

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

RUDD EQUIPMENT COMPANY, INC.,))	
Petitioner,))	
)	
v.))	Case No. 15-TT-99
)	Conway
DEPARTMENT OF REVENUE))	
OF THE STATE OF ILLINOIS,))	
Respondent.))	

ANSWER

The Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, answers the Taxpayer's Petition as follows:

1. The Department on March 20, 2015 issued the Notices the first assessing \$61,592.00 in use tax and \$24,343.60 in interest for taxable periods January 1, 2008 through June 30, 2009, inclusive, and the second assessing \$228,426.00 in use tax and \$29,165.84 in interest for taxable periods July 1, 2009 through October 31, 2010, inclusive. A copy of said Notices are attached to this Petition as Exhibit A.

ANSWER: The Department states the Notices speak for themselves and therefore denies any characterization thereof. The Department admits it issued the Notices of Tax Liability dated March 20, 2015 attached to Petitioner's Petition as Exhibit A.

2. Petitioner is a Kentucky corporation with its principal place of business in Louisville, Kentucky, with an address of 4344 Poplar Level Road, Louisville, KY 40213 and a telephone number of (502) 456-4050; its Taxpayer Account number is 0237-5613.

ANSWER: The information contained in Paragraph 2 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(A) and (C) (86 Ill. Admin. Code §5000.310) and is not a

material allegation of fact requiring an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

3. The heavy equipment rented by Petitioner is of the same general type sold by it and was available for sale during the interim use period so that the interim use exemption applied to exempt such equipment from Illinois use tax, and depreciating this equipment does not remove application of the interim use exemption as the Department has asserted. Failure to apply the interim use exemption to Petitioner, an out-of-state business, when the exemption is allowed to in-state business competitors, *inter alia*, discriminates against interstate commerce and thus violates the Commerce Clause.

ANSWER: Paragraph 3 contain legal conclusions, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 3 requires an answer, the Department denies the allegations.

BACKGROUND AND RELEVANT FACTS

4. Petitioner timely filed sales tax returns for period January 1, 2008 through October 31, 2010 inclusive (“Tax Periods”).

ANSWER: The Department admits the allegations in Paragraph 4.

5. Petitioner is in the principal business of selling heavy off-road construction type equipment (*e.g.*, articulated trucks, cranes, excavators, compactors, and loaders) (collectively “Equipment”) purchased from manufacturers such as Volvo and Hitachi. However, upon a customer’s request, Petitioner will rent Equipment to a customer.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 6 and therefore demands strict proof thereof.

6. Petitioner has locations in Kentucky, Indiana, Missouri, Pennsylvania, West Virginia, and Ohio, however it does not have locations in Illinois.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 6 and therefore demands strict proof thereof.

7. Petitioner does not maintain a rental fleet in Illinois.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 7 and therefore demands strict proof thereof.

8. Petitioner's Illinois-based competitors each maintain their own separate, dedicated rental fleet.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 8 and therefore demands strict proof thereof.

9. Petitioner sold Equipment delivered to its customers in southern Illinois and collected and remitted Illinois sales tax thereon during the Tax Periods.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 9 and therefore demands strict proof thereof.

10. Petitioner rented 43 pieces of Equipment in southern Illinois, in response to customer specific requests during the Tax Periods. See Department Audit Schedule 4 (copy attached as Exhibit B).

ANSWER: The Department admits Audit Schedule 4 is attached as Exhibit B but lacks sufficient information to admit or deny the remainder of the allegations in Paragraph 10 and therefore demands strict proof thereof.

11. Petitioner did not pay Illinois sales or use tax incident to the Equipment rented during the Tax Periods (Exhibit B).

ANSWER: The Department admits the allegations in Paragraph 11.

12. The Department conducted a field audit of Petitioner, and issued a Notice of Proposed Liability for Sales, Use and Excise Taxes and Fees dated October 2, 2012; thereafter, Petitioner timely requested an Informal Conference Board Review, which the Informal Conference Board (the “Board”) granted on December 21, 2012.

ANSWER: The Department admits the allegations in Paragraph 12.

