

ILLINOIS INDEPENDENT TAX TRIBUNAL

<p>Martin Equipment of Illinois, Inc., an Illinois Corporation,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>Illinois Department of Revenue,</p> <p style="text-align: center;">Respondent.</p>	<p>No. 18-TT-86</p> <p>Judge Brian Barov</p>
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**SUPPLEMENTAL EVIDENCE SUBMITTED IN SUPPORT OF
MOTION OF MARTIN EQUIPMENT FOR SUMMARY JUDGMENT**

The Petitioner, Martin Equipment of Illinois, Inc. (“Martin”), by and through its attorneys, Sutkowski Law Office Ltd., submits this supplemental evidence in support of its motion for summary judgment:

**PROCEDURAL
BACKGROUND**

Martin supported its Motion for Summary Judgment (“Motion”) by providing the affidavit of Delene Bane describing the operation of certain credit programs (the “Deere Credits”) that John Deere & Co. (“Deere”) had in place during the audit period. In its response, the Department of Revenue (“Department”) submitted certain documents (the “Deere Bulletins”) provided in discovery, which were bulletins issued by Deere describing the Deere Credits. At a hearing conducted on August 7, 2019, the Court ordered that the record would remain open so that Martin could provide additional Deere Bulletins or

other documents previously disclosed in discovery to support its Motion.

Attached hereto and submitted herewith are the following such documents:

1. [REDACTED] Bulletins having the following dates:
 - a. November 1, 2012;
 - b. October 26, 2012;
 - c. April 3, 2012; and
 - d. April 27, 2012.

(Note: upon review of the audit file, Martin has confirmed that the Department did not assess any additional tax for Deere Credits issued under this program. The Department did not consider credits issued under this program to constitute “gross receipts” during its audit as set forth in the attached email exchange. During the hearing on Martin’s Motion for Summary Judgment, counsel erroneously indicated that credits under this program constituted a portion of the tax liability under the Court’s review.)

2. [REDACTED] Bulletins having the following dates:
 - a. February 1, 2013; and
 - b. March 6, 2013.
3. [REDACTED] Bulletins having the following dates:
 - a. August 3, 2012;
 - b. November 5, 2012;
 - c. July 1, 2013;

d. January 1, 2014; and

e. October 10, 2014.

4. [REDACTED] Bulletins having the following dates:

a. August 15, 2011;

b. October 26, 2013;

c. April 1, 2014; and

d. November 1, 2014.

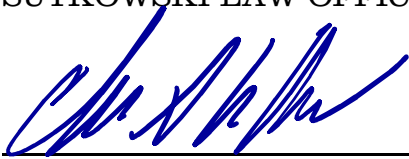
5. [REDACTED] Bulletin having the date of May 1, 2013.

6. [REDACTED] Bulletin having a date of August 12, 2014.

Respectfully submitted,

Martin Equipment of Illinois, Inc.

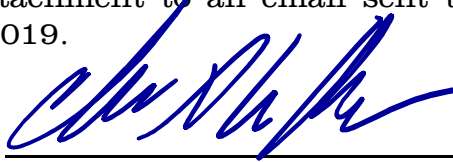
By: SUTKOWSKI LAW OFFICE LTD.

By: 

(One of its attorneys)

CERTIFICATE OF SERVICE

Under penalties as provided by Section 2-109 of the Code of Civil Procedure, the undersigned certifies that a copy of the forgoing document was served upon Michael Coveny, as counsel for the Illinois Department of Revenue, by transmitting the same as an attachment to an email sent to the address Michael.Coveny@Illinois.gov; and Jordan Vick, as counsel for John Deere & Co, by transmitting the same as an attachment to an email sent to the address jvick@seyfarth.com on August 15, 2019.



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Counsel

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chuck@sutlawoffice.com

ed@sutlawoffice.com

From: [Tony Gurdian](#)
To: [Charles LeFebvre](#)
Subject: FW: 2012-2014 Audit-JD Bonuses
Date: Monday, August 12, 2019 12:55:30 PM
Attachments: [Ogden Chrysler Plymouth \(bonus-incentives\).pdf](#)
[130.2125 Dealer Rebates & Incentives.pdf](#)

Below is a reply from the auditor.

E. Anthony Gurdian

Controller

Martin Equipment | 400 West Martin Drive | Goodfield, IL 61742

Office: 309-965-2502, ext 1122

Mobile: 309-635-0493

email: tonyg@meoi.com

www.meoi.com

From: Dye, Kendra <Kendra.Dye@Illinois.gov>
Sent: Friday, August 9, 2019 12:35 PM
To: Tony Gurdian <tonyg@meoi.com>
Subject: RE: 2012-2014 Audit-JD Bonuses

If there is a requirement for multiple units be sold before getting the bonus and the bonus cannot be tied to a specific sale, then the bonus is not taxable.

From: Tony Gurdian <tonyg@meoi.com>
Sent: Friday, August 9, 2019 9:58 AM
To: Dye, Kendra <Kendra.Dye@Illinois.gov>
Cc: Charles LeFebvre <chuck@taxandestate.law>
Subject: [External] 2012-2014 Audit-JD Bonuses

Kendra,

While discussing the JD Bonuses, you agreed that Dealer Discretionary Funds (DDF) and Multi-Unit Discounts(MUD) were not considered taxable bonuses and therefore were excluded in your proposed audit adjustment. Can you provide any notes/emails that document your conclusion?

Thanks

E. Anthony Gurdian

Controller

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**EXHIBITS
FILED UNDER SEAL**