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JB Pritzker
Governor

David Harris
Director

STATE OF ILLINOIS
DEPARTMENT OF REVENUE


TO: The Honorable JB Pritzker
Governor

The Honorable Don Harmon
Senate President

The Honorable Michael J. Madigan
Speaker of the House

The Honorable Dan McConchie
Senate Republican Leader

The Honorable Jim Durkin
House Republican Leader

FROM: David Harris
Director 

DATE: December 30, 2020

SUBJECT: Illinois Department of Revenue FY2020 Annual Report

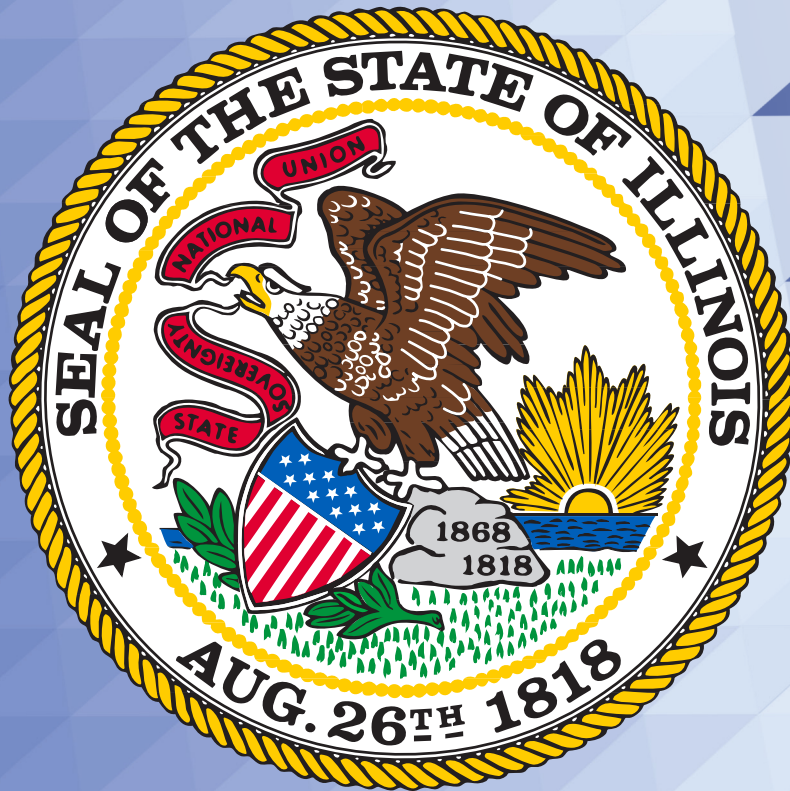
The Illinois Department of Revenue is submitting its Annual Report as required by 30 ILCS 105/3(A), including information required per 20 ILCS 2505/2505-745, for Fiscal Year 2020.

cc: Office of the Governor
Dan Hynes
Alexis Sturm
Ann Spillane
Lisa Duarte
Cameron Mock
General Assembly
Secretary of the Senate
Clerk of the House
Department of Revenue
Richard Sgro
Cory Staley
Andy Chupick

ILLINOIS DEPARTMENT OF REVENUE

Annual Report

Fiscal Year 2020





Annual Report FY2020

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Collections Remitted to the State Comptroller - All Revenue Sources

	Total
Collections by tax/type ¹	
Sales and Use.....	\$15,902,689,735.66
Motor Fuel.....	2,312,499,037.36
Cigarette	859,459,827.51
Senior Citizen Deferral.....	5,898,014.28
Liquor	302,769,590.84
Public Utility	1,387,844,991.75
Hotel.....	355,804,291.17
Liquor Control Commission.....	- 93,475.00 ⁴
Real Estate	88,982,944.22
Gaming	4,935,316.26
Private Vehicle Use.....	46,929,695.80
General Office / Misc.	5,551,111.88
Business Income.....	4,862,780,170.45
Individual Income	21,008,584,670.62
Racing.....	2,744,121.15
Automobile Renting.....	78,126,110.41
Live Adult Entertainment.....	432,546.16
Adult Use Cannabis	52,783,470.89
Intergovernmental	<u>73,871,015.31</u>
	\$47,352,593,186.72

Collections deposited into State Treasury and in-transit to State Comptroller at year end:

