

GREAT SOURCE EDUCATION
GROUP, INC.
222 BERKELEY STREET
BOSTON, MA 02116-3748,

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Taxpayer, §

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. CORP. 04-802

FINAL ORDER

The Revenue Department denied a 1998 corporate tax refund requested by Great Source Education Group, Inc. ("Taxpayer"). 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 April 21, 2005. The Taxpayer's representative notified the Administrative Law Division that she would not attend the hearing. Assistant Counsel Mark Griffin represented the Department.

In December 2001, the Taxpayer wrote the Department a letter indicating that the IRS had adjusted its federal 1998 liability, and that based on the adjustments the Taxpayer was due a refund of Alabama tax for that year. The Taxpayer also submitted a "Notice of Proposed Adjustment" from the IRS dated April 26, 2001.

The Department refused to process the refund claim because it was not in the form of a Form 20C amended return. The Taxpayer subsequently filed an amended 1998 return requesting a refund in March 2003. It also submitted a copy of the final IRS audit report dated October 31, 2002. The Department again denied the Taxpayer's petition, this time because the Department deemed that the petition was not timely filed.

Code of Ala. 1975, §40-2A-7(c)(2)a. provides generally that a petition for refund must be filed within three years from when the return was filed or two years from when the tax was paid, whichever is later. Section 40-2A-7(b)(2)g.2. also provides that a petition for refund may be filed within one year from when an IRS audit change becomes final.

As indicated, the Taxpayer wrote the Department a letter in December 2001 requesting a refund based on the IRS audit. That letter constituted a valid petition for refund, which is defined at Code of Ala. 1975, §40-2A-3(14) as “[a]ny written request for a refund . . . (which) shall include sufficient information to identify the type and amount of tax overpaid, the taxpayer, the period involved, and the reasons for the refund.” The Taxpayer’s December 2001 letter complied with those requirements. Further, Dept. Reg. 810-14-1-.18(2) provides that any written request for refund containing the above information “shall be sufficient to satisfy the statutory time limits for requesting refunds.” The Taxpayer’s December 21, 2001 letter was thus a timely filed refund petition because it was filed within the three years from when the Taxpayer filed its 1998 Alabama return.

The Department initially denied the refund petition because it was not in the form of an amended return. As indicated, however, while a refund petition may be in the form of an amended return, it need not be in that form to satisfy the time requirement for petitioning for a refund. In any case, the Taxpayer subsequently filed an amended 1998 return in March 2003. That amended return requesting a refund was filed within one year of when the IRS adjustments became final in October 2002, and was thus also timely filed pursuant to the special one year IRS change provision at §40-2A-7(b)(2)g.2.

The refund requested by the Taxpayer, plus applicable interest, should be issued in

due course, plus applicable interest.

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

Entered April 26, 2005.

BILL THOMPSON
Chief Administrative Law Judge