

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

VOLVO SALES & SERVICE CENTER,)
INC.,)
)
Petitioner,)
)
v.)
)
ILLINOIS DEPARTMENT OF REVENUE,)
)
Respondent.)
)
)
)

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JOINT STATUS REPORT

NOW COMES the parties, by and through their respective attorneys, and hereby provide the following joint status report:

1. The primary issue in this matter involves whether Petitioner is entitled to advance trade credits under the Retailers' Occupation Tax Act and the Department's corresponding regulation, 86 Ill. Admin. Code § 130.455, where the traded-in vehicles and the replacement vehicles were titled in the names of two different, but related, entities.

2. A matter currently before the Circuit Court for the Seventh Judicial Circuit of Illinois Sangamon County, Springfield, Illinois presents the same issue. *Van Drunen Ford Company v. Illinois Department of Revenue*, Case No. 2009-TX-001/4.

3. Because the issue in the *Van Drunen* case is the same as the issue in the present case, the Circuit Court's decision in *Van Drunen* will impact resolution of this matter. The parties therefore previously requested that the Tribunal stay this case pending the outcome of *Van Drunen*. On April 9, 2014, the Tribunal entered an order staying this case and directing the parties to file a status report by May 15, 2014.

4. The parties' in *Van Drunen* have both filed motions for summary judgment, and

those motions were heard on April 15, 2014. Following the hearing, the Circuit Court entered an order granting Van Drunen Ford Co.'s motion for summary judgment and denying the Department's motion for summary judgment. A copy of the Circuit Court's order is attached.

5. The Department's time for filing an appeal in *Van Drunen* has not yet expired, and therefore there is not yet a final, unappealable decision in that case. The parties will notify the Tribunal once that deadline expires on whether the Department has filed a notice of appeal.

WHEREFORE, the parties request that the Tribunal continue to keep this matter on the Stay Calendar until there is a final, unappealable decision in *Van Drunen Ford Company v. Illinois Department of Revenue*, Case No. 2009-TX-001/4.

Respectfully submitted,

Volvo Sales & Service Center, Inc.; Petitioner By:  One of its Attorneys	Illinois Department of Revenue, Respondent By:  One of its Attorneys
Fred O. Marcus Jennifer A. Zimmerman HORWOOD MARCUS & BERK CHTD. 500 West Madison Street, Suite 3700 Chicago, Illinois 60661 (312) 606-3200	Michael Coveny ILLINOIS DEPARTMENT OF REVENUE 100 W Randolph Street, 7 TH Floor Chicago, IL 60601 (312) 814-6697

Judge: GRAVES

06/23/2009 Certification of Service Jun 23, 2009 Mailed

See attached.

08/07/2009 Answer to Amended Verified Complaint for Preliminary and Permanent
Filed by Defendant: IL DEPT OF REVENUE

Injunctive Relief and for Declaratory Judgment.

09/03/2013 Notice of Filing Filed by Plaintiff's Attorney: JAMES DUNN

09/03/2013 Motion for Summary Judgment Filed by
Plaintiff's Attorney: JAMES DUNN

11/12/2013 Motion Cross For Summary Judgment Filed by
Assistant Attorney General: OFFICE OF ATTORNEY GENERAL

11/12/2013 Memorandum in Support of its Cross-Motion For Summary Judgment
Filed by Assistant Attorney General: OFFICE OF ATTORNEY GENERAL

01/10/2014 Opposition to Plaintiff's Motion For Summary Judgment Filed by
Assistant Attorney General: OFFICE OF ATTORNEY GENERAL

01/14/2014 Notice of Filing Filed by

04/15/2014 Entry

Present for the Plaintiff by Attorney's HARRIS and MARCUS. Present for
the Respondent by Special Assistant Attorney General KATICH. Matter
called on for Cross Motions on Summary Judgment. Arguments heard.
Court takes the matter under advisement. Court will make a ruling
within 5 business days.

Judge: SCHMIDT Clerk: JL

04/15/2014 Entry

This matter comes before this Court on cross motions for summary
judgment. Both sides agree there is no issue of material fact present
and all that remains is a question of law.

After review of the pleadings, and exhibits and arguments of counsel
the court finds as follows:

1. CAB West is not a separate entity from Ford Motor Company Credit.
2. For purpose of 86 Ill. Admin. Code 130.455(a) Ford Motor Company
Credit was the owner of the vehicles traded.