Current year	368,250,563.28
Prior year	<u>357,394,157.57</u>
Net change.....	\$10,856,405.71

Comptroller fund receipts ²

Sales and Use.....	15,818,208,264.64
Motor Fuel.....	2,320,159,076.27
Cigarette	850,569,979.23
Senior Citizen Deferral.....	5,836,365.01
Liquor	302,774,685.87
Public Utility	1,396,598,021.74
Hotel.....	379,416,883.25
Liquor Control Commission.....	538,576.00
Real Estate	90,425,803.29
Gaming	4,947,824.55
Private Vehicle Use.....	46,058,165.93
General Office / Misc.	5,180,789.59
Business Income.....	4,858,046,705.18
Individual Income	21,054,486,040.64
Racing.....	2,863,968.66
Automobile Renting.....	78,629,004.14
Live Adult Entertainment.....	426,738.99
Adult Use Cannabis	52,698,872.72
Intergovernmental	<u>73,871,015.31</u>
	\$47,341,736,781.01

Collections reconciled to receipts ³

\$0

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Additional Information

1 Collections by tax/type

Taxpayers remit their payments to the Illinois Department of Revenue (IDOR) using prescribed payment vouchers. The monies collected are deposited into bank accounts held in the custody of the State Treasurer's Office. The amounts showing in the "Collections by tax/type" section reflect the payments received from taxpayers.

2 Comptroller fund receipts

The monies collected are then receipted into State funds maintained by the State Comptroller's Office. The fund receipts are reflected in the section titled "Comptroller fund receipts". The allocation of specific monies to specific funds is governed by various tax acts. Additional information regarding fund receipts can be found in the State Ledger on the Comptroller's website.

3 Collections reconciled to receipts

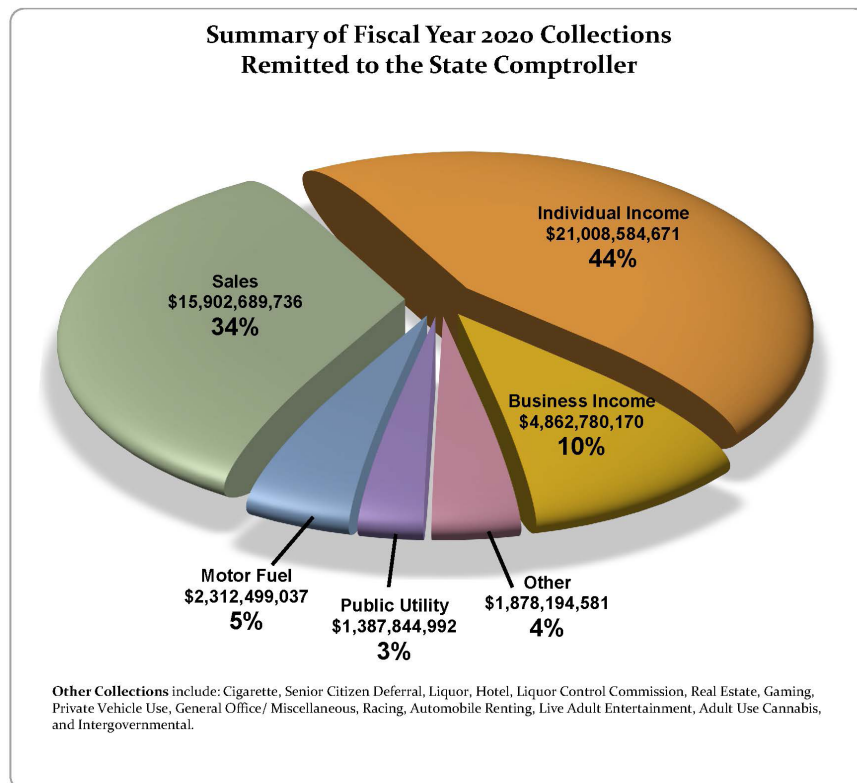
The line "Collections reconciled to receipts" demonstrates any discrepancies between money collected by IDOR from taxpayers and the money ultimately receipted into State funds. Variances between collections and receipts are due to timing differences related to changes in the amount of deposits in-transit to the State Comptroller at the end of the period. This information is provided in the section titled "Collections deposited into State Treasury and in-transit to State Comptroller at year end."

