

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

MIDWEST MEDICAL EQUIPMENT SOLUTIONS, INC.,)	
)	
Petitioner)	
v.)	Case Nos. 17-TT-120; 19-TT-93; and 21-TT-77
)	
ILLINOIS DEPARTMENT OF REVENUE,)	Chief Judge James M. Conway
)	
Respondent.)	

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

NOTICE OF FILING

TO:
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PLEASE TAKE NOTICE, that on March 17, 2022, 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 Petitioner’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 and Supporting Memorandum via email.

The Department requests that oral argument be scheduled based on the Tribunal’s convenience.

Respectfully submitted,
/s/Seth J. Schriftman
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/s/Konstantina J. Tsatsoulis
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JUDGMENT**

The Illinois Department of Revenue (the “Department”) pursuant to the Illinois Independent Tax Tribunal’s Order of December 2, 2021, and Section 2-1005 of the Illinois Code of Civil Procedure, by and through its Special Assistant Attorneys General, Seth J. Schriftman and Konstantina J. Tsatsoulis, respectfully requests entry of summary judgment against the Petitioner, Midwest Medical Equipment Solutions, Inc. (“Midwest Medical”). In support of its Motion, the Department submits the attached Memorandum in Support with attached exhibits, and states:

1. The Department is entitled to judgment as a matter of law because the reimbursements that Midwest Medical received from managed care organizations (“MCOs”) for durable medical equipment (“DME”) sold to Medicaid enrollees are not exempt from Retailers’ Occupation Tax (“ROT”) under the governmental body exemption of the Retailers’ Occupation Tax Act (the “ROTA”), applicable regulations, and applicable case law. 35 ILCS 120/2-5(11); 86 Ill.Admin.Code 130.2080(a); *see, e.g., Lombard Pub. Facilities*

Corp. v. Dep't of Revenue, 378 Ill.App.3d 921 (2nd Dist. 2008); *Safety-Kleen Systems, Inc. v. Dep't of Revenue*, 2020 IL App (1st) 191078; *Subway Rests. of Bloomington-Normal, Inc. v. Topinka*, 322 Ill.App.3d 376 (4th Dist. 2001); *JB4 Air LLC v. Dep't of Revenue*, 388 Ill.App.3d 970 (2nd Dist. 2009); *United States v. New Mexico*, 455 U.S. 720 (1982).

2. The Department has filed a Memorandum in Support of its Cross-Motion for Summary Judgment and Response to Petitioner's Motion for Summary Judgment contemporaneously with this motion, which it hereby incorporates by reference as if fully set forth herein.

WHEREFORE for the foregoing reasons Respondent, Illinois Department of Revenue, prays that this Honorable Tribunal grant summary judgment in its favor and against the Petitioner, Midwest Medical Equipment Solutions, Inc., uphold the assessments contained within the three Notices of Tax Liability at issue, and grant any other relief that is just and appropriate.

Dated: March 17, 2022

Respectfully submitted,
/s/Seth J. Schriftman
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/s/ Konstantina J. Tsatsoulis
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