

UT 03-3

Tax Type: Private Vehicle Use Tax

Issue: Private Vehicle Use Tax – Business Reorg/Family Sale

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

v.

JOHN DOE

Docket # 02-ST-0000

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. John Doe, appearing *pro se*; Mr. John Robinson, Special Assistant Attorney General for the Illinois Department of Revenue.

**Synopsis:**

The Illinois Department of Revenue (hereinafter referred to as the “Department”) issued a Notice of Tax Liability for Vehicle Use Tax (hereinafter referred to as the “NTL”) to John Doe (hereinafter referred to as the “Taxpayer”) on July 26, 2002, for the purchase of a Lexus automobile. Taxpayer had filed a Vehicle Use Tax Transaction Return, form RUT-50, which showed a tax due of \$15.00. The RUT-50 alleged that the vehicle was being transferred in a business reorganization.

Taxpayer timely protested the NTL and requested a hearing. Taxpayer testified in his own behalf. After a thorough review of the facts and law presented, it is my recommendation that the NTL be finalized as issued. In support thereof, I make the following findings and

conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

**FINDINGS OF FACT:**

1. The *prima facie* case of the Department, inclusive of all jurisdictional elements, was established by the admission into evidence of Department's Exhibit Nos. 1, 2. (Tr. p. 7)

2. On July 26, 2002, the Department issued NTL No. 00-000000 0 to the taxpayer in the amount of \$1,304.97. The NTL established a liability consisting of tax due of \$1,235.00, interest due of \$69.97, calculated through August 26, 2002, for a total liability of \$1,304.97. (Dept. Ex. No. 1)

3. Taxpayer timely protested the notice. Pursuant to requests from the Special Assistant Attorney General assigned to this matter, taxpayer responded in a letter stating that he and his wife are not lawyers and they do not understand the fine nuances of the laws of Illinois. They have not retained legal counsel for this matter since they have not been advised that it is either necessary or advisable to do so. The letter goes on to state:

We don't know what "transfer of beneficial ownership" means legally but, yes, on the advice of the Illinois Department of Revenue employee at the Driver's License Bureau we filled out a RUT-50 Vehicle Use Transaction Return believing that the total tax liability was \$15.00, which we paid at the time. We did this because we were told by the employee of the Driver's License Bureau that it was the only way we could register the car in Illinois since the business to which the car had been previously registered was a New York company at that time. We were not advised that this constituted a sale or transfer of ownership. (Dept. Ex. No. 2)

4. Taxpayer was advised that legal counsel in this matter could represent him. He chose not to hire an attorney. (Tr. pp. 13-14)

5. Taxpayer and his wife purchased a 1998 Lexus as sole proprietors of ABC, Inc., a

New York firm. Taxpayer then moved to Illinois to become the vice-president of Anywhere College in Illinois. (Dept. Ex. No. 2; Tr. pp.8-13 )

6. Taxpayer agrees that Illinois Retailers' Occupation or Vehicle Use Taxes have not previously been paid on the 1998 Lexus. (Dept. Ex. No. 2)

7. Taxpayer does not claim that the transfer of the 1998 Lexus automobile qualified for a business reorganization rate. Taxpayer's contention is that it was not advised as to what its options were and that it was told the only way it could register the car in Illinois was the way it was done. (Tr. p. 10)

8. Taxpayer does not know what the fair market value of the 1998 Lexus was on August 2, 2001, and does not believe that ascertaining the value of the automobile on August 2, 2001, is germane to its contention. (Dept. Ex. No. 2)

#### **CONCLUSIONS OF LAW:**

Pursuant to the Vehicle Use Tax statute (625 ILCS 5/3-1001 *et seq.*), a tax is imposed "on the privilege of using, in this State, any motor vehicle . . . acquired by gift, transfer, or purchase" with certain exceptions not pertinent hereto. 625 ILCS 5/3-1001 The statute provides, further, that "when a motor vehicle which has once been subjected to the Illinois retailers' occupation tax or use tax is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed" the tax rate is \$15.00. *Id.*

The taxpayer asserts that title to this motor vehicle was not part of a business reorganization because he does not know what a business reorganization is. The business that owned the automobile, prior to the transfer to the individual taxpayer, was based in New York. The business was not in Illinois at the time of registration. Taxpayer accepted a job in Illinois as the vice-president of Anywhere College. He chose not to hire an attorney for this matter and the basis of his protest is that he was misinformed at the Secretary of State's office. Taxpayer stated

that he was directed by personnel there to check the box indicating a reorganization transfer, and to then pay the \$15.00.

The Notice of Tax Liability admitted into evidence herein establishes, with *prima facie* correctness, the tax liability of this taxpayer in this matter. A. R. Barnes & Co. v. Department of Revenue, 173 Ill.App.3d 826 (1<sup>st</sup> Dist. 1988). This is a case that appears to have proceeded to this point because of misunderstanding and confusion. Taxpayer agrees that Illinois Retailers' Occupation or Vehicle Use Taxes have not previously been paid on the automobile. Taxpayer explained the circumstances of the transfer and admitted it was not pursuant to a business reorganization, but rather, the transfer was required because the taxpayer needed to title the automobile in Illinois. Personnel at the Secretary of State's office misunderstood the nature of the transaction and checked off the incorrect box on the return, generating an incorrect tax rate of \$15.00.

The transfer of title of the motor vehicle from the business to taxpayer triggered the imposition of the statutory amount of \$1,250.00. 625 ILCS 5/3-1001 The Department credited taxpayer with the \$15.00 already paid, leaving a tax liability of \$1,235.00 plus accrued interest.<sup>1</sup> Based upon the legal implications of the transaction, the Department's assessment is correct.

For the aforementioned reasons, it is recommended that NTL No. 00-000000 0 be finalized as issued.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge  
Date: April 29, 2003

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<sup>1</sup> No penalties were assessed, therefore, abatement of penalties is not an issue.