

**MF 00-3**

**Tax Type: Motor Fuel Use Tax**

**Issue: Failure To Have Motor Fuel Use Tax Decal/Permit**

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

---

**DEPARTMENT OF REVENUE  
STATE OF ILLINOIS**

) 00 ST 0000  
) 00-00000  
) 00-000000 0

v.

)  
) Mimi Brin  
) Administrative Law Judge

---

**JOHN DOE**

**RECOMMENDATION FOR DISPOSITION**

This matter comes on for hearing pursuant to the taxpayer's timely protest of Notice of Tax Liability for Motor Fuel Use Tax 00-000000 0 ("NTL") issued by the Department on July 28, 2000 as a result of taxpayer's operation of a commercial motor vehicle in Illinois without a valid motor fuel use tax license and without properly displaying required decals or without a valid single-trip permit. Taxpayer appeared for hearing and testified thereat. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department. In support thereof I make the following findings of fact and conclusions of law:

**Findings of Fact:**

1. The Department issued to taxpayer NTL 00-000000 0, assessing a penalty of \$1,000 based upon taxpayer's operation of a commercial motor vehicle in Illinois without a valid motor fuel use tax license and without, inter alia, a valid single-trip permit. Department Ex. No. 1

2. Taxpayer is a hay farmer located in Wisconsin. Transcript
3. As a result of the poor conditions for selling hay in Wisconsin during 1999, where taxpayer had always sold his product, he began selling to a customer in Illinois. Transcript
4. It was on a delivery trip to the customer that taxpayer received a ticket from a local police officer for his failure to have a valid license or permit. Transcript; Department Ex. No. 1

**Conclusions of Law:**

The Motor Fuel Tax Law, 35 ILCS 505/1 *et seq.*, (“MFTL”) provides that “...no motor carrier shall operate in Illinois without first securing a motor fuel use tax license and decals from the Department or a motor fuel use tax license and decals issued under the International Fuel Tax Agreement by any member jurisdiction.” *Id.* at 505/13a.4 As an alternative to the license and decals otherwise required, the MFTL allows “a commercial motor vehicle operated in Illinois in the course of interstate traffic by a motor carrier not holding a motor fuel use tax license” to obtain “a single trip permit authorizing operation of such commercial motor vehicle for a single trip through the State of Illinois, or from a point on the border of this State to a point within and return to the border... .” *Id.* at 505/13a.5

Mr. Schabo admits that he operated his truck in Illinois when he delivered hay from his farm in Wisconsin, to a customer in Illinois. Mr. Schabo testified that he did not know of the need to obtain a motor fuel license, decal or single trip permit, explaining that he is a small scale farmer who only recently began delivering hay into Illinois as a

result of poor economic conditions in Wisconsin for his product. He advised that now that he is aware of the law, he will comply.

No one suggests that Mr. Schabo deliberately avoided obtaining the necessary license, decal or single trip permit. However, the law does not provide a remedy to him based upon his lack of knowledge. The pertinent provision in the MFTL reads as follows:

if a commercial motor vehicle is found to be operating in Illinois without a valid motor fuel use tax license and without properly displaying decals required by Section 13a.4 or without a valid single trip permit when required by Section 13a.5 of the Act or a valid 30-day International Fuel Tax Agreement temporary permit, the operator must pay a minimum of \$1,000 as a penalty.

**35 ILCS 505/13a.6(b)**

Ignorance of the law is not recognized as an excuse for non-compliance with tax laws. DuMont Ventilation Co. v. Department of Revenue, 99 Ill. App.3d 263 (3<sup>rd</sup> Dist. 1981) Nor does the law provide for one's inability to pay the penalty to be sufficient grounds for abatement. Since there is no question that Mr. Schabo operated his truck in furtherance of his commerce between Wisconsin and Illinois, the penalty applies.

**WHEREFORE**, for the reasons stated above, it is my recommendation that the Notice of Tax Liability at issue be finalized as issued.

11/29/00

---

Mimi Brin  
Administrative Law Judge