

3. Petitioner is located at at 4472 Steeles Ave E Markham, Ontario, Canada.
4. The Taxpayer Account Number is 06407-63808.
5. Petitioner is a car dealer in Markham, Ontario, Canada.

**ERROR I – THE DEPARTMENT ASSESSED USE TAX AGAINST THE PETITIONER
IN CONTRAVENTION OF THE VEHICLE USE TAX ACT**

6. At various times prior to September 10, 2015, Petitioner purchased various vehicles at wholesale in Canada.
7. On or near the dates when the Department alleges that Petitioner brought vehicles into Illinois, Petitioner applied applied to the Illinois Secretary of State for an Illinois title for each of the vehicles.
8. The Secretary of State, pursuant to its processes and procedures issued an Illinois title for each of the vehicles.
9. The Secretary of State mailed the newly issued Illinois titles to Manheim Pennsylvania, 1190 Lancaster Rd., Manheim PA, 1745-9746.
10. At various times the Petitioner then imported the cars from Ontario into Pennsylvania and there, in Pennsylvania, proceeded to sell the vehicles to other dealers at wholesale auctions.
11. While Petitioner was the owner of these vehicles, at no point in time were these vehicles ever present in Illinois.
12. While Petitioner was the owner of these vehicles, at no point in time were the vehicles registered in Illinois or any other state in the United States.

**ERROR II – THE DEPARTMENT’S TAX ON PETITIONER VIOLATES THE
COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION**

13. Petitioner repeats and realleges paragraphs 6 through 12 as its paragraph 13 of this petition.
14. The Petitioner maintains a mailing address in Illinois, but no employees or officers use the Illinois address.
15. The only use of the Illinois address is the requirement of the Secretary of State that the owner seeking an Illinois vehicle title have an Illinois address.

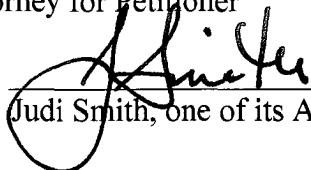
**ERROR III – THE DEPARTMENT’S TAX ON PETITIONER VIOLATES THE DUE
PROCESS CLAUSE OF THE UNITED STATES CONSTITUTION**

16. Petitioner repeats and realleges paragraphs 6 through 15 as and for its paragraph 16 of this petition.

WHEREFORE, Taxpayer respectfully requests judgment in their favor for abatement of the use tax, penalties and interest assessed by the Department in the aforementioned Notices or provide such other relief as this Court deems just and proper.

Date: May 26, 2016

Respectfully submitted,
THE LAW OFFICE OF JUDI SMITH, LLC
Attorney for Petitioner

By: 
Judi Smith, one of its Attorneys

Judi Smith
The Law Office of Judi Smith
50 S. Main St., Suite 200
Naperville, IL 60540
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F: 630-506-5537
E: jsmith@judismithlaw.com
Attorney ID No. 6226552

Notice of Tax Liability

for Form RUT-25, Vehicle Use Tax Transaction Return



_____ #BWNKMGV
_____ #CNXX XX55 5244 1766#
_____ GERMAN STARS MOTOR INC
_____ ATTN: JUDI SMITH
_____ 50 S MAIN ST STE 200
_____ NAPERVILLE IL 60540-5485

March 28, 2016 TDD 1 800 544-5304



Letter ID: CNXXXX5552441766

Account ID: 06407-63808
Date brought into IL: Feb 22, 2016

MV: 074771019
ID: 5GTDN136468275527



We have processed your Form RUT-25 return identified above.

- Based on our review, we have increased the vehicle's value. This resulted in additional tax due.
- We did not allow the amount you deducted for tax paid to another state because you did not provide proof that you paid the tax. If you have proof of tax properly paid to another state, please send us a copy.
- You did not make full payment by the required due date.
- Please review the enclosed Return Correction Notice.

As a result, we have determined you owe the amounts below.

If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

If you do not agree, you may contest this notice by following the instructions on the protest rights page.

If you do not protest this notice or pay the assessment in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Original Tax	900.00	0.00	900.00
Late-Payment Penalty	18.00	0.00	18.00
Interest	0.37	0.00	0.37
Assessment Total	\$918.37	\$0.00	\$918.37

For questions, visit our website or call the number above.

Penalties and Fees

For detailed information on penalties and rates in effect for specific periods on or after January 1, 1994, see Publication 103.

