

**MV 00-1**

**Tax Type: Motor Vehicle Use Tax**

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

**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**

v.

**JOHN DOE**

No. 00-ST-

NTL #

**Mimi Brin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

This matter comes on for hearing pursuant to JOHN DOE’S (hereinafter “DOE” or the “Taxpayer”) protest of Notice of Tax Liability number 53-314658 K issued by the Illinois Department of Revenue (hereinafter the “Department”) for motor Vehicle Use Tax based upon Geavara’s ownership of a 1998 Ford Minivan motor vehicle (hereinafter “motor vehicle”) for which DOE filed a Vehicle Use Tax return with the Department on or about March 3, 1999. At the time of this filing, the taxpayer paid to the Department \$15.00, checking the box that indicates that the motor vehicle was transferred in a business reorganization. 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 of this recommendation, I make the following findings of facts and conclusions of law:

**Findings of Fact:**

1. The Department’s *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of Tax Liability number XX-

XXXXX, showing a tax liability of \$735 with additional interest calculated through 10/22/99. Department Gr. Ex. No. 1

2. On or about March 3, 1999, taxpayer filed a Vehicle Use Tax return with the Department as the purchaser of a 1998 Ford minivan motor vehicle as part of a business reorganization. *Id.*
3. Taxpayer paid the Department \$15 pursuant to that return. *Id.*
4. The prior owner of title of this motor vehicle was CAR COMPANY, Inc., a corporation that ceased doing business in December, 1997. *Id.*; Tr. pp. 6-7, 8, 17
5. The transfer from the corporation to taxpayer was not part of a business reorganization. *Id.*; Tr. pp. 18-19

**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 testified that the title to this motor vehicle was not part of a business reorganization. Rather, the corporation that he and his wife ran bought the motor vehicle in 1997 for business purposes. That same year, the business closed, and several years later, they decided to trade it in for a different van. As DOE explained, the salesperson at the dealership where he bought the new van told him that he would have to transfer the title from the corporation to himself before the motor vehicle could be taken by the dealership in trade for the new van. After explaining this at the Secretary of State’s office, DOE stated that he was directed by personnel there to check the box indicating a reorganization transfer, and to then pay the \$15.00. DOE testified that the transaction was not part of a business reorganization.

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

confusion and misunderstanding. Taxpayer explained the circumstances of the transfer and readily admitted that there was no business reorganization involved. Rather, the transfer was required by the dealership that sold him his new van, and personnel at the Secretary of State's office misunderstood the nature of the transaction and directed taxpayer to check off the incorrect box on the return, triggering an incorrect tax rate.

The transfer of title of the motor vehicle from the corporation to DOE triggered the imposition of the statutory tax amount of \$750.00. 625 ILCS 5/3-1001 The Department credited taxpayer with the \$15.00 already paid, leaving a tax liability of \$735.00 plus accrued interest.<sup>1</sup> Based upon the legal implications of the transaction, the Department's assessment is correct.

Wherefore, for the reasons stated above, it is my recommendation that the Notice of Tax Liability at issue herein be finalized.

5/10/00

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Mimi Brin  
Administrative Law Judge

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