

MF 15-02
Tax Type: Motor Fuel Tax
Tax Issue: Motor Fuel Distributor – 5 Day Revocation

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

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

v.

ABC BUSINESS,
Taxpayer

Ted Sherrod

No. XXXX

License No. XXXX

XXXX

NOTICE OF LICENSE REVOCATION

Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Special Assistant Attorney General Paula Hunter on behalf of the Illinois Department of Revenue; Jane Doe, *pro se*, on behalf of ABC Business

Synopsis:

This case arose by way of a request for an initial review pursuant to 86 Ill. Admin. Code, ch. I, section 200.175 of the Department of Revenue's RMFT-48-A, Notice of License Revocation issued January 5, 2015 revoking the taxpayer's Motor Fuel Tax Receiver License and its Motor Fuel Tax Supplier License. A hearing to consider this matter was held on September 15, 2015. The taxpayer was represented at the hearing by Jane Doe, its President, who also testified on the taxpayer's behalf. During the hearing, both the Department and the taxpayer introduced documentary evidence into the record. Following a review of the record in this case, it is my recommendation that the license revocations at issue be affirmed. In support of this recommendation, I make the following findings of fact and conclusions of law.

Findings of Fact:¹

1. The *prima facie* case of the Illinois Department of Revenue (“Department”) was established by the admission into evidence of Department’s Notice of License Revocation issued January 5, 2015. Department Exhibit (“Ex.”) 1.
2. The taxpayer is an Illinois business registered with the Illinois Department of Revenue located in Illinois. Taxpayer’s Ex. 1. Jane Doe is the President of the taxpayer. Transcript of Hearing September 15, 2015 (“Tr.”) p. 4.
3. The taxpayer was issued Motor Fuel Tax License XXXX to act as a supplier of motor fuel effective August 1, 2014. Taxpayer’s Ex. 1.
4. The taxpayer was issued Motor Fuel Tax License XXXX to act as a receiver of motor fuel effective August 1, 2014. *Id.*
5. The taxpayer did not act as a receiver or supplier of motor fuel during 2014; it engaged in no activity requiring a Motor Fuel Tax license during that year. Tr. pp. 29, 30.
6. The Department issued an RMFT-48-A, Notice of License Revocation, revoking both the taxpayer’s receiver license and the taxpayer’s supplier license based upon its finding that the taxpayer had no activity requiring a Motor Fuel Tax license during August, September, October or November 2014. Department Ex. 1; Taxpayer’s Ex. 2.

Conclusions of Law:

This case arose as a result of an RMFT-48-A Notice of License Revocation issued pursuant to section 16 of the Motor Fuel Tax Law, 35 ILCS 505/16. This section states in relevant part as follows:

The Department may, after 5 days’ notice, revoke the distributor’s, receiver’s, or supplier’s license or permit of any person (1) who does not operate as a distributor, receiver, supplier (a) under sections 1.2, 1.14 or 1.20, [or] (2) who violates any provision of this Act ...[.]

Any person whose returns for 2 or more consecutive months do not show sufficient taxable sales to indicate an active business as a distributor, receiver,

¹ Unless otherwise noted, findings of fact apply to the period August 1, 2014 through January 5, 2015.

or supplier shall be deemed to not be operating as a distributor, receiver, or supplier as defined in Sections 1.2, 1.14 or 1.20.
35 ILCS 505/16

The Notice of Revocation revoked both the taxpayer's supplier license and its receiver license.
Department Ex. 1.

The law in this area clearly states that, if a person holding a receiver or supplier license files returns² that do not show sufficient taxable sales for two or more consecutive months, it is deemed to no longer be operating as a receiver or supplier and its licenses to act as such can be revoked. 35 ILCS 505/16.

During the hearing in this case, the taxpayer's President admitted that the taxpayer engaged in no activity requiring a Motor Fuel Tax license during 2014 subsequent to the issuance of its receiver and supplier licenses effective August 1, 2014. Tr. pp. 29, 30. Pursuant to section 16 of the Motor Fuel Tax Law quoted above, the Department is authorized to revoke the supplier and receiver licenses of any person whose returns for two or more consecutive months do not show sufficient taxable sales to indicate that it has acted as a receiver or supplier. In light of the taxpayer's admission of no activity requiring a Motor Fuel Tax license in 2014 at any time subsequent to August 1, 2014, the effective date of the taxpayer's receiver and supplier licenses, I find that the Department's revocation of the taxpayer's supplier and receiver licenses at issue in this case, was warranted.

WHEREFORE, for the reasons stated above, it is my recommendation that the Department's RMFT-48-A Notice of License Revocation be affirmed.

Ted Sherrod
Administrative Law Judge

Date: November 3, 2015

² Motor fuel distributors, suppliers and receivers are required to file monthly Motor Fuel Tax returns accompanied by the correct amount of tax due by the 20th day of the month following the month for which the return is made. See 86 Ill. Admin. Code, ch. I, section 500.203.