

ALABAMA TAX TRIBUNAL

MADISON FOOD MART, INC., §
Taxpayer, § DOCKET NO. CITY 20-100-JP
v. §
CITY OF MADISON, §

FINAL ORDER DISMISSING APPEAL

Madison Food Mart, Inc. (Taxpayer), appealed to the Alabama Tax Tribunal from a sales tax final assessment and a liquor excise tax assessment that were entered against the Taxpayer by the City of Madison, Alabama. The Taxpayer has filed a Motion to Withdraw Sales Tax Appeal, stating that it has agreed to enter into an installment agreement with the City once the sales tax appeal is dismissed from the Tax Tribunal's docket.

The Taxpayer's Motion is granted. The sales tax appeal is dismissed from the docket of the Tax Tribunal.

Concerning the Taxpayer's challenge of the City's liquor excise tax assessment, the Tax Tribunal has no jurisdiction to hear that appeal. Alabama's legislature gave the Tax Tribunal jurisdiction to hear taxpayer appeals from final assessments entered by local jurisdictions involving sales, use, rental, and lodgings taxes. The City argues that its liquor excise tax is not a sales or use tax (and obviously not a rental or lodgings tax) and, thus, that the Taxpayer's appeal is not within the Tax Tribunal's jurisdiction. The Taxpayer disagrees.

Although the City's arguments are persuasive, the lack of jurisdiction here concerning the liquor excise tax assessment is seen first from the face of the assessment. The City's sales tax

assessment states that it is a "Final Assessment" appealable to either the Tax Tribunal or to circuit court. The liquor excise tax assessment, however, does not state that it is a "Final Assessment." Also, instead of being appealable to the Tax Tribunal or to circuit court, the assessment merely states that a hearing can be had with the City of Madison Revenue Department by contacting that department within 10 days of the date of the assessment. Thus, the liquor excise tax assessment submitted by the Taxpayer is not a final assessment. And the Tax Tribunal has no jurisdiction to hear appeals of preliminary assessments, unless the preliminary assessment has not been withdrawn or made final by the tax agency within 5 years from the date of its entry. See Ala. Code § 40-2A-7(b)(4)c.

Here, the liquor excise tax assessment was entered in August 2020. Therefore, the Tax Tribunal has no jurisdiction to hear the appeal of that preliminary assessment, and it is unnecessary for the Tax Tribunal to decide whether the City's liquor excise tax is a sales or use tax for appeal purposes.

Case number City 20-100-JP is dismissed from the Tax Tribunal's docket.

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

Entered November 5, 2021.

*/s/ Jeff Patterson
JEFF PATTERSON
Chief Judge
Alabama Tax Tribunal*

jp:cm

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