

ALABAMA TAX TRIBUNAL

TYSON CHICKEN, INC., §
Taxpayer, § DOCKET NO. S. 15-1338-JP
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

**FINAL ORDER OVERRULING REVENUE DEPARTMENT’S
APPLICATION FOR REHEARING**

On November 27, 2017, the Alabama Tax Tribunal entered a Final Order in this case. In that order, the Tribunal upheld a sales tax final assessment, in a reduced amount, which covered the periods of July 2010 through June 2013.

On December 12, 2017, the Tribunal received an Application for Rehearing from the Revenue Department, which seeks a rehearing of the voiding of Ala. Admin. Code r. 810-6-4-.14(1) that was addressed in an Opinion and Preliminary Order dated February 2, 2016. The Application for Rehearing is untimely. (In its Preliminary Order on Department’s Application for Rehearing, the Tribunal incorrectly referred to the application as being “timely.” As shown by the following, that clearly is not so.)

Concerning rehearings before the Tribunal, the Alabama legislature stated the following:

Any party may apply for rehearing from any final order **or opinion and preliminary order** of the Alabama Tax Tribunal; provided, however, the application must be filed within 15 days from the date of entry **of such order**.

Ala. Code § 40-2B-2(l)(5) (emphasis added).

Here, the Department is applying for a rehearing of a ruling contained in a preliminary order that was entered on February 2, 2016. The Department’s application was

filed well beyond the 15-day statutory period. Thus, the Department's Application for Rehearing is overruled because of a lack of jurisdiction.

Entered April 25, 2018.

JEFF PATTERSON
Chief Judge
Alabama Tax Tribunal

jp:dr

cc: Patrick Eastridge
David E. Avery, III, Esq.