

**ST 10-02**

**Tax Type: Sales Tax**

**Issue: Denial of Registration Number**

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

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<b>THE DEPARTMENT OF REVENUE</b>	)	
<b>OF THE STATE OF ILLINOIS</b>	)	<b>No. 00 ST 0000</b>
	)	<b>Registration Denial</b>
	)	<b>Letter ID: XXXXXX</b>
v.	)	
	)	
<b>JOHN DOE,</b>	)	
<b>TAXPAYER</b>	)	
	)	<b>Administrative Law Judge</b>
	)	<b>Kenneth J. Galvin</b>

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. John Doe, appearing *pro se*; Ms. Paula Hunter, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

**Synopsis:**

On September 3, 2009, the Illinois Department of Revenue (hereinafter “Department”) issued a “Taxpayer Notification; Registration Denial,” Letter ID No. XXXXXX, to Mr. John Doe (hereinafter “taxpayer”). The Registration Denial advised Mr. Doe that he had been denied a certificate of registration because of outstanding Illinois individual income tax liabilities which “must be resolved before registration can be considered.” Taxpayer subsequently filed a protest of the Registration Denial and requested a hearing, which was held on November 19, 2009, with Mr. Doe testifying.

Following a review of the evidence and the arguments made at the hearing, it is recommended that the Registration Denial be finalized as issued.

**Findings of Fact:**

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, is established by admission into evidence of the Department's statement of outstanding income tax liability, indicating that taxpayer has outstanding liabilities from Illinois individual income tax in the amounts of \$163 from December 31, 1975 and \$244 from December 31, 2008, plus penalties and interest. Tr. pp. 4-5; Dept. Ex. No. 1.

**Conclusions of Law:**

Section 2a of the Retailers' Occupation Tax Act ("ROTA") (35 ILCS 120/1 *et seq.*) provides in part as follows:

It is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration from the Department. \* \* \* No certificate of registration shall be issued to any person who is in default to the State of Illinois for moneys due under this Act or under any other State tax law or municipal or county tax ordinance ... 35 ILCS 120/2a.

Section 904(a) of the Illinois Income Tax Act provides that if a taxpayer underpays their income tax liability, the Department may determine the correct amount of tax due. The findings of the Department are *prima facie* evidence of the correctness of the amount of tax and penalties due. 35 ILCS 5/904(a). The Department's statement of outstanding income tax liability shows that Mr. Doe has outstanding liabilities from

Illinois individual income tax in the amounts of \$163 from December 31, 1975 and \$244 from December 31, 2008, plus penalties and interest. Tr. pp. 4-5; Dept. Ex. No. 1.

Mr. Doe testified at the evidentiary hearing that he did not “think” that he owes the past due amounts because he always filed his taxes and because he never received notice that he owed unpaid taxes. Tr. pp. 5-7. To overcome the Department’s *prima facie* case that outstanding income tax liabilities are due, the taxpayer must present consistent and probable evidence identified with his book and records. Central Furniture Mart v. Johnson, 157 Ill. App. 3d 907 (1<sup>st</sup> Dist. 1987). No documentary evidence was offered by Mr. Doe to rebut the Department’s *prima facie* case that outstanding individual income tax liability was due to the Department.

Under section 2a of ROTA, Mr. Doe’ outstanding liability for his personal income taxes, due under The Illinois Income Tax Act, 35 ILCS 5/101 *et seq.*, is sufficient cause for the Department to deny a certificate of registration to the taxpayer. The Department’s denial of the certificate of registration must therefore be upheld.

WHEREFORE, for the reasons stated above, it is my recommendation that the “Taxpayer Notification: Registration Denial,” issued September 3, 2009, be affirmed.

ENTER:

Kenneth J. Galvin  
Administrative Law Judge

February 3, 2010