13. The Board held a conference on June 27, 2013 and issued an Action Decision on November 20, 2013 in *Re Rudd Equipment Company*, Docket # 12-0406 (the “Decision”).

ANSWER: The Department admits the allegations in Paragraph 13.

14. The Department issued a Notice of Audit Results dated December 23, 2013 and then after discussions with Petitioner conducted additional audit field work.

ANSWER: The phrase “audit field work” is vague and ambiguous and does not describe work performed by the auditor after the Notice of Audit Results was issued with a degree of particularity to which the Department can respond. Therefore, the Department denies the allegations in Paragraph 14. The Department additionally states the Notice of Audit Results is dated December 31, 2013.

15. The Department issued the Notices, dated March 20, 2015.

ANSWER: The Department admits the allegations in Paragraph 15.

16. The Department has asserted that Illinois use tax applies to 19 pieces of Equipment rented by Petitioner during the Tax Periods because there was “depreciation taken” so that the interim use exemption does not apply (Exhibit B). See Department Schedule 1- Summary Analysis (copy attached as Exhibit C) and Global Taxable Exceptions Detailed Report (copy attached as Exhibit D).

ANSWER: The Department denies the allegations in Paragraph 16.

17. Petitioner retained title to the Equipment (copy of example Rental Agreement attached as Exhibit E).

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 17 and therefore demands strict proof thereof.

18. All of the Equipment rented in Illinois was available for sale by Petitioner (see Exhibit E).

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 18 and therefore demands strict proof thereof.

19. Petitioner sold previously rented Equipment during (see Exhibit B) and subsequent to the Tax Periods (some of which are indicated as sold on Exhibit B).

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 19 and therefore demands strict proof thereof.

20. Petitioner's sales income exceeded its rental income in Illinois during the Tax Periods (see Exhibit B).

ANSWER: The Department admits the allegations in Paragraph 20.

21. Petitioner did not expense the equipment at issue under section 179 of the Internal Revenue Code of 1986, as amended ("Code") (see Exhibit B).

ANSWER: The allegation in Paragraph 21 that petitioner did not "expense the equipment" is vague and undefined. The Department admits the Petitioner did not depreciate the equipment listed on Exhibit B under section 179 of the Internal Revenue Code of 1986 during the audit period. To the extent Paragraph 21 require a further answer, the Department denies the allegations.

22. Petitioner depreciated the equipment at issue either under section 167 or 168 of the Code (see

Exhibit C).

ANSWER: The Department admits the allegations in Paragraph 22.

23. The average rental period for equipment in Illinois during the Tax Periods was approximately fourteen (14) months (see Exhibit B).

ANSWER: The Department denies the allegations in Paragraph 23.

24. Under each rental agreement, either Petitioner or the customer could terminate the rental agreement upon five (5) days prior notice to the other (see Exhibit E).

ANSWER: The Department admits a rental agreement is attached as Exhibit E. The Department lacks sufficient information to admit or deny whether each rental agreement for each piece of rental property allows the lessor or lessee to terminate the rental agreement upon five (5) days prior notice to the other and therefore demands strict proof thereof. To the extent Paragraph 24 requires an Answer, the Department denies any remaining allegations.

25. All Equipment rented by Petitioner is ultimately sold (*see, e.g.*, Exhibit B).

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 25 and therefore demands strict proof thereof.

26. After the Department audited Petitioner and informed it that rented Equipment was subject to Illinois sales tax, Petitioner curtailed its rentals of Equipment in Illinois.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 26 and therefore demands strict proof thereof.

27. The tax imposed under Illinois law has substantially hampered Petitioner's ability to compete in renting equipment to its customers in Illinois.

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 27 and therefore demands strict proof thereof.

APPLICABLE LAW

28. Illinois treats a lessor's purchase as a retail sales subject to sales or use tax, absent an exemption. *See* 35 Ill. Comp. Stat. Ann. 105/3; 86 Ill. Admin. § 130.220(a) (“[T]he sale of tangible personal property to a purchaser who will act as a lessor of such tangible personal property is a sale at retail and is subject to [sales tax].”).

ANSWER: Paragraph 28 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 28 requires an answer, the Department denies the allegations.

