

AB SPORTSWEAR, INC
1231 NEWELL PKWY.
MONTGOMERY, AL 36110-3212,

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayer,

§

DOCKET NO. S. 12-901

v.

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

FINAL ORDER

The Revenue Department assessed AB Sportswear, Inc. (“Taxpayer”) for State sales tax for November 2007 through October 2010. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)c. A hearing was conducted on October 17, 2013. Joe Warren represented the Taxpayer. Assistant Counsel Christy Edwards represented the Department.

The Taxpayer sold tangible personal property at retail to the Chisholm Community Center in Montgomery, Alabama during the period in issue. It did not collect and remit State sales tax on the sales to the Revenue Department. The Department audited the Taxpayer for the subject period and determined that the Taxpayer’s sales to the Community Center were taxable. It assessed the Taxpayer accordingly.

Sales of tangible personal property to the State of Alabama, counties within the State, and incorporated municipalities within the State are specifically exempted from Alabama sales tax. Code of Ala. 1975, §40-23-4(a)(11). The Taxpayer argues that its sales to the Chisholm Community Center were in fact exempt sales to the City of Montgomery. The facts support that claim.

The Chisholm Community Center and the various other Community Centers in the City of Montgomery are owned and operated by the City of Montgomery Department of

Leisure (previously the Department of Parks and Recreation). The Centers are staffed by City of Montgomery employees. Jonathan Phillips, the Director of Chisholm Community Center, presented his 2012 W-2 from the City, one of his pay checks from the City, his City ID badge, and his City time sheet, all showing that he is a City of Montgomery employee.

The Chisholm Community Center's checking account includes the City's federal tax ID number, and all funds in the account belong to the City. Phillips testified that most of the Center's funds come directly from the City, but that the Center has basketball and other sports leagues that participants pay to join. That money is also paid to and belongs to the City of Montgomery. Letters from various City of Montgomery officials also confirm that the Community Centers in the city limits of Montgomery are a part of the City.

Given the above undisputed facts, the Chisholm Community Center and all other Community Centers owned and operated by the City of Montgomery are a part of the City, and are thus exempt from sales tax. The final assessment in issue is voided.

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

Entered November 13, 2013.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Christy O. Edwards, Esq.
Joseph W. Warren, Esq.
Joe Walls
Mike Emfinger