(Total "Collections by tax/type, \$47,352,593,186.72" less "Collections deposited into the State Treasury and in-transit to the State Comptroller, \$10,856,405.71" is equal to "Comptroller fund receipts, \$47,341,736,781.01".)

Information regarding the taxes imposed, rates, form/filing requirements, payment requirements, and statutory authority can be found in the Research/Tax Information section of IDOR's website at tax.illinois.gov. A more detailed version of this schedule with monthly amounts, collections by voucher type, and receipts by fund and revenue source can be found in the Research/Raw Tax Statistics section of the IDOR's website.

Also, updated tax statistics are available at the Research section of IDOR's website. Please see the report "Monthly Collections Remitted to the State Comptroller." This report provides additional details about monthly amounts, collections by voucher type, and receipts by fund and revenue source.

- 4** Public Act 100-0050 separated the Liquor Control Commission from the Department of Revenue making the Commission an independent agency effective July 1, 2019. Please see the FY2019 and FY2020 "Monthly Collections Remitted to the State Comptroller" reports for additional details.





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Illinois Department of Revenue Legislative Summary

Income Tax

Senate Bill 689, Public Act 101-0009

Blue Collar Jobs Act - Creates a High Impact Business and Enterprise Zone construction jobs credit effective January 1, 2021. High Impact Businesses may receive tax credits against the tax imposed under the Illinois Income Tax Act in an amount equal to 50% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees employed in the course of completing a High Impact Business construction jobs project. However, the High Impact Business construction jobs credit may equal 75% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees if the High Impact Business construction jobs credit project is located in an underserved area. The total aggregate amount of credits awarded shall not exceed \$20 million in any State fiscal year.

Senate Bill 1857, Public Act 101-0645

Extends the sunset date for the credit for student-assistance contributions to tax years ending on or before December 30, 2021 (currently December 30, 2020).

Sales and Related Taxes

Senate Bill 690, Public Act 101-0031

Creates the Leveling the Playing Field for Illinois Retail Act. Effective July 1, 2020.

Senate Bill 119, Public Act 101-0604

Changes to the Leveling the Playing Field for Illinois Retail Act. Changed the effective date to January 1, 2021.

House Bill 3902, Public Act 101-0629

Extends the exemption for materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft to December 31, 2024. Retroactive to its original sunset date (December 31, 2014). Prohibits claims for credit from January 1, 2015 – February 5, 2020 (Effective Date of the Act).

General / Miscellaneous

Senate Bill 1881, Public Act 101-0628 (Senate Bill 1881)

Creates the Local Government Revenue Recapture Act. Effective January 1, 2021. Allows third parties to review sales tax information provided to municipalities and counties and to make referrals to the Department for potential non-compliance

* The legislation included in this report was passed by the General Assembly during FY2020. Public Acts 101-0009 through 101-0645 were signed in FY2020.



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Illinois Department of Revenue Court Cases

Income Tax

Sulit v. Illinois Department of Revenue

Illinois Independent Tax Tribunal No. 15 TT 236 (Illinois Independent Tax Tribunal, May 20, 2020)

IDOR issued two Notices of Penalty Liability under section 3-7(a) of the Uniform Penalty and Interest Act, 35 ILCS 735/3-7(a), against Dalisay Sulit, M.D. (“Petitioner”) for failing to pay Illinois income withholding tax as a responsible officer of Alliance Home Healthcare Agency, Inc. (“Alliance”). The first Notice, issued on October 6, 2014, assessed unpaid income withholding tax against the Petitioner for all four quarters of the 2013 calendar tax year and the first quarter of the 2014 calendar tax year. The second Notice, issued on January 9, 2015, assessed unpaid income withholding tax for the second and third quarters of 2014.

In addition to holding the office of president, the Petitioner was also Alliance’s administrator. In this capacity, before the tax years in question, she worked full time managing the business. She not only supervised the nurses who provided home health care but also reviewed medical records, paid bills and managed the company’s finances, with the assistance of her son, Reginaldo, and Alliance’s accountant. In October 2012, after experiencing medical issues, the Petitioner turned over her administrative duties at Alliance to Reginaldo.