29. “‘Use’ means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of such property in any form as tangible personal property in the regular course of business to the extent that such property is not first subjected to a use for which it was purchased, and does not include the use of such property by its owner for demonstration purposes...” 35 Ill. Comp. Stat. Ann. 105/2.

ANSWER: Paragraph 29 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

30. “‘Use’ does not mean the demonstration use or interim use of tangible personal property by a retailer before he sells that tangible personal property.” 35 Ill. Comp. Stat. Ann. 105/2.

ANSWER: Paragraph 30 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

31. Under the interim use exemption, “[e]xcept as otherwise provided..., tangible personal property purchased by a retailer for resale, and used by the retailer or his or her agents prior to its ultimate sale at retail, is exempt from Use Tax, provided that the tangible personal property is *of the same general type of property sold by that retailer and* is carried as inventory on the books of the retailer or *is otherwise available for sale* during the interim use period.” 86 Ill. Adm. Code §150.306 (emphasis supplied). *See Illinois Rd. Equipment Co. v. Dep’t of Revenue*, 32 Ill.2d 576, 207 N.E.2d 425 (1965) (“At no time was any of the machinery...held...for any ultimate purpose other than sale at retail, and the practice of renting on a trial or promotional basis is in no way inconsistent with that purpose.”); *L&L Sales & Servs., Inc. v. Dep’t of Revenue*, 68 Ill. App. 3d 329, 385 N.E.2d 925 (1979) (“[W]hen equipment is originally purchased with the intent of selling it at retail and is subsequently rented with the intent remaining to ultimately sell it at retail, the rental is an exempt interim use.”).

ANSWER: Paragraph 31 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 31 requires an answer, the Department denies the allegations.

32. “Illinois taxes rentals and leases differently for sales tax purposes than the majority of other states...” Marilyn A. Wethekam et al., *2011 Guidebook to Illinois Taxes* 224, ¶1506.

ANSWER: Paragraph 32 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 32 requires an answer, the Department denies the allegations.

33. To survive Commerce Clause scrutiny, the state taxing measure in question must be construed so that "...the tax [1] is applied to an activity with a substantial nexus with the taxing state, [2] is fairly apportioned, [3] does not discriminate against interstate commerce, and [4] is fairly related to the services provided by the State." *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977).

ANSWER: Paragraph 33 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 33 requires an answer, the Department denies the allegations.

**ERROR I- INTERIM USE EXEMPTION APPLIES TO THIS RENTED
EQUIPMENT**

34. The Department did not apply the interim use exemption to exempt from use tax the 19 pieces of Equipment rented by Petitioner during the Tax Periods.

ANSWER: Paragraph 34 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 34 requires an answer, the Department denies the allegations.

35. "Except as otherwise provided...tangible personal property purchased by a retailer for resale, and used by the retailers or his or her agents prior to its ultimate sales at retail, is exempt from Use Tax, provided that the tangible personal property is of the same general type of property sold by that retailer and is carried as inventory on the books of the retailer or is otherwise available for sale during the interim use period." 86 Ill. Adm. Code §150.306.

ANSWER: Paragraph 35 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal

Regulations. To the extent Paragraph 35 requires an answer, the Department denies the allegations.

36. Petitioner purchased for resale the 19 pieces of Equipment which were of the same general type of property sold by Petitioner and which were available for sale during the interim use period so that such Equipment meets the requirements for application of the interim use exemption in 86 Ill. Adm. Code § 150.306(a)(1).

ANSWER: The Department lacks sufficient information to either admit or deny the allegations in Paragraph 36 and therefore demands strict proof thereof. Further, Paragraph 36 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 36 requires an answer, the Department denies the allegations.

37. The Department asserted that Illinois use tax applies to the equipment because there was “depreciation taken” so that the interim use exemption did not apply.

ANSWER: The Department denies the allegations in Paragraph 37.

38. Petitioner’s accounting practices of depreciating the Equipment does not foreclose the application of the interim use exemption.

ANSWER: Paragraph 38 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 38 requires an answer, the Department denies the allegations.

