

ALABAMA TAX TRIBUNAL

FIRST UNITED APPEAL FUND, INC
OF PRATTVILLE, AL,

§

Taxpayer,

§

DOCKET NO. S. 21-1189-JP

v.

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

OPINION AND FINAL ORDER

This appeal involves the Alabama Department of Revenue’s denial of the Taxpayer’s renewal request for a certificate of exemption from Alabama sales and use tax. In its Notice of Appeal, the Taxpayer stated that it maintained its certificate of exemption without lapse since 2015, but that its most recent renewal “was overlooked due to extenuating circumstances.” Thus, the Taxpayer acknowledged that it allowed its exemption certificate to lapse.

In its Answer to the Taxpayer’s Notice of Appeal, the Revenue Department stated that the Taxpayer’s certificate of exemption was renewed most recently on June 26, 2020, and that it expired on June 30, 2021, but that the Taxpayer did not seek a renewal of the certificate until August 16, 2021. The certificate had been granted originally because the Taxpayer qualified as a “united appeal fund,” pursuant to Ala. Code § 40-9-12.

Ala. Code § 40-9-12(c)(2) sets forth the requirements for an entity to be considered a united appeal fund and, therefore, to qualify as such for a certificate of

exemption from Alabama sales and use tax. There is no dispute that the Taxpayer was considered a united appeal fund that qualified for exemption, as acknowledged by the Revenue Department in its Answer and as evidenced by the certificate previously issued to the Taxpayer. However, Ala. Code § 40-9-12(c)(2)d. requires that a qualified united appeal fund must “continuously [maintain its] Certificate of Exemption as required by Section 40-9-60.” According to Ala. Code § 40-9-60(b), “[c]ertificates of exemption shall be valid for one year from the date of issuance and shall be renewed annually each subsequent year. Any person or company that fails to obtain or renew a certificate of exemption prior to its expiration may not make tax exempt purchases or rent tax exempt accommodations after the expiration.”

The Taxpayer acknowledged that it failed to timely apply for renewal of its certificate of exemption. By statute, the Taxpayer’s qualification as a united appeal fund ceased when it did not timely renew its certificate. The Revenue Department states that, regardless of any extenuating circumstances, “[t]here is no good faith or substantial compliance provision” in the law that allows the Revenue Department to renew a certificate of exemption pursuant to Ala. Code § 40-9-12(c) when a certificate holder fails to timely apply for renewal of its certificate. The Revenue Department is correct.

Therefore, as a matter of law, the Revenue Department’s denial of the renewal of the Taxpayer’s certificate of exemption from Alabama sales and use tax is upheld. Judgment is entered accordingly.

This Final Order may be appealed to circuit court within 30 days, pursuant to

Ala. Code § 40-2B-2(m).

Entered April 14, 2022.

/s/ Jeff Patterson

Jeff Patterson

Chief Judge

Alabama Tax Tribunal

jp:ja

cc: Gerald D. Gordon
Ralph M. Clements III, Esq.