

XENLOGIX CONSULTING, LLC
172 KINGS CREST LANE
PELHAM, AL 35124-2805,

§
§

STATE OF ALABAMA
ALABAMA TAX TRIBUNAL

DOCKET NO. BPT. 14-1130

Taxpayer,

§

v.

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

FINAL ORDER

Xenlogix Consulting, LLC (“Taxpayer”) appealed to the Tax Tribunal pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. concerning a 2013 business privilege tax final assessment. A hearing was conducted on June 30, 2015. CPA Marc Comack represented the Taxpayer. Assistant Counsel Margaret McNeill represented the Department.

The Taxpayer was formed pursuant to the Alabama Limited Liability Act, Code of Ala. 1975, §10A-5A-1.01, et seq. It registered with the Alabama Secretary of State’s Office on May 14, 2010.

The Taxpayer failed to file a 2013 business privilege tax return. The Department accordingly assessed the Taxpayer for the minimum tax due, plus penalties and interest.

The business privilege tax is levied at Code of Ala. 1975, §40-14A-22(a), which provides in part as follows:

There is hereby levied an annual privilege tax on every corporation, limited liability entity, and disregarded entity doing business in Alabama, or organized, incorporated, qualifies, or registered under the laws of Alabama. The tax shall accrue as of January 1 of every taxable year, or in the case of a taxpayer organized, incorporated, qualified, or registered during the year, or doing business in Alabama for the first time, as of the date the taxpayer is organized, incorporated, registered, or qualifies to do business, or begins to do business in Alabama, as the case may be.

The Taxpayer's sole member, Marc Comack, explained at the June 30 hearing that he formed the LLC so he could work as an independent contractor for the City of Hoover, Alabama. He claimed that he never used the LLC, the LLC never had any assets, and that it did not provide him with any limited liability.

The fact that the LLC never conducted business in Alabama is irrelevant. As indicated, the privilege tax levy is on any LLC (and other entities) that is "organized, incorporated, qualifies, or registered under the laws of Alabama." The Taxpayer was registered with the Alabama Secretary of State's office in 2010. It is irrelevant that the Taxpayer never used the LLC and that the LLC otherwise did not conduct business in Alabama. As indicated, the tax is due if the LLC is qualified to do business in Alabama. The LLC is thus liable for the 2013 tax in issue. The penalties are waived for cause under the circumstances.

Judgment is entered against the Taxpayer's LLC for tax and interest of \$105.02. I also note that contrary to the sole owner's claim, the LLC has provided him with limited liability in the sense that the LLC is liable for the tax in issue, not the owner as the sole member.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2B-2(m).

Entered July 6, 2015.

BILL THOMPSON
Chief Tax Tribunal Judge

bt:dr

cc: Gwendolyn B. Garner, Esq.
Marc Comack