

UT 97-8

Tax Type: USE TAX

Issue: Private Vehicle Use Tax - Value Exceeds \$15,000

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

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THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF ILLINOIS	)	
	)	No.
v.	)	Acct.
	)	NTL
TAXPAYER	)	
	)	
Taxpayer	)	

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RECOMMENDATION FOR DISPOSITION

Appearances: Mr. TAXPAYER appeared pro se.

Synopsis:

This matter arose as a result of a timely protest to a Notice of Tax Liability issued by the Department of Revenue against TAXPAYER on March 14, 1997. It is the Department's position that this taxpayer owes the sum \$980.83, which constitutes additional tax on the estimated fair market value of a 1994 Audi Quattro automobile received as a gift. After consideration of the evidence of record and review of the departmental documents, it is my recommendation that the tax liability be reduced in accord with the documentation produced.

Finding of Facts:

1. The Department's prima facie case and all jurisdictional aspects was established by the introduction of Notice of Tax Liability XXXXX as a matter of record. (Department. Ex. No. 1)

2. Taxpayer, an Illinois resident, received a 1994 Audi Quattro automobile as a gift from his (previous) employer on or about the date of October 31, 1996. (Taxpayer Ex. No. 1)

3. As a result of the transfer, taxpayer filled out and filed an Illinois RUT-50, Vehicle Use Tax Return on November 14, 1996 declaring and paying a tax of \$290.00. As part of the return, the taxpayer checked a box indicating that the fair market value of the automobile was less than \$15,000.00. (Taxpayer Ex. No. 2)

4. Upon such filing, the Department of Revenue, examined the return and determined through its own analysis that the taxpayer had understated the fair market value by more than \$12,000.00. Accordingly, the aforementioned Notice of Tax Liability was issued for the remaining tax due, representing the difference between what had been declared and what the actual market value was felt to be. (Department Ex. No. 1)

5. Upon objection raised as to the basis for the fair market value of \$27,900.00 determined by the Department, the taxpayer was instructed in writing to obtain a notarized appraisal from a licensed dealership for a lesser amount. (Department Ex. No. 2)

6. Pursuant to those instructions, taxpayer obtained and has submitted a notarized appraisal of the car from The Exchange, an Illinois licensed dealership in Audi automobiles. Said appraisal values the car in question at approximately \$20,900.00. (Taxpayer Ex. No. 3)

7. Applying the appraisal of the fair market value of the automobile to the RUT-50 worksheet (Table B), the statutory tax due on the transfer of the Audi Quattro as a gift to this taxpayer would

appropriately be \$1,000.00. Deducting the \$290.00 already paid, the remaining liability for this transfer would be \$710.00.

**Conclusions of Law:**

Under the terms of 625 ILCS 5/3-1001 "a tax is imposed on the privilege of using, in this State, any motor vehicle as defined in Section 1-146 of that act acquired by *gift*, transfer, or purchase..." (emphasis added) Beginning with the calendar year 1988, the rate of tax upon such transfer shall be \$1,000.00 for a selling price between \$20,000.00 and \$24,999.00. In the case of gifts, as here, the "selling price" shall be deemed to be the fair market value as determined by the Department.

There is no question within this proceeding that a tax is owed. That much has been conceded. The only issue is how much tax. To that end, since the taxpayer has furnished proof that the fair market value of the gift which he acquired is \$20,900.00, by simple reference to the statute, \$1,000.00 is the valid and appropriate tax.

It is therefore recommended that the Notice of Tax Liability issued in this cause be adjusted to reflect a tax due in the amount of \$1,000.00 with appropriate credit being given for the payment of \$290.00, all penalties and interest to apply.

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Richard L. Ryan  
Administrative Law Judge