39. In holding that heavy equipment rented by a heavy equipment seller was exempt as an interim use, the Court in *Illinois Road Equipment, supra*, did not consider depreciation to be a relevant factor. *Illinois Rd. Equip. Co.*, 32 Ill. 2d at 580.

ANSWER: Paragraph 39 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 39 requires an answer, the Department denies the allegations.

40. Depreciating equipment which is for sale and ultimately sold, as the Equipment here, is consistent with Petitioner's continued intent to ultimately sell the Equipment; the Court in *L&L Sales & Services*, 68 Ill. App. 3d at 332, simply recognized that, *inter alia*, not depreciating equipment was "consistent with a continued intent to ultimately sell it at retail."

ANSWER: Paragraph 40 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 40 requires an answer, the Department denies the allegations. Further, the Department lacks sufficient information to admit or deny Petitioner's intent to ultimately sell the Equipment and demands strict proof thereof.

41. The interim use exemption applies when the property rented, as the Equipment here, is the same general type of property sold by that retailer and is otherwise available for sale during the interim use period; depreciating the Equipment does not remove application of the interim use exemption to the Equipment under 35 Ill. Comp. Stat. Ann. 105/2 or 86 Ill. Adm. Code §105.306.

ANSWER: Paragraph 41 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 41 requires an answer, the Department denies the allegations.

42. To the extent the Department reads 86 Ill. Adm. Code §105.306 to add any requirement not

present in, that conflicts with, or is inconsistent with 35 Ill. Comp. Stat. Ann. 105/2 as to the interim use exemption, *e.g.*, that the equipment cannot be depreciated, such requirements is invalid and ineffective. *See Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 372 (2009) (“Administrative regulations can neither expand nor limit the statute they enforce.”).

ANSWER: Paragraph 42 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 42 requires an answer, the Department denies the allegations.

43. The Department’s failure to apply the interim use exemption to the 19 pieces of Equipment at issue here is contrary to the Illinois Compiled Statues, the Department Regulations, and case law.

ANSWER: Paragraph 43 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 43 requires an answer, the Department denies the allegations.

ERROR II- COMMECE CLAUSE VIOLATION

44. Illinois’ sales and use tax laws, which treat a purchase for rent as a retail sale subject to sales and use tax [86 Ill. Admin. §130.220(a)], particularly as to its application to an out-of-state business such as Petitioner, violates the Commerce Clause of the United States Constitution. *See U.S. Const. Art. I, §, cl. 3.*

ANSWER: Paragraph 44 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 44 requires an answer, the Department denies the

allegations.

45. To survive Commerce Clause scrutiny, the state taxing measure in question must be construed so that "...the tax [1] is applied to an activity with a substantial nexus with the taxing state, [2] is fairly apportioned, [3] does not discriminate against interstate commerce, and [4] is fairly related to the services provided by the State." *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977).

ANSWER: Paragraph 45 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 45 requires an answer, the Department denies the allegations.

46. The Illinois sales tax on lessors violates multiple prongs of the *Complete Auto* test because it, *inter alia*, discriminates against interstate commerce.

ANSWER: Paragraph 46 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 46 requires an answer, the Department denies the allegations.

47. Petitioner, as an out-of-state seller, cannot compete with its Illinois-based competitors because of the Illinois tax scheme on rentals which differs from its Sister States and discriminates against interstate commerce.

ANSWER: Paragraph 47 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 47 requires an answer, the Department denies the allegations.

ERROR III- OTHER ERRORS

48. The Department's position violates multiple provisions of the Illinois Constitution, the United States Constitution, the Illinois Compiled Statutes, Illinois case law and the common law.

ANSWER: Paragraph 48 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 48 requires an answer, the Department denies the allegations.

49. The Department's position articulated above violates Illinois law, both statutory and the common law, and denies Petitioner multiple rights it is guaranteed under the Illinois and United States Constitutions.

ANSWER: Paragraph 49 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 49 requires an answer, the Department denies the allegations.

50. The Notices violate the Fourteenth Amendment of the United States Constitution because the Department applies a facially neutral law in a discriminatory fashion, unlawfully singling out Petitioner.

ANSWER: Paragraph 50 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 50 requires an answer, the Department denies the allegations.

