

MF 04-06

Tax Type: Motor Fuel Use 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, INC.,

Taxpayer

No. 04 ST 0000

Acct. 0-00000

0-00000

00-0000

Mimi Brin

Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Gary Stutland, Special Assistant Attorney General, for the Illinois Department of Revenue

Synopsis:

This matter comes on for hearing pursuant to ABC, Inc.'s ("ABC" or the "Taxpayer") protest of a Notice of License Revocation ("Notice") issued by the Illinois Department of Revenue ("Department") wherein the Department advised that it was revoking taxpayer's distributor license 0000000, its receiver license 0000000 and its blender permit 0000000. The basis of the revocation was taxpayer's failure to pay specific outstanding final tax assessments. The taxpayer was represented at the hearing by its vice president, Mr. John Doe ("Doe"), who also testified on taxpayer's behalf. Following a review of the record, it is my recommendation that taxpayer's distributor and

receiver licenses be revoked and its blender permit cancelled, and in support of this recommendation, I make the following findings of fact and conclusions of law:

Findings of Fact:

1. On February 26, 2004, taxpayer held Illinois distributor license 0000000, receiver license 0000000 and blender permit 0000000. Department Ex. No. 1
2. On February 26, 2004, the following tax assessments were final as to this taxpayer: xxxxxxxx, xxxxxxxx, xxxxxxxx, xxxxxxxx, xxxxxxxx, and xxxxxxxx. Department Ex. No. 1
3. On the date of the hearing, May 20, 2004, assessments xxxxxxxx and xxxxxxxx remained outstanding. Department Ex. No. 1; Taxpayer Gr. Ex. No. 1; Tr. p. 17

Conclusions of Law:

Pursuant to the Motor Fuel Tax Law, 35 ILCS 505/1 *et seq.* (“MFTL”), any person who acts as a distributor, receiver and/or blender of motor fuel must have the necessary state license or permit to operate in this State. *Id.* at 505/3, 505/3c In addition, a licensed distributor, receiver and/or blender is required to file appropriate motor fuel tax returns reporting its tax obligations to Illinois. *Id.* at 505/2a, 505/2b, 505/5, 505/6

In the event that a taxpayer fails to remit the tax owed, the MFTL provides for the revocation of the license or permit. 35 ILCS 505/16 In the instant matter, taxpayer failed to pay to the Department all of the tax monies as required under

the MFTL. Taxpayer concedes that this is true. Tr. pp. 7-8, 12-13, 14-15, 19 (testimony of Doe) The only defense offered by the taxpayer was that it had made sufficient payments to satisfy the assessments set forth in the notice as being unpaid, and that only new assessments remained outstanding. Tr. pp. 12-13 However, an examination of the payments made (Taxpayer Gr. Ex. No. 1) prove that although this taxpayer made significant payments toward its admitted motor fuel tax liability, there remains a significant deficiency amount as reflected in assessments xxxxxxxx and xxxxxxxx.

WHEREFORE, for the reasons stated above, it is recommended that ABC, Inc.'s distributor license 0000000 and its receiver license 0000000 be revoked, and its blender permit 0000000 be cancelled.

Date: 6/18/2004

Mimi Brin
Administrative Law Judge