

ALABAMA TAX TRIBUNAL

PLATT AUTO PARTS, §
Taxpayer, § DOCKET NO. COUNTY 18-101-LP
v. §
HENRY COUNTY. §

FINAL ORDER

This appeal involves a final assessment of sales tax for March 1, 2014, through February 28, 2017, entered by Henry County against the Taxpayer. Avenu Insights & Analytics, f/k/a Revenue Discovery Systems (“RDS”), requested that the case be held in abeyance to allow the parties time to settle the case. The request was granted, and the case has been held in abeyance since February 23, 2018. Avenue Insights subsequently notified the Tax Tribunal that the Taxpayer had not responded to its request to resolve the case informally.

A hearing was conducted on August 8, 2019. Chris Wills from Avenu Insights represented Henry County. The Taxpayer was notified of the hearing but did not attend.

RDS audited the Taxpayer for sales tax for the period in issue and requested records from which the Taxpayer’s sales tax liability could be computed and verified. RDS used a three-month sample period, which included January through March 2016, to determine the Taxpayer’s sales tax liability. It subsequently entered the final assessment in issue.

All retailers subject to Alabama sales tax and local tax are statutorily required to keep complete and accurate sales, purchase, and other records from which their correct sales tax liability can be computed. Ala. Code §§ 40-2A-7(a)(1) and 40-23-9. A retailer’s duty to keep sales records is straightforward and simple. It is commonly understood that such records must be maintained to

allow the tax administrator to verify that the correct amount of sales tax has been reported and paid.

It is undisputed that the Taxpayer in this case failed to provide complete sales records. In particular, the Taxpayer claimed that certain sales were not taxable as exempt sales. However, the Taxpayer did not supply the required exemption certificates to verify that such sales were not taxable. In such cases, RDS is authorized to compute a taxpayer's actual tax liability using the most accurate and complete information obtainable. Ala. Code § 40-2A-7(b)(1)a. RDS can also use any reasonable method to compute the liability, and the taxpayer, having failed in the duty to keep good records, cannot later complain that the records and/or method used by RDS is improper or does not reach a correct result. *Jones v. CIR*, 903 F.2d 1301 (10th Cir. 1990); *Alsedeh v. State of Alabama*, S. 03-549 (Admin. Law Div. 11/3/04).

Because the Taxpayer in this case failed to maintain adequate records from which its sales could be accurately computed or verified, RDS correctly used a three-month sample period to reasonably compute the Taxpayer's liability for the audit period. The tax due as computed by the audit is by its nature an estimate; RDS of necessity estimated the Taxpayer's liability because the Taxpayer failed to maintain adequate records.

The Taxpayer states in its notice of appeal that the sales to its customers were tax-exempt. It claims that it has sales tax exemption certificates. As indicated, however, the Taxpayer did not submit those certificates to RDS.

RDS's audit was properly conducted using the best information available. The final assessment that is the subject of this appeal is accordingly affirmed. Judgment is entered against the Taxpayer for Henry County sales tax, penalty, and interest of \$2,730.91. Additional interest is also due from the date the final assessment was entered on January 2, 2018.

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

Entered September 26, 2019.

/s/ Leslie H. Pitman _____

LESLIE H. PITMAN

Associate Tax Tribunal Judge

lhp:dr

cc: Jeff Platt

Jonathan V. Gerth, Esq.