

BEST DEAL MANUFACTURED HOMES INC.	§	STATE OF ALABAMA
1706 HIGHWAY 280 BYPASS		ALABAMA TAX TRIBUNAL
PHENIX CITY, AL 36867-6867,	§	
		DOCKET NO. BPT. 17-479-CE
Taxpayer,	§	
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

FINAL ORDER

The Revenue Department assessed Best Deal Manufactured Homes, Inc. (“Taxpayer”) for 2011 business privilege tax. The Taxpayer appealed to the Tax Tribunal pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a

The Taxpayer claimed in its notice of appeal that it ceased to exist in 2008, and therefore did not conduct any business in Alabama in 2011. The Department responded that the Taxpayer incorporated and qualified to do business in Alabama on March 9, 2001, and that it has never dissolved, withdrawn or forfeited its qualification to do business in the State. Citing Code of Ala. 1975, §40-14A-22, the Department argues that since the business privilege tax is on the privilege of doing business in Alabama, the fact that the Taxpayer did not conduct any business in Alabama is irrelevant. The Department is correct.

Alabama’s business privilege tax is levied at Code of Ala. 1975, §40-14A-22(a), and reads as follows:

Levy of tax. There is hereby levied an annual privilege tax on every corporation, limited liability entity, and disregarded entity doing business in Alabama, or organized, incorporated, qualified, 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 shall be liable for the tax levied by this article for each year beginning before the taxpayer has been dissolved or otherwise ceased to exist or has withdrawn or forfeited its qualification to do business in Alabama. The amount of the tax due shall be determined by multiplying the taxpayer's net worth in Alabama by the rate determined in subsection (b).

In *John Wayne Enterprise, Inc. v. State of Alabama*, an appeal decided by the Revenue Department's Administrative Law Division ("ALD"), this court's predecessor, the ALD upheld the Department's BPT assessment against a corporation that discontinued business but failed to withdraw its qualification to do business in Alabama. Docket BPT. 05-631 (Admin. Law Div. 8/5/2005). That case reads in pertinent part as follows:

The Taxpayer failed to file a 2003 business privilege tax return. The Department determined that the Taxpayer had not been dissolved. It accordingly assessed the Taxpayer for the tax due, plus penalties and interest. The Taxpayer appealed.

The Taxpayer contends that it does not owe the tax in question because it discontinued business in 2002. The Department correctly argues, however, that the business privilege tax is on the privilege of doing business in Alabama, regardless of whether any business is actually conducted. Code of Ala. 1975, §40-14A-22(a) levies the tax on "every corporation, limited liability entity, and disregarded entity doing business in Alabama, or organized, incorporated, qualified, or registered under the laws of Alabama. . . . The taxpayer shall be liable for the tax levied by this article for each year beginning before the taxpayer has been dissolved or otherwise ceased to exist or has withdrawn or forfeited its qualification to do business in Alabama." Because the Taxpayer was qualified to do business in Alabama in the subject year, it is liable for the minimum business privilege tax in that year.

John Wayne Enterprises at 1 – 2.

The undisputed evidence indicates that the Taxpayer was qualified to do business in Alabama in 2001, and that the Taxpayer has not dissolved its formation or otherwise or forfeited its qualification to do business in the State. Consequently, the Taxpayer owes the

business privilege tax for 2011.

The final assessment, less the penalties, is affirmed. Judgment is entered against the Taxpayer for 2011 business privilege tax and interest of \$129.83.

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

Entered August 3, 2017.

CHRISTY O. EDWARDS
Associate Tax Tribunal Judge

cc: Warren W. Young, Esq. (w/enc.)
Debra Pressler