

**ALABAMA TAX TRIBUNAL**

AGC US LOGISTICS HOLDCO LLC, §  
Taxpayer, § DOCKET NO. BPT. 24-0330-JP  
v. §  
STATE OF ALABAMA §  
DEPARTMENT OF REVENUE.

**FINAL ORDER**

This appeal involves the entry of a final assessment of business privilege tax for 2023. The Alabama Department of Revenue filed its Answer to the Taxpayer’s Notice of Appeal, and the Taxpayer was allowed 30 days to file a reply to the Answer. The Taxpayer chose not to do so.

The Taxpayer’s Notice of Appeal requests only the waiver of the late-payment penalty included in the Revenue Department’s March 28, 2024, final assessment. The Taxpayer specifically argues that it made a “nonrecurring honest mistake” sufficient to qualify as “reasonable cause” and allow for a waiver of the penalty under Alabama Administrative Code r. 810-14-1-.33.01. Specifically, the Taxpayer states that it attempted to pay its 2023 business privilege tax on March 14, 2023. However, on March 15, 2023, the Taxpayer’s bank “reversed the transaction and credited the Taxpayer’s account for the amount of the tax.” The Taxpayer then states that it did not realize its payment had not been processed until the Taxpayer received the Revenue Department’s final assessment in issue in this appeal.

In its Answer, the Revenue Department states that the Taxpayer submitted

an electronic payment of \$15,010.00 for its business privilege tax on March 2, 2023, “but the payment was not processed due to non-sufficient funds.” The Taxpayer’s 2023 business privilege tax was still unpaid when the Revenue Department filed its Answer on June 11, 2024. The Revenue Department argues that the Taxpayer should have recognized the attempted payment failed during the Taxpayer’s next month-end bank reconciliation, or that the Taxpayer should have received a notification of the failed payment from its bank. The Taxpayer should have then remitted payment for the outstanding tax liability. The Revenue Department also states that the Taxpayer has historically had trouble timely paying its taxes. In 2020, the Taxpayer both filed and paid its taxes late. In 2021, the Taxpayer was able to timely file its return, but its payment was untimely. In 2022, the Taxpayer timely filed and paid its taxes.

Alabama’s business privilege tax is levied in Ala. Code § 40-14A-22(a), and reads as follows:

Levy of tax. There is hereby levied an annual privilege tax on every corporation, limited liability entity, and disregarded entity doing business in Alabama, or organized, incorporated, qualified, or registered under the laws of Alabama. The tax shall accrue as of January 1 of every taxable year, or in the case of a taxpayer organized, incorporated, qualified, or registered during the year, or doing business in Alabama for the first time, as of the date the taxpayer is organized, incorporated, registered, or qualifies to do business, or begins to do business in Alabama, as the case may be. The taxpayer shall be liable for the tax levied by this article for each year beginning before the taxpayer has been dissolved or otherwise ceased to exist or has withdrawn or forfeited its qualification to do business in Alabama. The amount of the tax due shall be determined by multiplying the taxpayer's net worth in Alabama by the rate determined in subsection (b).

The Alabama Administrative Code allows for waiver of civil penalties assessed by the Revenue Department when a taxpayer can establish “reasonable cause” for the

waiver. Ala. Admin. Code r. 810-14-1-.33.01(3)(a). The Code then provides a non-exhaustive list of events that sufficiently constitute “reasonable cause”, which includes a “nonrecurring honest mistake”. Ala. Admin. Code r. 810-14-1-.33.01(3)(a)1. The Taxpayer argues that its failure to timely pay its 2023 business privilege tax constitutes a “nonrecurring honest mistake”. However, the Taxpayer’s filing history reflects that such failure is a recurring event. The Taxpayer had already failed to timely pay its taxes in two of the three years preceding 2023. In other words, the Taxpayer fails to timely pay its taxes more frequently than not. Such a filing history cannot constitute a “nonrecurring honest mistake” sufficient to warrant a “reasonable cause” waiver under Rule 810-14-1-.33.01(3).

Therefore, the Revenue Department’s 2023 final assessment is affirmed. Judgment is entered against the Taxpayer in the amount of \$18,114.25, consisting of \$15,000.00 of outstanding business privilege tax liability, \$1,164.25 of interest, and a \$1,950.00 late-payment penalty, plus additional interest that continues to accrue from the March 28, 2024, date of entry of the final assessment until the liability is paid in full.

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

Entered September 3, 2024.

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

jp:thb

cc: Georges Pillippe de Bustros  
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