COASTAL HARDWOOD, INC. 981 Corporate Drive S. Mobile, AL 36607,	§	STATE OF ALABAMA DEPARTMENT OF REVENUE ADMINISTRATIVE LAW DIVISION
Taxpayer,	§	DOCKET NO. MV. 04-201
v.	§	
STATE OF ALABAMA DEPARTMENT OF REVENUE.	§	

FINAL ORDER

The Revenue Department denied a refund of a motor vehicle registration fee requested by Coastal Hardwood, Inc. ("Taxpayer") concerning a 2004 International truck. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(c)(5)a. A hearing was conducted on May 6, 2004 in Mobile, Alabama. Matt Seeds and Mike Hawke represented the Taxpayer. Assistant Counsel Duncan Crow represented the Department.

On the afternoon of January 20, 2004, the Taxpayer's business manager went to a satellite office of the Mobile County License Commissioner to register a new International 4300 truck. During the process, the manager mistakenly certified to the registration clerk that the truck should be registered as a Class X-3 vehicle, which applies to trucks with a gross vehicle weight (loaded) of up to 33,000 pounds. See, Code of Ala. 1975, §40-12-248(b). The clerk registered the vehicle accordingly.

The manager discovered later that afternoon that the truck manufacturer recommended a maximum gross vehicle weight of only 25,500 pounds, in which case the vehicle should have been registered as a Class X-2 vehicle. Class X-2 applies to trucks with a gross vehicle weight of up to 26,000 pounds. See again, §40-12-248(b). The manager returned to the satellite office the next morning to reregister the truck as a Class

X-2 vehicle. He was informed, however, that the truck's weight classification could not be lowered except upon renewal in November 2004.

The manager telephoned the License Commissioner's main office on January 22, 2004. He was told that that he could reregister the truck as a Class X-2 vehicle if he paid the applicable registration and issuance fees of $177.50. He was not required to again pay the ad valorem tax of $293.37 that was paid when the truck was initially registered. The manager returned to the satellite office and paid the Class X-2 fees, and the License Commissioner reregistered the truck as a Class X-2 vehicle at that time. The manager was also informed that he could transfer the original Class X-3 registration to any new vehicle that the Taxpayer might purchase before November 2004, but that of the Class X-3 registration fees could not be refunded. The Taxpayer appealed to the Administrative Law Division.[1]

Code of Ala. 1975, §40-12-248(c) requires that any person registering a truck must declare the truck's gross vehicle weight, and the subsequent use of the truck shall be limited to the gross weight as declared. The section also allows the owner to voluntarily increase a truck's gross weight classification during the tax year, but that the "license classification of a truck or truck tractor may not be decreased, however, except once a year at the time new license tags or plates are purchased for the truck or truck tractor." The

[1] The Revenue Department is charged with the overall administration of motor vehicle licensing and registrations in Alabama. Code of Ala. 1975, §40-2-11. See also, Op. Att'y Gen. 2004-127 (2004). Consequently, any decision by a county license commissioner or other county licensing official involving the registration of a motor vehicle is made under the direction of the Department, and thus is appealable to the Department's Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a).

Department cites that statement as support for its position that the truck cannot be reregistered and that the Class X-3 registration fee cannot be refunded. I disagree.

The guiding rule of statutory construction is that a statute must be construed to reflect the intent of the Legislature. *Gholston v. State*, 620 So.2d 719 (Ala. 1993). As a general rule, the plain language of a statute must be followed, but "this plain-meaning rule should not be applied to produce a result which is actually inconsistent with the policies underlying the statute." *Bailey v. USX Corp.*, 850 F.2d 1506, 1509 (11th Cir. 1988). Further, "a literal construction of a statute cannot be permitted to defeat the spirit and intention of the legislative act." *Kirkland v. State*, 529 So.2d 1036, 1038 (Ala. Civ. App. 1988). "Statutory construction requires that the letter of the statute yield to the true meaning and intent of the lawmakers (citation omitted) . . . thus, 'all rules of construing statutes must be regarded as subservient to the end of determining the legislative intent.'" *Kirkland*, 529 So.2d at 1038 (citation omitted). Finally, a statute should not be literally construed if such construction would lead to absurd or unintended results. *Sizemore v. Franco Distributing Co., Inc.*, 594 So.2d 143 (Ala. Civ. App. 1991).

Section 40-12-248 levies a registration fee based on the gross weight of the truck. The more the truck weighs, the higher the base fee. The clear intent of the last sentence of §40-12-248(c), which specifies that the license (weight) classification of a truck cannot be decreased during a tax year, is to prevent a truck owner from obtaining a higher weight classification tag for a specific job, and then later reducing the classification during the tax year and obtaining a refund. That clearly should not be allowed.

The provision should not be construed, however, to prevent a licensing official from

reregistering a truck in a correct weight class if it was initially registered in an erroneous weight class, and the mistake is immediately discovered before the higher class tag is used on the truck. For example, assume that a truck owner mistakenly registers a truck in Class X-3. The owner discovers before he leaves the license official's office (or shortly thereafter, as in this case) that he gave the license clerk the wrong weight classification. Common sense and fairness would allow the owner to reregister the truck in the correct weight class at that time and get a refund of the excess fee he paid for the higher weight classification. But if the last sentence of §40-12-248(c) is literally construed, the owner would not be allowed to reregister his vehicle and obtain a refund in the above situation. The Legislature certainly did not intend such an impractical, unfair result, and the statute should not be so construed. The fact that the owner had the (unexercised) privilege of using the higher weight tag for the short time it took to reregister the vehicle should not prevent the error from being corrected.

In this case, the Taxpayer's manager mistakenly registered the truck in issue on the afternoon of January 20, 2004 as a Class X-3 vehicle. He discovered his mistake later that afternoon and returned to the License Commissioner's office the next morning to correct the mistake. The License Commissioner initially balked at reregistering the truck, but did so on January 22. Consequently, the issue is not whether the License Commissioner can or should reregister the truck as a Class X-2 vehicle. She has already done so. Rather, the issue is whether the Taxpayer should receive a refund of the registration fee it paid for the Class X-3 registration.

Dept. Reg. 810-14-1-.23 addresses the refund of motor vehicle registration fees, and provides that "the county issuing official will determine whether any taxpayer has 'by

mistake of fact or law' paid registration fees that either were not due or were excessive." That regulation clearly authorizes county licensing officials to issue refunds to truck owners that mistakenly register their vehicles in an improper weight class, as the Taxpayer did in this case. The Taxpayer should thus be refunded any registration fee paid in excess of the fee required for Class X-2. The Class X-3 registration should also be voided.

I recognize the Department's concern that allowing truck owners to decrease a truck's weight classification during the year may lead to widespread abuse. However, this holding only allows county licensing officials the discretion to reregister a truck if it is initially registered in an erroneous weight class, and the mistake is immediately discovered before the higher weight tag is used on the truck. Each case must be reviewed on a case-by-case basis, with the strict burden on the truck owner to prove that the truck was improperly registered, and also that the truck was not used carrying the higher weight class tag. If the truck owner cannot prove that the truck was not used with the higher class tag, or the licensing official reasonably suspects that the truck may have been used with the higher weight tag, the licensing official should not reregister the vehicle in a lower weight classification.

In this case, the evidence shows that the Taxpayer's initial registration of the truck in Class X-3 was an inadvertent mistake, and also that the Taxpayer never operated the truck using the X-3 tag. A refund is proper under those circumstances.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered May 25, 2004.