

ST 11-05

Tax Type: Sales Tax

Issue: Denial of Registration Number

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

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

v.

JOHN DOE

Taxpayer

**Docket # 10-ST-0000
Letter ID:
Registration Denial**

RECOMMENDATION FOR DISPOSITION

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

Synopsis:

John Doe (“taxpayer”) applied to the Department of Revenue (“Department”) for a business registration number for a towing business known as John Doe Towing, LLC. In response, the Department issued to the taxpayer a “Taxpayer Notification Registration Denial” indicating that his request was denied on the basis that the Department’s records indicate that he has an outstanding liability. The taxpayer timely protested the Denial, and an evidentiary hearing was held during which the taxpayer contended that the registration should be granted because the business known as John Doe Towing, LLC is current on all of its tax obligations. The Department argued that the registration should be denied because the taxpayer has an outstanding liability for a previously owned company. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The taxpayer previously operated a business known as John's Gas Station ("John's Gas Station") (Dept. Ex. #1)
2. The taxpayer's liability to the Department for sales tax and income tax withholding for John's Gas Station is still outstanding. At the time of the hearing, the liability was approximately \$193,741.34. (Dept. Ex. #1, 2)
3. The taxpayer is currently not making payments towards the liability. (Tr. p. 13)
4. The taxpayer applied for a certificate of registration for a business known as John Doe Towing, LLC. (Dept. Ex. #1)
5. On April 1, 2010, the Department issued a Taxpayer Notification of Registration Denial ("Denial") to the taxpayer for his registration for John Doe Towing, LLC. The registration was denied was due to the outstanding liability for John's Gas Station. (Dept. Ex. #1)

CONCLUSIONS OF LAW:

Section 100.7040 of the Department's Income Tax Regulations provides as follows:

Every employer required to deduct and withhold Illinois income tax must register with the Department of Revenue. Each registration application of an employer that has been assigned a federal identification number must contain the employer's federal identification number. If an employer has not been issued a federal employer's identification number, the employer must notify the Department within a reasonable time after its federal employer's identification number has been issued. 86 Ill. Admin. Code §100.7040.

Section 2505-380 of Article 2505 of the Civil Administrative Code of Illinois provides as follows:

Revocation of or refusal to issue a certificate of registration, permit, or license. The Department has the power to refuse to issue or, after notice and an opportunity for a hearing, to revoke a certificate of registration, permit, or license issued or authorized to be issued by the Department if the applicant for or holder of the certificate of registration, permit, or license fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the tax or fee Act under which the certificate of registration, permit, or license is required or any other tax or fee Act administered by the Department.... 20 ILCS 2505/2505-380.

The Department has refused to issue a certificate of registration to the taxpayer for his business known as John Doe Towing, LLC. The Denial was due to the fact that the taxpayer has failed to pay the outstanding liability for his previous business, John's Gas Station.

According to the taxpayer, the towing business was previously a sole proprietorship under his wife's name, and he and his wife had been operating the business for 15 years. After his wife passed away in 2009, the taxpayer formed the LLC under his name. The Department agrees with the taxpayer that the sole proprietorship and the LLC have always paid their tax liabilities.¹ (Dept. Ex. #4, 5)

Also, the taxpayer states that for the year 2009, the Department issued an income tax refund to him, and the taxpayer believed that because he received a refund, the prior liability for John's Gas Station was no longer owed by him to the Department. In addition, the taxpayer tried to sell a house that he owned, but the Department delayed providing a release for the lien on the home. The sale, therefore, did not happen. (Tr. p. 10) The taxpayer contends that he has not made a payment on the liability owed to the Department because he still has to make payments on the house. (Tr. pp. 13-14)

The taxpayer's circumstances are certainly unfortunate. Nevertheless, under section 2505-380 the Department has the authority to refuse to issue a certificate of registration if the

¹ Although the LLC has not been issued a certificate of registration, the LLC has remitted withholding taxes to the Department. (Dept. Ex. #5; Tr. pp. 11-12)

applicant fails to pay any tax, penalty, or interest, as required under any tax Act administered by the Department. The taxpayer admitted that he owes the outstanding liability for John's Gas Station, and the admitted liability is the basis for the Denial. The Department, therefore, properly denied the taxpayer's request for a certificate of registration.

Recommendation:

For the foregoing reasons, it is recommended that the denial of the certificate of registration be upheld.

Linda Olivero
Administrative Law Judge

Enter: February 28, 2011