

ST 95-19

Tax Type: SALES TAX

Issue: Rolling Stock (Purchase/Sale Claimed To Be Exempt)

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

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THE DEPARTMENT OF REVENUE      )
OF THE STATE OF ILLINOIS      )
                               )
                               )   Docket #   XXXXX
v.                               )
                               )
XXXXXX                          )   IBT #     XXXXX
                               )
Taxpayer                         )
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: The Taxpayer appeared pro se.

SYNOPSIS: The Illinois Department of Revenue conducted a project to verify the correctness of exemption on certain transactions where the purchaser claimed the rolling stock exemption. This resulted in the Department's issuance of an assessment of Use Tax against Taxpayer whose timely protest resulted in the instant contested case.

At the hearing XXXXX, Taxpayer, testified on his own behalf, and referenced his Exhibit No. 1 which included copies of leases with his lessee.

The contested issue herein is if XXXXX's purchase of a vehicle qualifies for the rolling stock exemption.

FINDINGS OF FACT:

1. XXXXX conducted business as the driver of a vehicle that transported property for hire in interstate commerce during 1991. (Tr. p. 11; Taxpayer Ex. No. 1).

2. Taxpayers purchased a 1990 Freightliner, VIN #XXXXX from an Indianapolis, Indiana dealer on April 26, 1991. (Tr. pp. 5, 10; Taxpayer Ex. No. 1).

3. The Department issued Notice of Tax Liability (NTL) No. XXXXX on June 23, 1994 for \$6,709.00 inclusive of penalty and interest. (Dept. Ex. No. 2).

4. XXXXX was operating under a lease to XXXXX on April 26, 1991 and the lease term was one year. XXXXX, lessee, held Interstate Commerce Commission Certificate of Authority Number XXXXX at the time of purchase. (Tr. pp 10-13; Taxpayer Ex. No. 1).

CONCLUSIONS OF LAW: Taxpayer testified that when he purchased his truck in Indiana he did not follow the proper procedure for documenting that the vehicle would be used as rolling stock. Taxpayer has now submitted copies of his long term lease with XXXXX, an interstate carrier for hire, and a properly completed Rolling Stock Affidavit. (RUT-7)

Based upon this documentation, I find XXXXX has shown he qualifies for the rolling stock exemption pursuant to 86 Admin. Code ch I, Sec. 130.340 (e).

RECOMMENDATION: I recommend the Department reduce the NTL and issue a Final Assessment of zero.

Karl W. Betz
Administrative Law Judge