

STEVEN E. McMAHAN
McMAHAN'S PAINT & DRYWALL LLC
1087 COUNTY ROAD 639
COFFEE SPRINGS, AL 36318,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MISC. 08-743

FINAL ORDER

The Revenue Department assessed Steven E. McMahan ("Taxpayer") for privilege license tax for October 2005 through September 2008. 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 January 8, 2009. The Taxpayer was notified of the hearing by certified mail, but failed to appear. Assistant Counsel John Breckenridge represented the Department.

The Taxpayer is engaged in the painting and drywall business in Alabama. He obtained the contractor's privilege license levied at Code of Ala. 1975, §40-12-84 from the Coffee County Probate Office for the years in issue. He paid the minimum \$15 license in each year, which applies to contractors that have less than \$20,000 in gross contracts during the license year.

A Revenue examiner subsequently determined that the Taxpayer had accepted orders and contracts exceeding \$200,000 in each year. The Department consequently assessed the Taxpayer for the additional license tax due, plus penalties and interest. The Taxpayer appealed.

The §40-12-84 privilege license tax statute reads in pertinent part:

Any person, firm, or corporation accepting orders or contracts for doing any work on or in any building or structure requiring the use of paint, stone, brick, mortar, wood, . . . shall procure from the probate judge of the county in which he has his principal office a license to carry on the business of a contractor; Every such contractor shall pay a license tax to be ascertained on the basis of the gross amount of all orders or contracts accepted, exclusive of orders or contracts pertaining to state or county road and bridge projects, as follows: If the gross amount of all orders or contracts accepted aggregates \$5,000 and not exceeding \$10,000, he shall pay the sum of \$10; if the amount of such orders or contracts is more than \$10,000 and does not exceed \$20,000, \$15; if the amount of such orders or contracts exceeds \$20,000 and does not exceed \$50,000, \$25; if the amount of such orders or contracts exceeds \$50,000 and does not exceed \$100,000, \$50; if the amount of such orders or contracts exceeds \$100,000 and does not exceed \$150,000, \$150; if the amount of such orders or contracts exceeds \$150,000 and does not exceed \$200,000, \$200; if the amount of such orders or contracts exceeds \$200,000, \$250; and, when such contractor shall have obtained a license for any year for which he has paid a license tax of less than the maximum above prescribed, he shall not accept any contract or contracts during such year, the aggregate amount of which exceeds the maximum amount for which his license was obtained, unless and until he shall have paid such additional sum as will make the total license tax paid by him for that year sufficient to cover the aggregate amount of such contract or contracts as prescribed above; and unless he pays such additional sum he shall be deemed to be acting without a license. . . .

The Taxpayer claims in his notice of appeal that he paid "what the State billed him for," and that he should not now be required to pay more for the license. However, if a licensee does not initially pay the correct amount for the license, §40-12-84 requires that he must later submit the correct amount. The evidence in this case is undisputed that the Taxpayer had over \$200,000 in gross contracts in each of the subject years. The Department thus correctly assessed the Taxpayer for the additional license tax due.

The final assessment is affirmed. Judgment is entered against the Taxpayer for \$1,389.42. Additional interest is also due from the date the final assessment was entered, August 21, 2008.

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

Entered January 12, 2009.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: John J. Breckenridge, Esq.
Steven E. McMahan
Janet Stathopoulos