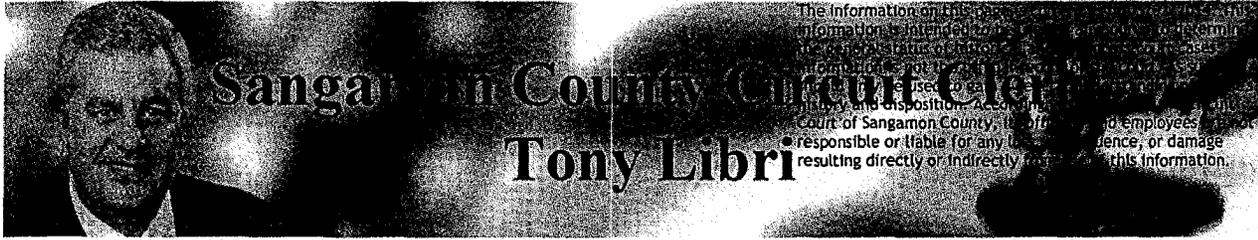
Therefore, the Court finds the Illinois Department of Revenue's audit
determination is erroneous and contrary to Illinois law, and Ford
Motor Company Credit is the owner of the vehicles regardless how they
are titled and the Plaintiff has met all the requirements imposed by
the statutes and regulations for excluding the advance trade-in
credits when computing the tax owed on the sales. The Plaintiff's
motion for summary judgment is allowed and the Defendant's motion for
summary judgment is denied. This is a final an appealable order with
no just cause to delay its enforcement. CLERK IS DIRECTED TO SEND A
COPY OF THIS DOCKET ENTRY TO ALL PARTIES OF RECORD.

Judge: SCHMIDT Clerk: JL

04/15/2014 Proof of Service Apr 15, 2014 Sent Plaintiff's Attorney: JAMES DUNN

Defendant's Attorney: WILLIAM KATICH

Judge: SCHMIDT Clerk: JL



Sangamon County Circuit Clerk
 Tony Libri

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Docket detail for case 2009-TX-0001/4:

Case: 2009-TX-0001/4 Type: Injunction Assigned Judge: BELZ
 Filed: 05/06/2009 Status: Open Report: Open

	Case Participant	Attorney
Plaintiff	VAN DRUNEN FORD COMPANY	JAMES DUNN
	vs.	
Defendant	IL DEPT OF REVENUE	WILLIAM KATICH
Defendant	BRIAN HAMER	
Defendant	ALEXI GIANNOULIAS	

05/06/2009 Injunction Fee: \$193.00 Plaintiff: VAN DRUNEN FORD COMPANY
 Defendant: IL DEPT OF REVENUE

05/06/2009 Summons Issued
 05/07/2009 Summons Served

Summons served Illinois Department of Revenue, Brian Hamer, Illinois
 State Treasurer

05/11/2009 Petition Filed by Plaintiff's Attorney: JAMES DUNN
 Motion and Petition for Admission Pro Hac Vice

05/11/2009 Affidavit Filed by
 Affidavit of Peter Larsen

05/13/2009 Agreed Order Signed Judge: GRAVES
 Preliminary Injunction

05/13/2009 Agreed Order Signed Judge: GRAVES

05/13/2009 Certification of Service May 13, 2009 Filed by
 Plaintiff's Attorney: JAMES DUNN
 Served Illinois Dept of Revenue, Brian Hamer, Treasurer of the State
 of Illinois with Agreed Preliminary Injunction Order

06/12/2009 Motion for Extension of Time to Answer or Otherwise Plead Filed by
 Filed by William Katich Special Assistant Attorney General

06/22/2009 Order Signed Judge: GRAVES
 Agreed Order Extending Time of Defendants to Answer or Otherwise Plead

06/22/2009 Motion for Leave to File an Amended Verified Complaint Filed by
 Plaintiff's Attorney: JAMES DUNN

06/22/2009 Motion for Preliminary Injunction Filed by
 Plaintiff's Attorney: JAMES DUNN

06/23/2009 Amended Complaint Filed by Plaintiff's Attorney: JAMES DUNN
 Amended Verified Complaint for Preliminary and Permanent Injunctive
 Relief and for Declaratory Judgment

06/23/2009 Pleading Preliminary Injunction Order Signed Judge: GRAVES

06/23/2009 Order for Leave to File Amended Verified Complaint Signed