois on September 14 does not, however, satisfy the mandates of the statute which address a serious situation, that being the constant and continual use and wear and tear of Illinois roads by commercial motor vehicles, and the resulting need to maintain such roads for the benefit of commerce. Illinois' licensing scheme<sup>2</sup> permits it to identify those who use the roads, and to whom the statutory tax applies, to assure that they are remitting to the state their share of revenue based upon their road use. Without such a licensing scheme, it would be a practical impossibility to effectuate this law. Compliance, therefore, is mandatory, it does not depend upon a taxpayer's knowledge of the specific law and the penalty for failure to comply is, rightfully, serious. Thus, I can find no legal relief for this taxpayer.

**WHEREFORE**, for the reasons stated above, it is my recommendation that the penalty assessed JOHN DOE in Notice of Tax Liability XXXXX be finalized as issued.

8/17/00

---

Mimi Brin  
Administrative Law Judge

---

<sup>2</sup> I note that DOE's single trip permit for a subsequent trip into Illinois was issued pursuant to the International Fuel Tax Agreement ("IFTA"), to which Illinois and Wisconsin are members. Taxpayer Exs. No. 1, 2, 3; Also, IMFTL section 505/14a. recognizes Illinois' cooperation with other states in enforcement of their statutes and IFTA agreements. This is a clear indication that other states are equally as concerned with the issue of the use and wear and tear of roads by commercial motor vehicles, and the need for adherence to licensing mandates.