As administrator, Reginaldo managed Alliance’s day-to-day operations, including its tax and financial matters. The Petitioner never resigned her title because, according to Reginaldo, “we were hopeful she would recover,” and did not “believe it was necessary.” In January 2013, the Petitioner returned to work “no more than 3 days a week” handling clinical and regulatory matters. Despite the reduction in her role, during the 2013 and 2014 tax periods at issue, the Petitioner and Reginaldo met regularly—at least quarterly—to discuss Alliance’s business and finances.

Petitioner initially denied awareness of unpaid withholding taxes but on cross-examination admitted that Reginaldo made her aware of the withholding tax liability, and that she saw the Department’s notices regarding them. When asked by the chief ALJ whether she was aware that bills were not being paid in 2013, the Petitioner responded that she contributed her own funds to Reginaldo because she knew the company was “having problems.”

The Petitioner retained check-writing authority during the tax periods in issue and continued to write checks at Reginaldo’s direction. The Petitioner signed 53 checks during the tax periods in issue, which amounted to less than 1% of the checks issued during those tax periods and for about 1% of the total value of checks written during the tax periods.

Under the Uniform Penalty and Interest Act (“Act”), 35 ILCS 735/3-7(a), a corporation that incurs a tax liability, but fails to remit those funds, subjects its responsible officers or employees to personal liability, including interest and penalties for the unpaid amounts. See *Cerone v. State*, 2012 IL App (1st) 110214, ¶ 14. Section 3-7(a) liability is “derivative in nature” arising where the corporation has incurred a tax liability that it does not pay. *McLean v. Dep’t of Revenue*, 326 Ill. App. 3d 667, 673-74 (1st Dist. 2001). There are two prongs to section 3-7(a) liability: (1) it is “imposed . . . upon corporate officers or employees who are responsible for the filing of . . . tax returns and payment of taxes due,” and (2) the responsible parties must have “‘willfully’ failed to file such returns or remit such taxes.” *Id.* at 674.

The evidence showed that through the tax periods in question the Petitioner was the majority shareholder and thus retained control of the company and had the power to direct its affairs. She was not merely a passive investor or an official who did not participate in financial decision-making. Rather, Petitioner was in the office on a regular basis and regularly attended meetings with Reginaldo, the company’s accountants and other corporate officials at which she was updated on the company’s finances. She was aware of Alliance’s financial problems and Reginaldo’s attempts to solve them. Knowing these problems, Petitioner also continued to provide Reginaldo with personal funds

Illinois Department of Revenue Court Cases - continued

for the business. The Petitioner had sufficient knowledge, control and authority over Alliance's business affairs to qualify as a responsible officer.

A responsible person acts willfully if she fails to investigate or to correct mismanagement after having notice of nonpayment of withholding taxes; or knows of the business's financial troubles but continues to pay other creditors without making reasonable inquiry as to the status of the withholding taxes. Delegating tax paying duties to other corporate officials or employees does not absolve a responsible officer of personal liability. The same facts supporting a finding that Petitioner was a responsible person also supports a finding that she acted willfully. She was aware not just of Alliance's financial problems but also of the fact it that it was not paying its withholding taxes. Given her power and knowledge, the Petitioner was obligated to show that she took reasonable steps to make sure the taxes were paid. Here, the Petitioner was not incapacitated by illness during the tax periods in issue. She returned to work during those periods and regularly participated in Alliance's financial decision making.

Sales and Related Taxes

Best Buy Stores, L.P. v. Illinois Department of Revenue, 2020 IL App (1st) 191680 (Aug. 14, 2020)

Best Buy designates sales of appliances that coincide with delivery and installation services of those appliances as construction contracts. Under this designation, Best Buy self-assesses Illinois Use Tax, instead of ROT, on the cost of appliances that it considers "permanently affixed" to real estate. Best Buy considers certain installed appliances, including built-in dishwashers, over-the-range microwaves, wall ovens, cooktops installed on counters, range hoods, built-in refrigerators, and gas range/gas dryers to be incorporated into, and permanently affixed to, real estate. The Department issued a Notice of Tax Liability assessing ROT on the sales at issue on the grounds that Best Buy was acting as a retailer, not a construction contractor and that its installation services are incidental to the retail sales, not the other way around. Best Buy paid the liability under protest and challenged the assessment in Circuit Court.

