

**ST 10-04**  
**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: XXXXX</b>
	)	
v.	)	
	)	
<b>ABC, INC.,</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, Sr., appearing *pro se* on behalf of ABC, Inc.; Ms. Paula Hunter, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

**Synopsis:**

On February 20, 2009, the Illinois Department of Revenue (hereinafter “Department”) issued a “Taxpayer Notification; Registration Denial,” Letter ID No. XXXXX to ABC, Inc. The Registration Denial advised Mr. Doe that ABC (hereinafter “Taxpayer”) had been denied a certificate of registration because of “outstanding liability(s) owed to [the State of Illinois] by an owner, partner or officer.” Mr. Doe subsequently filed a protest of the Registration Denial and requested a hearing, which

was held on January 21, 2010, 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 the admission into evidence of the Department's statement of outstanding tax liability indicating that Taxpayer has outstanding tax liabilities owed to Illinois in the amount of \$111,046 plus penalties and interest less credits. The liabilities accrued from June 30, 1991 through December 31, 2007. Tr. p. 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 120/4 of the Retailers' Occupation Tax Act states that a certified computer printout of outstanding tax liability shall, without further proof, be admitted into evidence before the Department and shall be *prima facie* proof of the correctness of the amount of tax due. 35 ILCS 120/4. The Department's statement of outstanding tax liability shows that ABC has outstanding tax liabilities in the amounts of \$111,046 plus

penalties and interest less credits. The liabilities accrued from June 30, 1991 through December 31, 2007. Tr. p. 5; Dept. Ex. No. 1.

Mr. Doe testified at the evidentiary hearing that he and his brother were partners in ABC until the year 2000 and then his brother “took [ABC] on his own.” He then testified that “all the back taxes that are owed on this business [are] my brother’s, not mine.” Tr. p. 6. It must be noted that the outstanding liability began accruing on June 30, 1991, when Mr. Doe was, by his own testimony, partners with his brother in ABC. It is unclear from the record and Mr. Doe’s testimony why the taxes are owed by his brother and not him. Mr. Doe is currently trying to buy the business from his brother. Tr. p. 4.

To overcome the Department’s *prima facie* case that outstanding tax liabilities are due, the Taxpayer must present consistent and probable evidence identified with its 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 tax liability was due to the Department.

Under section 2a of ROTA, the outstanding liability due to the Department 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 February 20, 2009 to ABC, Inc. be affirmed.

ENTER:

March 22, 2010

Kenneth J. Galvin  
Administrative Law Judge