

FIRST AMERICAN HOLDING, LLC	§	STATE OF ALABAMA
D/B/A FIRST AMERICAN CASH ADVANCE		DEPARTMENT OF REVENUE
750 BROAD ST., NW, SUITE 220	§	ADMINISTRATIVE LAW DIVISION
CLEVELAND, TN 37311-2223,		
	§	
Taxpayer,	§	DOCKET NO. MISC. 07-773
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

**FINAL ORDER**

The Revenue Department assessed First American Holding, LLC (“Taxpayer”), d/b/a First American Cash Advance, for 2003 and 2004 State and Barbour County and Coffee County license tax. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on December 11, 2007. The Taxpayer’s representative was notified of the hearing by certified mail, but failed to appear. James Boaz represented the Department.

First American Cash Advance of Alabama, LLC operated two payday loan businesses in Alabama during the years in issue. One location was in Barbour County. The other was in Coffee County. First American Cash Advance is a single member LLC. The Taxpayer is the single member.

The Department assessed the Taxpayer for the annual license tax levied at Code of Ala. 1975, §40-12-83(b) on “[e]ach person engaging in the business of lending money on salaries or . . . personal loans. . . .” A Department witness explained at the December 11 hearing that the Department assessed the Taxpayer because it is Department policy to disregard a single member LLC and assess the single member, the Taxpayer in this case, for any tax due.

For Alabama purposes, a single member LLC is automatically disregarded unless the LLC “checks the box,” i.e., affirmatively elects for federal tax purposes to be recognized and taxed as a corporation. See, Code of Ala. 1975, §10-12-8(b). There is no evidence in this case that First American Cash Advance elected to be recognized as a corporation for federal purposes. Consequently, the Department correctly disregarded the LLC and assessed the Taxpayer, as the single member of the LLC.

The Taxpayer also argues that First American Cash Advance is not subject to the §40-12-83(b) license because it does not make loans, but rather only services loans for an out-of-state bank, Community State Bank, which is located in South Dakota.

The evidence shows that First American Cash Advance has two business locations in Alabama and advertises that it makes payday loans. Given those facts, and with no evidence to the contrary, the Department's *prima facie* correct final assessments must be affirmed. Judgment is entered against the Taxpayer for 2003/2004 State and Barbour County license tax of \$212.85, and 2003/2004 State and Coffee County license tax of \$209.85. Additional interest is also due from the date the final assessments were entered, July 27, 2007.

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

Entered December 20, 2007.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: James D. Boaz, Esq.  
Thomas H. Lowe  
Joe Cowen  
Curtis Stewart