On July 29, 2019, Judge Otto granted the Department's Motion for Summary Judgment, denied Best Buy's Motion for Summary Judgment, and found that Best Buy was acting as a retailer, not a construction contractor. Therefore, the sales at issue are not exempt from ROT. The Court also found that the appliances at issue are not "materials and fixtures" which are "incorporated into a structure as an integral part thereof" once installed (86 Ill. Admin Code 130.1940(c)). The Court found that the appliances at issue are "connected to and operated from a building's electrical, plumbing or other specialized system, but which is not actually a part of any such system and is considered to remain personal property when installed" (86 Ill. Admin Code 130.1940(b)(2)). In addition, the Court rejected Best Buy's Uniformity Clause argument.

Best Buy appealed to the First District Appellate Court. The appellate court applied the "substance of the transaction" test and found that the appliances at issue have value to the purchasers even without the installation services and thus the substance of the transaction test establishes that Best Buy is acting as a retailer and not a construction contractor and the sale of built-in appliances is not merely incidental to a construction contract. The court also rejected Best Buy's claim that requiring it to pay ROT on these transactions would violate the uniformity clause. The court issued its published decision on August 14, 2020 and Best Buy subsequently filed a Petition for Leave to Appeal to the Illinois Supreme Court, which the Court denied.

Kishwaukee Auto Corral, Inc. v. Illinois Department of Revenue, No. 15-TT-234 (Jan. 7, 2020)

Kishwaukee Auto Corral is a used car dealership that provided financing for approved buyers via installment loan contracts secured by the car. Kishwaukee filed refund claims for tax paid on cars where the customers defaulted on the installment contracts. The Department denied the claims because Kishwaukee did not show those defaults as bad debts on its federal income tax returns as required by section 6d of the Retailers' Occupation Tax Act,

Illinois Department of Revenue Court Cases - continued

35 ILCS 120/6d and its implementing regulation, 86 Ill. Admin. Code § 130.1960(d). During the periods at issue Kishwaukee elected to report income and expenses under the cash basis accounting method and thus could not claim a deduction for bad debts under section 166 of the Internal Revenue Code because they do not report receivables as income until the cash is received. Kishwaukee filed a petition in the Illinois Independent Tax Tribunal challenging the denial of its refund claims.

The Tax Tribunal granted summary judgment to the Department, concluding that because Kishwaukee used the cash basis accounting method, it could not claim the deduction for bad debts on its federal income tax returns, making it ineligible for the refunds. The Tribunal noted that section 6d provides a refund mechanism only for taxpayers who can document an internal charge off on its books and records pursuant to GAAP and a corresponding bad debt deduction on its federal income tax returns which reflect the debt that became worthless and uncollectible. The Tribunal also ruled that section 6d and the implementing regulation are consistent in these requirements, rejecting Kishwaukee's contention that the regulation impermissibly expands the language of section 6d. Additionally, the Tribunal rejected Kishwaukee's contention that section 6d and the regulation do not apply to credit transactions involving the purchase of titled property. Finally, the Tribunal concluded that section 6d's distinction between cash and accrual accounting methods did not violate the uniformity clause as the federal return requirement is related to the legislative objective to mandate accounting and reporting procedures that compel taxpayers to maintain adequate books and records to support the charge off of accounts or receivables.

This case is currently pending on appeal to the First District Appellate Court.

Zimmer US, Inc. v. Illinois Department of Revenue, No. 15-TT-234 (Sep. 10, 2019)

Zimmer sells prosthetic devices such as artificial hip, shoulder and elbow joints to healthcare institutions including nonprofit healthcare institutions located in Illinois. Additionally, Zimmer provides its customers with certain specialized instruments required to safely install the prosthetic devices in patients' bodies. It does not separately charge for the instruments and retains ownership of the instruments at all times. After initially paying use tax on the instruments provided to Illinois customers, Zimmer filed refund claims. The Department denied these claims in their entirety and Zimmer filed a petition in the Illinois Independent Tax Tribunal challenging the denial of its refund claims.

