

ST 13-02

Tax Type: Sales Tax

Tax Issue: Denial of Registration Number

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

THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)	No.	XXXX
)	Registration Denial	
)	Letter ID:	XXXX
v.)		
)		
JOHN DOE,)		
TAXPAYER)	Kenneth J. Galvin	
)	Administrative Law Judge	

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 April 23, 2012, the Illinois Department of Revenue (hereinafter “Department”) issued a “Taxpayer Notification; Registration/Renewal Denial,” Letter ID No. XXXX, to JOHN DOE. The Registration Denial advised Mr. JOHN DOE that he 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. JOHN DOE subsequently filed a protest of the Registration Denial and requested a hearing, which was held on November 13, 2012, with testimony from Mr. JOHN DOE and Mr. Jack Black. Following a review of the evidence and the arguments made at the hearing, it is recommended that the Taxpayer Notification; Registration/Renewal Denial be finalized as issued.

Finding of Fact:

1. The Department’s case, inclusive of all jurisdictional elements, is established by the admission into evidence of the Department’s “Taxpayer Notification; Registration/Renewal Denial,” dated April 23, 2012. 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.

The Department denied a Certificate of Registration to Mr. JOHN DOE because of outstanding sales and withholding tax liabilities of ABC Business, owned by Mr. JOHN DOE. Tr. pp. 4-5. On cross-examination, Mr. JOHN DOE acknowledged that he did have an outstanding liability owed to the Department, although his “gut feeling” was that “we don’t definitely owe this much money.” Tr. pp. 7-8.

To overcome the Department’s case that outstanding tax liabilities are due, the Taxpayer must present consistent and probable evidence identified with its books and records. Central Furniture Mart v. Johnson, 157 Ill. App. 3d 907 (1st Dist. 1987). No documentary evidence was offered by Mr. JOHN DOE to rebut the Department’s case that outstanding sales and withholding tax liability was due to the Department or that a lesser amount was owed. Since Mr. JOHN DOE acknowledged that he did have an outstanding liability with the Department, and did not offer any evidence to rebut the Department’s case, the denial of the certificate of registration must be upheld.

WHEREFORE, for the reasons stated above, it is my recommendation that the “Taxpayer Notification; Registration/Renewal Denial” issued April 23, 2012 to JOHN DOE be affirmed.

Kenneth J. Galvin
Administrative Law Judge

February 5, 2013