- 1 **Late-filing or Nonfiling penalty** - You owe this penalty if you do not file a return by the due date, including any extended due date, or you file a return that is not processable and you do not correct it within 30 days of the date we notify you.
- 2 **Late-payment penalty for underpayment of estimated or quarter-monthly tax** - You owe this penalty if you were required to make estimated or quarter-monthly tax payments and failed to do so, or if you failed to pay the required amount by the payment due date.
- 3 **Late-payment penalty for regular tax payments** - You owe this penalty if you did not pay the tax you owed by the original due date of the return.
- 4 **Negligence penalty** - You owe this penalty if, in preparing a return or amended return, you do not make a reasonable attempt to comply with the provisions of any tax act, including showing careless, reckless, or intentional disregard for the law or regulations.
- 5 **Fraud penalty** - You owe this penalty if any part of a deficiency is due to fraud.
- 6 **Cost of collection fee** - You owe this fee if you do not pay the total amount you owe within 30 days after a bill has been issued.
- 7 **Bad check penalty** - You owe this penalty if you send a remittance to the Department that is not honored by your financial institution.
- 8 **Failure to disclose participation in a reportable transaction penalty** - You owe this penalty if you were required to disclose your participation in an abusive tax shelter transaction and did not do so by the required due date.
- 9 **Reportable transaction understatement penalty** - You owe this penalty if you do not report and pay the full amount of your tax liability as the result of participating in an abusive tax shelter transaction.

10 **100 percent interest penalty** - You owe this penalty if you

- were contacted by the Internal Revenue Service or Illinois Department of Revenue regarding the use of a potentially abusive tax transaction for a taxable year;
- are later found to have a deficiency in that taxable year that is the result of the tax avoidance transaction; and
- did not report or pay that liability before we issued a Notice of Deficiency.

11 **Audit penalty** - You owe this penalty if you did not pay the tax you owed before the start of an audit or investigation.

12 **Nonfiling penalty for transaction return** - You owe this penalty if you are a retailer required to file a transaction return (ST-556, Sales Tax Transaction Return) by the due date, even if no tax is due on the return.

Are penalties ever abated?

If you were unable to either timely pay the required amount of estimated or quarter-monthly payments, pay the tax you owed by the due date, or file your tax return by the extended due date because of a casualty, disaster, or other similar circumstance, you may request a waiver of penalties due to reasonable cause. To request this waiver, send us a detailed explanation of the cause of the delay and any documentation you have to support your request. Reasonable cause will be determined on a case-by-case basis according to our rules and regulations.

How is interest figured?

Interest is calculated on your tax from the day after the original due date of your return through the date you pay the tax (for certain tax periods interest may also accrue on penalties). Interest accrues at simple rates established by the Internal Revenue Service. See Publication 103 for more information.

Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.

Protest Rights

If the amount of this tax liability, exclusive of penalty and interest, is more than \$15,000, or if no tax liability is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).

In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is **May 27, 2016. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. You may not protest any amount of tax that you agreed was due when you filed your return; you may protest penalty and interest. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.**

Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

Notice of Tax Liability

for Form RUT-25, Vehicle Use Tax Transaction Return



#BWNKMGV
 #CNXX X114 9471 12X0#
 GERMAN STARS MOTOR INC
 ATTN: JUDI SMITH
 50 S MAIN ST STE 200
 NAPERVILLE IL 60540-5485

March 28, 2016 TDD 1 800 544-5304



Letter ID: CNXXX114947112X0

Account ID: 06407-63808
 Date brought into IL: Feb 22, 2016

MV: 074770888
 ID: 1FAHP2J85FG157706



We have processed your Form RUT-25 return identified above.

- Based on our review, we have increased the vehicle's value. This resulted in additional tax due.
- We did not allow the amount you deducted for tax paid to another state because you did not provide proof that you paid the tax. If you have proof of tax properly paid to another state, please send us a copy.
- You did not make full payment by the required due date.
- Please review the enclosed Return Correction Notice.

As a result, we have determined you owe the amounts below.

If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

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If you do not protest this notice or pay the assessment in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Original Tax	1,960.00	0.00	1,960.00
Late-Payment Penalty	39.20	0.00	39.20
Interest	0.81	0.00	0.81
Assessment Total	\$2,000.01	\$0.00	\$2,000.01

For questions, visit our website or call the number above.

Penalties and Fees

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Are penalties ever abated?

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How is interest figured?

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If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy automatic stay does not change the fact that you are required to file tax returns.

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- For more information about these rights and other Department procedures, you may contact us. Our contact information is on the front of this notice.

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In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within 60 days of the date of this notice, which is May 27, 2016. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. You may not protest any amount of tax that you agreed was due when you filed your return; you may protest penalty and interest. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.

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Notice of Tax Liability

for Form RUT-25, Vehicle Use Tax Transaction Return



#BWNKMGV
 #CNXX X111 1495 5689#
 GERMAN STARS MOTOR INC
 ATTN: JUDI SMITH
 50 S MAIN ST STE 200
 NAPERVILLE IL 60540-5485

March 28, 2016 TDD 1 800 544-5304



Letter ID: CNXXX11114955689

Account ID: 06407-63808
 Date brought into IL: Feb 22, 2016

MV: 074770950
 ID: 3FA6P0T98GR107667



We have processed your Form RUT-25 return identified above.

- Based on our review, we have increased the vehicle's value. This resulted in additional tax due.
- We did not allow the amount you deducted for tax paid to another state because you did not provide proof that you paid the tax. If you have proof of tax properly paid to another state, please send us a copy.
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	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Original Tax	1,772.00	0.00	1,772.00
Late-Payment Penalty	35.44	0.00	35.44
Interest	0.73	0.00	0.73
Assessment Total	\$1,808.17	\$0.00	\$1,808.17

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Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.