The Tax Tribunal granted summary judgment to the Department. First, the Tribunal rejected Zimmer's contention that it was the Illinois nonprofit institutions that "used" the specialized instruments as opposed to itself. Relying on existing Illinois Supreme Court precedent, the Tribunal noted that the owner or lessor of property is considered the user of property for purposes of the Use Tax Act. Accordingly, by retaining ownership of the specialized instruments, Zimmer is the user of that property for purposes of the Use Tax Act. Second, the Tribunal rejected Zimmer's alternative argument that it donated the use of the specialized instruments as a tax-free gift. Zimmer relied on 35 ILCS 105/3-65 for the proposition that had it sold the instruments to the nonprofit institutions those sales would have been exempt from retailers' occupation tax and not subject to use tax. However, the Tribunal noted that this section is inapplicable because it chose to retain ownership and thus no sale occurred. To the extent that any gift or donation occurred, that would be considered a taxable use. Finally, the Tribunal held that the transactions at issue do not constitute exempt leasing transactions as Zimmer failed to document any compliance with the requirements of the applicable regulation, 86 Ill. Admin. Code 150.331 (Persons Who Lease Tangible Personal Property to Exempt Hospitals).

Safety-Kleen Systems v. Illinois Department of Revenue, 2020 IL App (1st) 191078 (Apr. 28, 2020)

Safety-Kleen Systems, Inc. supplies washer parts and cleaning products for degreasing metal parts and tools. Part of the business involves purchasing virgin solvent which is then blended with recycled solvent and delivered to customers. Safety-Kleen challenged the Department's assessment of use tax on its purchases of virgin cleaning

Illinois Department of Revenue Court Cases - continued

solvent, claiming that it was entitled to an exemption because the solvent was only stored in Illinois before being sent out of state for use at its customers' locations. Section 3-55(e) of the Use Tax Act, 35 ILCS 105/3-55, known as the temporary storage exemption, applies to tangible personal property that: 1) is acquired outside of Illinois; 2) is stored temporarily in Illinois, and 3) is then used solely outside of Illinois. Using this standard, after tangible personal property is stored in Illinois and is sent out of state, if the tangible personal property is thereafter returned to Illinois again, it is subject to use tax.

The Illinois Independent Tax Tribunal granted summary judgment to the Department, finding that the temporary storage exemption did not apply because the used solvent subsequently returned to Illinois for recycling. The tribunal rejected Safety-Kleen's argument that the used or contaminated solvent returning to Illinois is a different product than the virgin solvent that was sent out. Safety-Kleen appealed to the First District Appellate Court.

In its decision affirming the Tax Tribunal, the First District noted that the issue before it was "limited to whether the virgin solvent is used in Illinois for purposes of the [Use Tax] Act when it is altered by its out-of-state use and, in a different form, returned to Illinois and stored again." The court found that even if the virgin solvent is altered, it returns to Illinois in some form and is used again. Thus, because the solvent was stored again in Illinois after the initial post-purchase storage, the temporary storage exemption does not apply and the assessment of use tax was proper. Safety-Kleen subsequently filed a Petition for Leave to Appeal to the Illinois Supreme Court, which the Court denied.

Property Tax

The University of Chicago et al. v. Illinois Department of Revenue, 2020 IL App (1st) 191195 (May 15, 2020).

The University of Chicago owns two parcels on which it built day care centers operated for a profit by Bright Horizons. The Department denied a property tax exemption application, and the University and Bright Horizons requested an administrative hearing. Following the hearing, the ALJ found that the property did not qualify for an educational use exemption because the applicant failed to prove that on-site day care was reasonably necessary for carrying out the University's educational purpose and the property was used with a view to a profit. The Director adopted the ALJ's recommendation denying the exemption for the 2015 assessment year, and the plaintiffs sought judicial review. On May 16, 2019, the circuit court issued an order reversing the Department's decision. The Department filed an appeal to the First District Appellate Court on June 12, 2019.

On May 15, 2020, the First District issued an opinion reversing the circuit court and affirming the Department's decision that the University and Bright Horizons were not entitled to a property tax exemption. The University and Bright Horizons argued that the property was exempt under section 15-35 of the Property Tax Code, which exempts property that is "donated by the United States for school purposes, and all property of schools, not sold or leased or otherwise used with a view to a profit." 35 ILCS 200/15-35. The First District agreed with the University and Bright Horizons that the daycare centers were reasonably necessary to the fulfillment of the University's educational objectives and thus primarily used for school purposes because the availability of on-campus childcare would allow the University to attract and retain quality professors and staff members. However, the court also concluded that the property was used "with a view to a profit" by Bright Horizons and rejected the argument that this phrase only applies to the University as the owner of the property and not Bright Horizons as the operator of the daycare centers.





IDORRPT1 (12/2020)

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