

**ST 06-6**

**Tax Type: Sales Tax**

**Issue: Revocation of Certificate of Registration**

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

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| <b>THE DEPARTMENT OF REVENUE</b> | ) |                              |
| <b>OF THE STATE OF ILLINOIS</b>  | ) |                              |
|                                  | ) | <b>Docket # 05-ST-0000</b>   |
| v.                               | ) |                              |
|                                  | ) | <b>Business Registration</b> |
| <b>JOHN DOE, JR.,</b>            | ) |                              |
|                                  | ) |                              |
| <b>Taxpayer</b>                  | ) |                              |

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Kent Steinkamp, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; John Doe, Jr., *pro se*.

Synopsis:

John Doe, Jr. (“taxpayer”) applied to the Department of Revenue (“Department”) for a business registration number. The Department issued a Notice of Registration Status indicating that his request was denied on the basis that its records indicate that he has an outstanding liability and/or non-filed returns. The taxpayer timely protested the Notice, and an evidentiary hearing was held. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. In 1989, the Department issued a Notice of Lien to the taxpayer and his wife for an income tax liability for the year 1981. (Dept. Ex. #2 p. 4; Tr. pp. 7-8)
2. The taxpayer's liability for income tax for 1981 is still outstanding. (Tr. pp. 8, 11-12)
3. In 1979, 1980, and 1981 the Department issued Notices of Lien to ABC Inc., in Anywhere, Illinois. (Dept. Ex. #2)
4. On February 8, 2005, the Department issued a Notice of Registration Status to the taxpayer indicating that his business was denied Illinois registration due to an outstanding liability or non-filed returns. (Dept. Ex. #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 or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. 35 ILCS 120/2a.

Section 5 of the ROTA provides that the Department's determination regarding a tax liability is *prima facie* correct. 35 ILCS 120/5. Once the Department has established its *prima facie* case, the burden shifts to the taxpayer to prove by sufficient documentary evidence that the Department's determination is incorrect. Mel-Park Drugs, Inc. v.

Department of Revenue, 218 Ill.App.3d 203, 217 (1st Dist. 1991); Lakeland Construction Co., Inc. v. Department of Revenue, 62 Ill.App.3d 1036, 1039 (2nd Dist. 1978).

The taxpayer contends that his father was a primary stockholder in the ABC, Inc. in Anywhere but that he was not involved in that corporation. The taxpayer did not, however, provide corporate documents showing that he was not part of that corporation. Also, he admitted that he still owes the liability for his personal income tax.

Under section 2a, the taxpayer's outstanding liability for his personal income taxes is sufficient for the Department to deny a certificate of registration to the taxpayer. The taxpayer has also failed to overcome the Department's determination regarding the corporate liability. The Department's denial of the certificate of registration must therefore be upheld.

Linda Olivero  
Administrative Law Judge

Enter: January 11, 2006