

## News Release

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### **Duluth restaurant and restaurant owners convicted of tax crimes**

Convictions are first in Minnesota for tax evasion while using sales suppression software

**ST. PAUL, Minn.** – The Minnesota Department of Revenue and the St. Louis County Attorney’s Office announce the recent convictions of two individuals and the related corporation for tax crimes connected to the use of sales suppression software. These are the first charges and convictions in Minnesota for tax evasion using sales suppression devices or software, commonly known as ‘zappers.’

- Dan Xu pleaded guilty to one felony count of aiding in the filing of false tax returns. A prison sentence was stayed in lieu of the immediate payment of restitution in full and a year of probation.
- Zhong Wei Lin pleaded guilty to one felony count of failing to pay sales tax. A prison sentence was stayed in lieu of the immediate payment of restitution in full and a year of probation.
- Osaka Duluth Inc. pleaded guilty to two felony counts of aiding in the filing of false tax returns and fifteen felony counts of failing to pay sales tax. The corporation was ordered to pay restitution.
- The case of a third individual, Su Ling Cao, was stayed in lieu of a year of probation.

During their plea hearing, Xu and Lin admitted to intentionally using ‘zapper’ computer software in the point of sale system at their restaurant, Osaka Sushi Hibachi Steak House. In this case, the software, which Lin admitted was called “Happy World,” was contained on a thumb drive that was discovered by investigators during a search of the restaurant. The Happy World software automatically created a second set of books that removed line items from cash transactions after the fact, allowing the business to underreport its monthly sales and depriving

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the state and city of Duluth of tens of thousands of dollars in sales tax collected from customers.

Upon pleading guilty, Xu, Lin, and Osaka Duluth Inc. paid total restitution of \$292,760.

“These are first-of-their-kind convictions in Minnesota and highlight our investigators’ efforts to combat the growing use of sales suppression software,” said Revenue Commissioner Cynthia Bauerly. “These convictions demonstrate our determination to level the playing field so that businesses who report and pay their fair share of tax don’t have to compete with those who break the law.”

"Deliberately failing to turn over sales taxes collected increases the tax burden on all residents. We hope this case sends a message to others engaging in this kind of behavior that it will not be tolerated, and you will be prosecuted when caught," said St Louis County Attorney Mark Rubin.

### **About ‘Zappers’**

Sales suppression devices and software, sometimes known as ‘zappers’, delete parts of cash transactions after the fact, creating a second set of books that allows a business to report smaller sales and illegally keep some of the tax that the customer paid. Minnesota’s sales tax is a “trust tax” – customers pay the tax at the time of the sale with the expectation that businesses will remit it to the government on their behalf. The use of zappers violates that trust; it deprives the state, local governments, and citizens of tax revenue and it creates an unfair advantage over businesses that send all of the sales taxes they collect to the government.

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