51. The constitutional mandates of uniformity are violated whenever a particular entity or

taxpayer or class is singled out for special taxation and/or is required to bear a heavier taxing burden than other similarly situated taxpayers are required to bear, and the Department has unlawfully singled out Petitioner.

ANSWER: Paragraph 51 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 51 requires an answer, the Department denies the allegations.

52. No rational basis for the distinction advanced by the Department is presented, nor is there a compelling or even legitimate State interest being served by the distinction advanced by the Department. The classification made by the Department thus being arbitrary, it violates the Illinois Constitution, which proscribes arbitrary conduct on the part of state government. There are no distinctions of relevance between the classes subject to the Department's arbitrary distinctions; therefore, the arbitrary line drawing violations hornbook equal protection doctrine. The position of the Department demonstrates that the classification is arbitrary and capricious, such that it is hostile, oppressive and utterly devoid of a rational basis.

ANSWER: Paragraph 52 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 52 requires an answer, the Department denies the allegations.

53. The Department's position, that the involved tax is owed by Petitioner, is arbitrary, capricious and not in accordance with the Illinois Constitution and the statutes and regulations of Illinois.

ANSWER: Paragraph 53 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 53 requires an answer, the Department denies the allegations.

54. The Department's position disregards the longstanding prior administrative practices of the Department.

ANSWER: Paragraph 54 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 54 requires an answer, the Department denies the allegations.

55. The Department's arbitrary classification and distinction violates Illinois law, as it defies the administrative regulation promulgation provision of the Illinois Compiled Statutes.

ANSWER: Paragraph 55 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 55 requires an answer, the Department denies the allegations.

56. The Department's actions violate the Doctrine of Contemporaneous Construction.

ANSWER: Paragraph 56 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 56 requires an answer, the Department denies the allegations.

57. The Illinois Constitution confers upon Petitioner the right that no one of Illinois's three branches of government shall exercise any power properly belonging to either of the others;

specifically, the Department, a part of the executive branch, shall not exercise the legislative power vested in the Illinois Legislature by administratively adding to or detracting from the involved statutes.

ANSWER: Paragraph 57 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 57 requires an answer, the Department denies the allegations.

58. Petitioner respectfully requests the Illinois Independent Tax Tribunal issue an order: stating that the interim use tax exemption applies to the heavy equipment rented by Petitioner; stating that Petitioner is not subject to the tax and interest assessed; canceling the Notices; and, awarding Petitioner such other relief as the Tribunal may deem appropriate.

ANSWER: Paragraph 58 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. To the extent Paragraph 58 requires an answer, the Department denies the allegations.

WHEREFORE, the Department prays that the Tribunal enter an order:

- a. denying the prayer for relief in the Petitioner's Petition in its entirety;
- b. finding that the Notices of Tax Liability at issue are correct as issued;
- c. ordering judgment in favor of the Department and against the Taxpayer; and
- d. granting such further relief as this Tribunal deems appropriate under the circumstances.

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Date: June 25, 2015

Respectfully submitted,
Illinois Department of Revenue,

By: /s/ Ashley Hayes Forte
Ashley Hayes Forte
Special Assistant Attorney General

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**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

RUDD EQUIPMENT COMPANY, INC.,)

Petitioner,)

v.)

Case No. 15-TT-99

Conway

DEPARTMENT OF REVENUE)

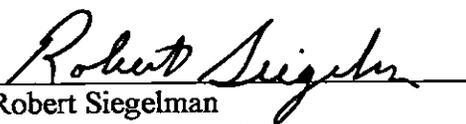
OF THE STATE OF ILLINOIS,)

Respondent.)

**AFFIDAVIT OF ROBERT SIEGELMAN
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

1. I am currently employed by the Illinois Department of Revenue in the Audit Bureau.
2. My current title is Revenue Auditor III.
3. I lack the personal knowledge required to either admit or deny the allegations alleged and neither admitted or denied in Petitioner's Petition Paragraphs 5-10, 17-19, 24-27, 36, and 40.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he (she) verily believes the same to be true.



Robert Siegelman
Revenue Auditor III
Illinois Department of Revenue

DATED: 6/25/2015