

Industrial Drive, Bridgeview, Illinois 60455. Its telephone number is 708-598-2300.

3. Petitioner's taxpayer account number is 13664-74016.

4. On April 25, 2016, the Chief Administrative Law Judge, Terry D. Charlton, granted a late discretionary hearing in the Tribunal jurisdiction, conditioned upon this Petition being filed with the Tribunal within sixty (60) days of April 25, 2016. A copy of this ruling by Judge Charlton is attached to this Petition as Exhibit B and is incorporated by reference herein.

5. This Petition was filed with the Tribunal within sixty days of April 25, 2016.

BACKGROUND AND RELEVANT FACTS

6. Petitioner is a dealership in the business of selling cranes to the public.

7. In other words, Petitioner purchases cranes from manufacturers and other companies, and resells them.

8. On February 19, 2015, the Illinois Secretary of State issued a Certificate of Authority to Petitioner to be a dealership for Elliott Boom Trucks in the Midwest market. A copy of the Certificate of Authority is attached to this Petition as Exhibit C and is incorporated by reference herein.

9. On April 11, 2015, Petitioner purchased a 2015 Peterbilt crane, model 367, with Vehicle Identification Number 1NPTX4TX5FD283868 ("Crane") from Elliott Equipment Company as part of this new dealership arrangement. This vehicle has an MV # of 073957151.

10. This Crane was transported into Illinois on July 31, 2015.

11. Petitioner immediately put the Crane up for sale upon its arrival in Illinois.

12. Petitioner filed a RUT-25 form with the Illinois Department of Revenue for this Crane. The RUT-25 form was filed in error in that it did not identify Petitioner as being exempt

from sales tax on this transaction as a retailer and the Crane was being used for Petitioner's interim use only.

13. Petitioner later recognized this error and filed a corrected RUT-25, identifying the retailer exemption, and showing the tax due as \$0. A copy of the corrected RUT-25 is attached to this Petition as Exhibit D and is incorporated by reference herein.

14. The Crane has not yet been sold. However, Petitioner continues to hold the Crane for resale.

15. Petitioner has obtained an active registration/resale number and ST-566 Transaction Return Account from the Department. That number is 2881-8113.

16. When the Crane is sold, Petitioner will file a 556ST form with the Department reflecting the tax for the resold Crane.

APPLICABLE LAW

17. Under Illinois statutes and regulations, when a vehicle such as a crane is purchased from an out of state company for the purpose of resale, and therefore is being held on an interim basis, the purchaser is exempt from paying tax on that vehicle. See Illinois Department of Revenue Regulations Title 86 Part 130 Section 130.210.

ERROR

18. In this instance, Petitioner purchased the Crane from an out of state company, as a dealer or distributor for that out of state company.

19. Petitioner purchased the Crane and transported it to Illinois with the intention of holding it on an interim basis only in order to resell it.

20. Petitioner continues to market and attempt to resell the Crane.

21. Petitioner is registered as a retailer with the State of Illinois. Its Illinois Account Identification Number is 2881-8113.

22. Accordingly, Purchaser should owe no tax on the purchase of the Crane, nor pay any penalties or interest related to this exempt tax.

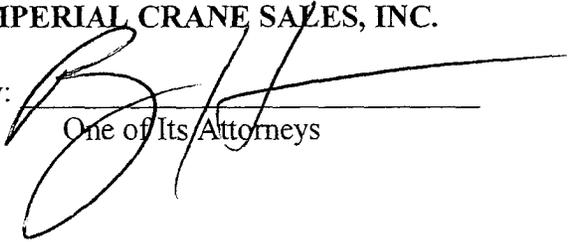
CONCLUSIONS AND RELIEF REQUESTED

23. Petitioner requests this Tribunal overturn the assessment of the vehicle use tax against Petitioner for its purchase of the Crane, and rather, find that purchase to be exempt from such tax.

24. Petitioner further requests that all penalties and interest assessed against it for this transaction be withdrawn or rescinded.

WHEREAS, Petitioner requests that the Notice be canceled for the reasons contained herein.

IMPERIAL CRANE SALES, INC.

By: 

One of Its Attorneys

Ryan A. Hiss
Lyman & Nielsen, LLC
1301 W. 22nd Street, Suite 914
Oak Brook, Illinois 60523
630-575-0020
ARDC: 6274367

#4402

Notice of Tax Liability

for Form RUT-25, Vehicle Use Tax Transaction Return



December 3, 2015 TDD 1 800 644-5304



Letter ID: CNXXXX3215262885

Account ID: 13664-74016
Date brought into IL: Jul 31, 2015

MV: 073957151
ID: 1NPTX4TX5FD283868

#BWNKMGV
#CNXX XX32 1526 2885#
IMPERIAL CRANE SALES INC
9735 INDUSTRIAL DR
BRIDGEVIEW IL 60455-2311

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.
- 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.

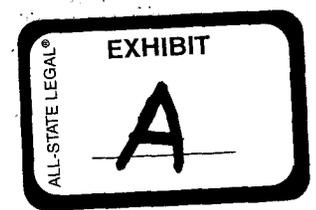
If you agree, please use the voucher on the enclosed Taxpayer Statement to make your payment.

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 | 29,240.00 | 0.00 | 29,240.00 |
| Late-Payment Penalty | 2,924.00 | 0.00 | 2,924.00 |
| Interest | 225.90 | 0.00 | 225.90 |
| Assessment Total | \$32,389.90 | \$0.00 | \$32,389.90 |

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



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 February 1, 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.



Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS
Willard Ice Building
101 West Jefferson Street – Level 5SW
Springfield, IL 62702
(217)782-6995

April 25, 2016

David Dobson
Imperial Crane Sales Inc.
9735 Industrial Drive
Bridgeview, IL 60455

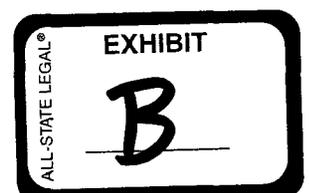
Re: Late Discretionary Hearing Granted – Tribunal Jurisdiction
Imperial Crane Sales Inc.
Notice of Tax Liability dated December 3, 2015
Account ID: 13664-74016
Letter ID: CNXXXX3215262885

Dear Mr. Dobson:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing regarding Imperial Crane Sales Inc., and the above notice. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary hearing for the above notice.

The amount of liability at issue for this protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest or \$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for late discretionary hearings that are granted on or after January 1, 2014. For late discretionary hearings that are granted on or after January 1, 2014 and that exceed the statutory amount, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.*

The Tax Tribunal's website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer shall file a petition with the Tax Tribunal within 60 days and shall attach a copy of the letter granting the late discretionary hearing.** See Subsection (a)(5) of Section 5000.310 of the Tax Tribunal's rules. Please note that the Tax Tribunal has different requirements than the Department for



filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

I recommend that you review the information provided on the Tax Tribunal's website and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton". The signature is written in a cursive style with a large initial "T".

Terry D. Charlton
Chief Administrative Law Judge

TDC:vs

CERTIFICATE OF AUTHORITY

Jesse White

DEALER DL7250
DRS 1500064061

Secretary of State
State of Illinois

VOID AFTER DECEMBER 31, 2015
CORPORATION

BOHNE, BERKSHIRE,
BOHNE, JEFFREY,
BOHNE, LANCELOT, A
DOBSON, DAVID, A

IMPERIAL CRANE SALES INC

9735 S INDUSTRIAL DR
BRIDGEVIEW IL 60455

Type of Vehicles Dealt in ELLIOT EQUIPMENT REPAIRER

Principal Place of Business 9735 S INDUSTRIAL DR BRIDGEVIEW IL 60455

Supplemental Certificate Numbers NONE

Now, therefore, I, Jesse White, Secretary of State of the State of Illinois, do hereby license the aforementioned business, as provided under the Illinois Vehicle Code, at the above address or addresses until the 31st day of December, 2015 unless this license is revoked before the date as provided.



WITNESS MY HAND AND SEAL OF THE STATE OF ILLINOIS, THIS 19TH DAY OF FEBRUARY, 2015

Jesse White

Secretary of State



Return Correction Notice

Rev 8 Form 234

for Form RUT-25, Vehicle Use Tax Transaction Return

CA NS E S 1 1

Account ID: 13664-74016

BDN: 1524082301068

Date brought into IL: Jul 31, 2015

MV: 073957151

Step 1: Describe the item

1 Year: 2015 5 Purchase date: 04/14/2015
 2 Make: Peterbilt/Elliott 6 Date brought to Illinois: 07/31/2015
 3 Model: 367
 4 Identification Number (VIN) (HIN) (N):
1 N P T X 4 T X 5 F D 2 8 3 8 6 8

Step 2: Mark the line that best describes your transaction if exempt from tax.

If your transaction is not exempt, skip to Step 3.

- a Organization with tax-exempt status. You must provide exemption number: E _____
- b Farm implement or ready-mix concrete truck
- c Rolling stock. You must provide certificate of authority number: _____
- d Rental (auto, RV, or motorcycle rental business).
You must provide Illinois Account ID: _____
- e Retailer for interim use only. You must provide Illinois Account ID: 2881-8113
- f You are an out-of-state resident (individuals only) and the item was used outside Illinois for at least 3 months.
- g Redemption due to loan default

Step 3: Figure your tax due. Attach a copy of the purchase agreement or invoice. You must round your figures to whole dollars.

| | A | B | C |
|--|--------------------------|--------------------|-------------------|
| | Your most recent figures | Department figures | Corrected figures |
| 1 Purchase price before trade-in, discount, rebates, or incentives | 0.00 | 403,308.00* | 1 <u>403,308</u> |
| 2 Trade-in or discount | 0.00 | 0.00 | 2 <u>0</u> |
| 3 Net purchase price. Subtract Line 2 from Line 1. | 0.00 | 403,308.00* | 3 <u>403,308</u> |
| 4 Depreciation for out-of-state use | 0.00 | 0.00 | 4 <u>0</u> |
| 5 Taxable amount. Subtract Line 4 from Line 3. | 0.00 | 403,308.00* | 5 <u>0</u> |
| 6 Tax [Line 5 x <u>7.25%</u>] | 0.00 | 29,240.00* | 6 <u>0</u> |
| 7 Write the amount of credit you are allowed for taxes paid to another state or retailer. Write the state or retailer here. _____ Attach proof of tax paid. | 0.00 | 0.00 | 7 <u>0</u> |
| 8 Tax due. Subtract Line 7 from Line 6. | 0.00 | 29,240.00* | 8 <u>0</u> |

Step 4: Signature Declaration.

Under the penalties of perjury, I state that I have examined this return and, to the best of my knowledge it is true, correct, and complete.

David A. Robinson CFO

3/3/16

Your signature

Date

Return this notice, only if you are making corrections, to P.O. Box 19006, Springfield, IL 62794-9006.

This form is authorized as outlined in the tax or fee Act imposing the tax or fee for which this form is filed. Disclosure of this information is required. Failure to provide information may result in this form not being processed and may result in a penalty.

