

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

WAYFAIR LLC,)	
)	
Petitioner,)	Case No.: 21-TT-114
)	
v.)	
)	Judge Brian F. Barov
ILLINOIS DEPARTMENT OF)	
REVENUE,)	
)	
Respondent.)	

NOTICE OF MOTION

To: Martin I. Eisenstein
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PLEASE TAKE NOTICE that on December 16, 2022, the undersigned counsel for the for the Illinois Department of Revenue (the “Department”) caused to be filed *THE ILLINOIS DEPARTMENT OF REVENUE’S CROSS-MOTION FOR SUMMARY JUDGMENT*, a copy of which is attached.

The motion has not been agreed to by the adverse party. The Department requests that oral argument be scheduled based on the Tribunal’s convenience.

/s/ Robert O. Lynch
Robert O. Lynch
Special Assistant Attorney General
Illinois Department of Revenue
555 West Monroe St., Suite 1100
Chicago, Illinois 60661
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Robert.lynch2@illinois.gov

CERTIFICATE OF SERVICE

I, Robert O. Lynch, an attorney, hereby certify that on December 16, 2022, I caused a copy of the NOTICE OF MOTION and THE ILLINOIS DEPARTMENT OF REVENUE'S CROSS-MOTION FOR SUMMARY JUDGMENT to be served by email on the above listed counsel for the Petitioner.

/s/ Robert O. Lynch

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**THE ILLINOIS DEPARTMENT OF REVENUE'S
CROSS-MOTION FOR SUMMARY JUDGMENT**

The Illinois Department of Revenue (the “Department”), by and through its Special Assistant Attorney General, Robert O. Lynch, moves for summary judgment, and in support of its motions states as follows:

1. This motion is brought under Section 2-1005 of the Illinois Code of Civil Procedure, 735 ILCS 5/1-101 *et seq.*
2. On October 6, 2022, Petitioner, Wayfair LLC (“Wayfair”) filed its motion for summary judgment.
3. On November 9, 2022, the Tribunal entered its order setting December 16, 2022, as the last date for the Department to file its response to Wayfair’s motion, and to file any cross-motion for summary judgment.
4. The Department now timely files its cross-motion for summary judgment.

5. The Department asserts that it is entitled to judgment as a matter of law because Wayfair is liable under Section 3-45 of the Use Tax Act, 5 ILCS 105/1 *et seq.*, for sales made to Illinois customers that were delivered after Wayfair established a physical presence in the state.

6. The Department has contemporaneously filed its brief in support of its motion and in response to Wayfair's motion, with its attached exhibits comprised of the Department's notices and records under the certificate of the Director of the Department.

WHEREFORE, for the reasons stated above, and in its brief, the Department requests this Tribunal grant its motion and enter judgment in its favor and against the Petitioner, Wayfair LLC, upholding the assessment contained in the Notice of Tax Liability at issue, and for any other relief deemed appropriate.

Dated: December 16, 2022

Respectfully submitted,

/s/ Robert O. Lynch

Robert O. Lynch

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