

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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<b>WASTE MANAGEMENT OF ILLINOIS, INC.,</b>	)	
	)	
	)	
<b>Petitioner,</b>	)	<b>Chief Judge James M. Conway</b>
	)	
v.	)	<b>No. 15-TT-130</b>
	)	
<b>THE ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
	)	
	)	
<b>Respondent.</b>	)	

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**NOTICE OF FILING**

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PLEASE TAKE NOTICE, that on June 22, 2016, the undersigned representatives for the Illinois Department of Revenue (the "Department") filed The Illinois Department Of Revenue's Cross-Motion For Summary Judgment And Response To The Taxpayer's Motion For Summary Judgment and Supporting Memorandum with the Illinois Independent Tax Tribunal, located at 160 North LaSalle Street, Room N506, Chicago, IL 60601, by filing its Motion via email. The Respondent requests that oral argument be scheduled based on the Tribunal's convenience.

Respectfully,  
/s/Michael Coveny  
Michael Coveny

/s/Seth J. Schriftman  
Seth J. Schriftman

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**THE ILLINOIS DEPARTMENT OF REVENUE’S CROSS-MOTION FOR SUMMARY  
JUDGMENT AND RESPONSE TO THE TAXPAYER’S MOTION FOR SUMMARY  
JUDGMENT**

The Illinois Department of Revenue (the “Department”) pursuant to the Tribunal’s Orders of March 17, 2016 and May 24, 2016 and Section 2-1005 of the Illinois Code of Civil Procedure, by and through its Special Assistant Attorneys General, Michael Coveny and Seth J. Schrifman, respectfully requests entry of summary judgment against the Petitioner, Waste Management of Illinois, Inc. (“WMI”), on Counts I, II, and III of the underlying Petition. In support of its Motion, the Department submits the attached Memorandum In Support with attached exhibits, and states:

1. Summary judgment should be granted if there is “no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c). There is no disputed genuine issue of material fact in this matter. The primary issue is whether compressed natural gas (“CNG”) is a taxable substance under the Motor Fuel Tax Law (“MFTL”). If so, the Tribunal should find that the issued thirty-two Notices of Tentative Denial (“Notices”) are correct and should be upheld.

2. Section 1.1 of the MFTL defines “Motor Fuel” as: “all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. *Among other things*, ‘Motor Fuel’ includes ‘Special Fuel’ as defined in Section 1.13 of this Act.” 35 ILCS 505/1.1 (emphasis added). Although WMI simply refers to the word “liquids” to state that CNG is not taxable under the MFTL, the term “Motor Fuel” is ambiguous, or at the very least open to two reasonable interpretations in the context of the MFTL.

3. Because the MFTL’s definition of taxable “Motor Fuel” is ambiguous, under standard canons of statutory interpretation which focus on legislative intent and analyzing the MFTL in its entirety to not exclude any term or create an absurd result, CNG is clearly taxable under the MFTL and related regulations. Also, the MFTL regulations at issue were properly promulgated, revised, and enforced. Thus, the Department respectfully requests that the Tribunal enter judgment for the Department for Count I.

4. The MFTL regulations discussed the taxability of CNG years prior to the issuance of the Notices. The Department’s MFTL regulations for CNG did not impermissibly apply the MFTL nor does the scope of the regulations expand beyond the scope of the MFTL. There has also been no violation of Article II, Section 1 and Article IX, Section 1 of the Illinois Constitution of 1970. Thus, the Department respectfully requests that the Tribunal enter judgment for the Department for Count II.

5. The MFTL regulations discussed the taxability of CNG years prior to the issuance of the Notices. The Department’s statements contained within the Notices at issue did not constitute a “rule” or policy of broad applicability, prior to the adoption of the MFTL regulations at issue, which violated the Illinois Administrative Procedure Act. The Department also did not

apply MFTL regulations retroactively. Thus, the Department respectfully requests that the Tribunal enter judgment for the Department for Count III.

Dated: June 22, 2016

Respectfully submitted,

/s/ Michael Coveny

Michael Coveny

/s/ Seth Schriftman

Seth Schriftman

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