

ALABAMA TAX TRIBUNAL

UNITED LAUNCH ALLIANCE, LLC, §
Taxpayer, § DOCKET NO. S. 18-1033-JP
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

This appeal involves the Alabama Department of Revenue’s partial denial of the Taxpayer’s request for a state sales tax refund for the periods of May 2014 through December 2016. In an Opinion and Preliminary Order entered on December 21, 2021, the Tax Tribunal ruled that “the sales to the Taxpayer during the audit period of helium and nitrogen gases that were used by the Taxpayer for functional testing, leak testing, dew-point testing, and structural stabilization were subject to Alabama’s 1.5% machine rate.” The Tax Tribunal remanded the case to the Revenue Department to allow the parties to resolve, without a hearing, the question of the amount of refund due to the Taxpayer. However, that question was not resolved between the parties.

Therefore, a hearing was held on October 11, 2023, for the purpose of determining the amount of refund due to the Taxpayer pursuant to the Opinion and Preliminary Order. Josh Veith represented the Taxpayer, and David Avery represented the Revenue Department. Courtney Sebring, a Sales and Use Tax Manager for Ryan, LLC, testified for the Taxpayer. David Dixon, a financial analyst

for the Taxpayer, also testified. And Andrew McClure, an engineer for the Taxpayer, was called to testify by the Revenue Department.

At the hearing, Ms. Sebring testified that she calculated three alternative refund amounts for consideration by the Tax Tribunal based on the Opinion and Preliminary Order -- \$189,734.34, \$179,157.73, and \$170,535.94. According to Ms. Sebring, arriving at the higher two figures required the use of estimates, although the estimated amounts were low compared to non-estimated amounts in those two calculations. However, in arriving at the lowest figure of \$170,535.94, only the actual amounts of helium and nitrogen used for functional testing, leak testing, dew-point testing, and structural stabilization were included in the calculation. The refund request of \$170,535.94 was supported by Mr. Dixon, who testified that, during the audit period, the gas pads considered by the Taxpayer in calculating that amount were used solely for the purposes identified by the Tax Tribunal as being subject to the reduced machine rate. And the calculation was supported by invoices issued by the seller of the gases to the Taxpayer, which listed separate charges for gas and tax.

Therefore, based on the evidence presented, the Taxpayer is due a refund of \$170,535.94, plus applicable interest. Judgment is entered accordingly. The Revenue Department is directed to issue a refund in the amount of \$170,535.94, plus applicable interest, to the Taxpayer in due course.¹

¹The Revenue Department questioned Mr. McClure concerning whether the Taxpayer had received any reimbursements from the federal government pursuant to cost-plus contracts concerning the use of the gases in issue. Mr. McClure answered that the Taxpayer had not. Because there was no evidence that the Taxpayer received any such reimbursements, further discussion of that issue is unnecessary.

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

Entered October 17, 2023.

/s/ Jeff Patterson
JEFF PATTERSON
Chief Judge
Alabama Tax Tribunal

jp:ac

cc: Alan Decker, Esq.
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