

2. At the time of the purchase, the taxpayer did not pay use tax on the vehicle. The installment contract signed by the taxpayer does not indicate that the use tax was paid. (Tr. Pp. 5-6; Taxpayer Ex. #2)

3. Some time after the purchase the taxpayer traded in the Altima for another vehicle. It was at that time that the taxpayer realized the use tax had not been paid on the Altima. At the time of the trade-in, the taxpayer realized that the Altima had never been registered and no one had the title for the vehicle. The use tax was then paid. (Tr. P. 7)

4. The Department issued a Notice to the taxpayer for penalties for the late-filing and late-payment of the use tax. The Notice was admitted into evidence under the certificate of the Director of the Department. (Dept. Ex. #1)

CONCLUSIONS OF LAW:

The Department imposed the penalties for the late filing and late payment of the use tax pursuant to section 3-3 of the Uniform Penalty and Interest Act (UPIA) (35 ILCS 735/3-1 et seq.) Section 3-8 of the UPIA provides a basis for the abatement of the section 3-3 penalties and states in part as follows:

“The penalties imposed under the provisions of Sections 3-3, 3-4, and 3-5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department.” (35 ILCS 735/3-8)

The Department’s regulations concerning reasonable cause provide as follows:

“The determination of whether a taxpayer acted with reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine his proper tax liability and to file and pay his proper liability in a timely fashion.” 86 Ill.Admin.Code §700.400(b)

Under the circumstances of this case, the taxpayer did not provide sufficient evidence to show reasonable cause. There is no indication that the taxpayer made any effort at the time of the purchase to determine his proper tax liability. Although the taxpayer argues that he thought that the dealer took care of everything, the installment contract does not indicate that there was an amount paid for taxes. Because the taxpayer did not make an effort to determine whether the use tax was paid, an abatement of the penalties is not warranted.

Recommendation:

For the foregoing reasons, it is recommended that the penalties be upheld.

Linda Olivero
Administrative Law Judge

Enter: 1/18/2000