

INDEPENDENT TAX TRIBUNAL OF ILLINOIS

HELICOPTERS, INC.)
)
 Petitioner,)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Respondent.)

RECEIVED
APR 16 2014

CASE NO.: BY: _____
147768

PETITION

NOW COMES Helicopters, Inc. ("Taxpayer") and for its Petition protesting the Notice of Tax Liability assessing use tax relating to the acquisition of Helicopter 21BK and states as follows:

1. Petitioner is Helicopters, Inc. which has offices at 5000 Omega Drive, Cahokia, Illinois 62206, telephone number 618-337-2903.
2. William A. Brasher is the attorney for Petitioner whose mailing address is:

 William A. Brasher
 Boyle Brasher LLC
 211 N. Broadway
 Suite 2300
 St. Louis, MO 63102
3. The Taxpayer's tax identification number is 43-1252563.
4. Attached hereto as Exhibit "A" is a copy of the Statutory Notice at issue received from the Illinois Department of Revenue on or about January 29, 2014.
5. The tax year involved in this proceeding is 2008.
6. Petitioner filed its Notice of Protest and Request for Discretionary Administrative Review with supporting documentation with the Department of Revenue on or about February 10, 2014. The Request for Discretionary Hearing was granted by the Honorable Terry D.

Charlton, Chief Administrative Law Judge, Illinois Department of Revenue (*See* attached Exhibit B).

7. Helicopters, Inc. originally protested the assessment of use tax on the acquisition of the aircraft based on the temporary storage exemption. 86 Ill. Adm. Code 153.310(a)(4) and or 35 ILCS 105/3-55(e).

8. The aircraft, if used in service, would qualify, pursuant to the rolling stock exemption, but under 35 ILCS 105/3-55, in lieu of placing the aircraft in service, it was placed in temporary storage.

9 Helicopters, Inc. is a certified common carrier in interstate service subject to the jurisdiction of the Federal Aviation Administration (FAA) whose aircraft must be approved for use in service by the FAA.

10. Helicopter 21BK was not placed in service and instead was stored pursuant to 86 Ill. Adm. Code 153-310(a)(4) and/or 35 ILCS 105/3-55(e).

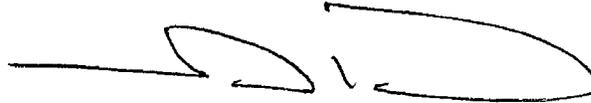
11. The Department of Revenue has erred in concluding that use tax is owed on the aircraft at issue (21BK) as the aircraft was:

- a. Acquired out of state;
- b. Not used in service in Illinois;
- c. Not authorized for use in Illinois; and
- d. Temporarily stored until sold to an out of state purchaser.

12. As a result of the failure of the Department of Revenue to recognize that the temporary storage exemption applies. Petitioner seeks a judgment from this Court that no tax is due and that Petitioner be granted such other and further relief to which it may be entitled.

WHEREFORE, Helicopters, Inc. by and through its attorney of record,
respectfully requests that after hearing, that it be granted judgment finding that no tax is due as
assessed and that it be awards its costs, fees and expenses herein along with such other and
further relief to which it may be entitled.

BOYLE BRASHER LLC



William A. Brasher
211 North Broadway, Suite 2300
St. Louis, MO 63102
(314) 621-7700
(314) 621-1088 (Facsimile)
wbrasher@boylebrasher.com
Attorney for Helicopters, Inc.

Notice of Tax Liability

for Form EDA-95, Auditor-prepared Motor Vehicle Use Tax Report



#BWNKMGV
#CNXX X1X4 9439 84X9#
HELICOPTERS INC
5000 OMEGA DR
CAHOKIA IL 62206-1469

July 10, 2013



Letter ID: CNXXX1X4943984X9

Account ID: 15343-74656
Date brought into IL: Aug 25, 2008

MV: 025001205
ID: 52380



We have audited your account for the transaction listed above. Below is a summary of the balance.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Audit Tax	99,166.00	0.00	99,166.00
Audit Late Payment Penalty	19,833.30	0.00	19,833.30
Amnesty Penalty	20,083.30	0.00	20,083.30
Audit Late Filing Penalty	250.00	0.00	250.00
Interest	14,788.23	0.00	14,788.23
Amnesty Interest	14,788.23	0.00	14,788.23
Assessment Total	\$168,909.06	\$0.00	\$168,909.06

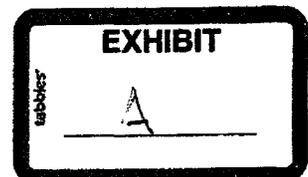
COPY

You may file a protest and request an administrative hearing within 60 days of the date of this notice, which is September 08, 2013. 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. If you do not file a protest within the time allowed, you will give up your right to a hearing and this liability will become final. An administrative hearing is a formal legal proceeding conducted under the rules of evidence and presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.

If you have questions, please write us or call our Springfield office weekdays between 8:30 a.m. and 4:30 p.m. Our address and telephone number are below.

BUREAU OF AUDITS
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579





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

April 11, 2014

William A. Brasher
Boyle Brasher LLC
One Metropolitan Square
211 North Broadway, Suite 2300
Saint Louis, MO 63102

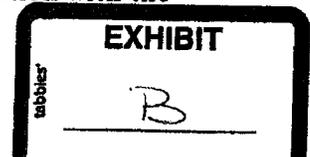
Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Helicopters Inc.
Account ID: 15343-74656
Notice of Tax Liability (“NTL”)
Letter ID: CNXXX1X4943984X9, dated July 10, 2013

Dear Mr. Brasher:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing for Helicopters Inc. regarding the above NTL. I understand that your petition with the Department’s Board of Appeals will be dismissed by the Board since you have sought a discretionary hearing. Based on the information provided in your request, I believe that it is appropriate to grant Helicopters Inc. a late discretionary hearing for the above NTL.

The amount of liability at issue for the 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.*

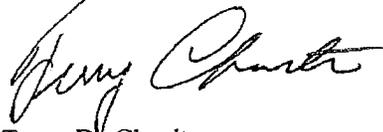
The Tax Tribunal’s website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal’s rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer 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 encourage you to file as quickly as possible with the Tax Tribunal as collection activity will continue until you perfect your filing with 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,



Terry D. Charlton
Chief Administrative Law Judge
Illinois Department of Revenue

TDC