

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)
)
TOTAL FINANCE INVESTMENT, INC.,)
et al.,) No. 19 B 03734
) (Jointly Administered)
Debtor(s).)
) Chapter 11
) Judge Carol A. Doyle
)

**ORDER REGARDING ORAL ARGUMENT ON DEBTORS’ MOTION FOR
DETERMINATION OF TAX ISSUE**

The court has determined that it would be helpful to hear the views of the parties on some issues regarding the debtors’ motion for determination of their rights to sales tax credits that were not addressed in the parties’ briefs. A hearing will be held on Wednesday, May 29, 2019 at 11:00 a.m. in Courtroom 742 at 219 S. Dearborn, Chicago, IL. Counsel for the debtors, the creditors’ committee, and the State of Illinois are invited to participate.

The issues to be discussed will be limited to the following:

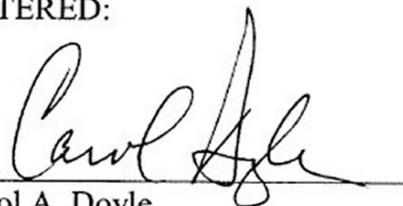
1. Whether 86 Ill. Adm. Code § 130.1960(d)(2)(A) applies if the retailer cannot and does not repossess the vehicle because it has sold the right to repossess (and all other rights under the retail installment loan contract) to a finance company.
2. Whether a retailer can claim a tax credit for “tax paid on an account receivable that becomes bad debt” under § 130.1960(d)(2)(D), or any other regulatory provision or Sections 6 or 6d of ROTA, when the “receivable” is owed to the retailer by a finance company who has not defaulted under the agreement under which the receivable was created. In other words, can it be considered “an account receivable that becomes a bad debt” for purposes of § 130.1960(d)(2)(D) or an amount “found to be worthless or uncollectible” under section 6d of ROTA if the finance company simply owes the retailer no additional payment covering sales tax under the Master Dealer Agreement because the customer defaulted on his or her payments owed solely to the finance company? Stated yet another way, whose “bad debt” is it when the purchaser defaults on an amount owed to the finance company, not the retailer?



3. Whether the two retailers requesting tax credits in the motion seek a tax credit for the entire amount of sales tax paid to the state for each transaction in which a retail installment contract was sold to Total Finance and the retailers were paid nothing by Total Finance for the sales tax component of the “amount financed” because the customer defaulted on amounts owed to Total Finance, or whether the retailers prorated the amount of tax credit sought for each such transaction based on the actual amount that was not collected from customer by Total Finance.

Dated: May 23, 2019

ENTERED:

A handwritten signature in black ink, appearing to read "Carol A. Doyle", written over a horizontal line.

Carol A. Doyle
United States Bankruptcy Judge