

MV 18-02

**Tax Type: Motor Vehicle Use Tax**

**Tax Issue: Private Vehicle Use Tax – Value exceeds \$15,000**

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

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**DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

**JOHN DOE**

**Taxpayer**

**Docket #** [REDACTED]  
**Acct ID: XXXX-XXXX**  
**Letter ID: CNXXXXXXXXXXXXXX**

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Matthew Crain, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; John Doe, *pro se*

Synopsis:

The Department of Revenue (“Department”) issued a Notice of Tax Liability (“NTL”) to John Doe (“taxpayer”) for vehicle use tax relating to the purchase of a vehicle. The taxpayer’s request for a late discretionary hearing was granted, and an evidentiary hearing was held during which the taxpayer participated via telephone. During the hearing, the Department argued that the value of the vehicle that the taxpayer purchased was greater than the amount reported on the RUT-50, Private Party Vehicle

Use Tax Transaction Return. In response, the taxpayer did not dispute the value of the vehicle. The taxpayer argued that he should not be liable for the additional tax because someone at the currency exchange where he registered the vehicle told him the incorrect amount of the tax. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. On March 31, 2013, the taxpayer purchased a 2010 Mitsubishi [REDACTED]. The taxpayer acquired the Mitsubishi by paying \$X,XXX and trading a Nissan [REDACTED]. (Dept. Ex. #1)
2. The value of the Mitsubishi ranged between \$XX,XXX and \$XX,XXX. (Dept. Ex. #1)
3. At the time of the purchase, the taxpayer paid \$215 for the vehicle use tax to the State of Illinois. (Dept. Ex. #1)
4. The taxpayer registered the vehicle at a currency exchange because he purchased the vehicle on a Sunday. (Recording<sup>1</sup>)
5. On April 3, 2013, the Department issued a Notice of Tax Liability to the taxpayer that assessed additional tax in the amount of \$1,035, plus a late-payment penalty, for vehicle use tax on the purchase of the vehicle. The NTL was admitted into evidence under the certificate of the Director of the Department. (Dept. Ex. #1)

CONCLUSIONS OF LAW:

Under the Vehicle Code (625 ILCS 5/1-100 *et seq.*), Illinois imposes a tax on the privilege of using in Illinois any motor vehicle acquired by gift, transfer, or purchase.

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<sup>1</sup> The hearing was recorded using a digital recorder instead of a court reporter; the citations will be to the recording rather than a transcript.

625 ILCS 5/3-1001. In the administration of the vehicle use tax, the Department and the taxpayers “have the same rights, remedies, privileges, immunities, powers and duties, and [are] subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in the Use Tax Act.”

625 ILCS 5/3-1003.

Section 12 of the Use Tax Act (“Act”) (35 ILCS 105/1 *et seq.*) incorporates by reference section 5 of the Retailers' Occupation Tax Act (“ROTA”) (35 ILCS 120/1 *et seq.*), which provides that the certified copy of the Department’s determination of the amount of tax due is *prima facie* correct and is *prima facie* proof of the correctness of the amount of tax due, as shown therein. 35 ILCS 105/12; 120/5. Once the Department has established its *prima facie* case by submitting the certified copy of the Department’s determination into evidence, the burden shifts to the taxpayer to overcome this presumption of validity. Clark Oil & Refining Corp. v. Johnson, 154 Ill. App. 3d 773, 783 (1st Dist. 1987). To prove his case, a taxpayer must present more than his testimony denying the Department's assessment. Sprague v. Johnson, 195 Ill. App. 3d 798, 804 (4th Dist. 1990). The taxpayer must present sufficient documentary evidence to support his claim. *Id.*; Balla v. Department of Revenue, 96 Ill. App. 3d 293, 295 (1st Dist. 1981)

Under section 3-1001 of the Vehicle Code, the tax is determined based on the selling price of the vehicle. If the selling price of the vehicle is less than \$15,000, then the applicable tax is based on the number of years that have transpired after the model year of the vehicle. If three years have transpired after the model year of the vehicle and the selling price is less than \$15,000, then the tax is \$215. If the selling price is between \$25,000 and \$29,999, however, then the applicable tax is \$1,250. (625 ILCS 5/3-1001)

The Department argues that the taxpayer purchased the vehicle for a selling price that was between \$25,000 and \$29,999, and the amount of tax due should be \$1,250. The amount of tax that the taxpayer initially paid was \$215, which leaves a difference of \$1,035.

In response, the taxpayer does not dispute the Department's determination of the purchase price of the vehicle or the amount of the additional tax that the Department has assessed. The taxpayer argues that he should not be held liable for the additional tax because the people at the currency exchange told him to pay the wrong amount. He said he would have paid the correct amount if they had told him to pay it. He contends that "the State" made the mistake that resulted in the additional liability, even though he admitted that the currency exchange is not a State agency. The taxpayer believes that it is not fair to hold him responsible for the mistake of others. The taxpayer also argues that the State mailed the NTL to the wrong address, and the taxpayer did not become aware of the liability until it was on his credit report. He claims that this case would not have gone this far if it was sent to the correct address.

The taxpayer's arguments do not warrant dismissing the additional tax. Mailing the NTL to the wrong address is not relevant to the issue of whether the taxpayer owes the additional tax, and the Department provided a remedy for this by granting the taxpayer's request for a late discretionary hearing. Also, the fact that someone at the currency exchange told him to pay the wrong amount does not relieve the taxpayer from his responsibility for the tax. A taxpayer is presumed to know the law and, therefore, is responsible for failing to be apprised of all applicable legal obligations. See Department of Revenue v. Thomas J. Anderson, 131 Ill. App. 3d 486, 488 (2<sup>nd</sup> Dist. 1986) ("The

defendant is presumed to know the law or, in this case, the change in the law.”). The taxpayer signed the RUT-50 and is responsible for reporting and paying the correct amount to the Department. Under the Taxpayers’ Bill of Rights Act (20 ILCS 2520/1 *et seq.*), the Department must only abate taxes that have been assessed based upon erroneous written information or advice given by the Department. 20 ILCS 2520/4(c). The currency exchange is neither a division of the Department nor a State agency.

Recommendation:

For the foregoing reasons, it is recommended that the Notice of Tax Liability be upheld.

Enter: July 14, 2017

Linda Olivero  
Administrative Law Judge