

KARSONS INTERNATIONAL, INC.
Holiday Inn Express
357 Highway 304
Calera, AL 35040-5505,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. S. 00-373

FINAL ORDER

The Revenue Department assessed lodgings tax against Karsons International, Inc. for September 1998 through March 1999. Nouman A. Malik (ATaxpayer@) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, ' 40-2A-7(b)(5)a. A hearing was conducted on October 31, 2000. The Taxpayer appeared at the hearing. Assistant Counsel Wade Hope represented the Department.

The issue in this case is whether the Department correctly assessed the lodgings tax, penalties, and interest in issue against Karsons International, Inc.

The Taxpayer, on behalf of Karsons International, Inc., began operating the Holiday Inn Express in Calera, Alabama in August 1998. The Taxpayer failed, however, to timely file State lodgings tax returns for September, October, November, and December 1998, and also January, February, and March 1999.

A Department agent visited the Taxpayer's business in July 1999, at which time the Taxpayer submitted returns for January, February, and March 1999. The Department accepted those returns, estimated the corporation's liabilities for September through December 1998, and entered the final assessment in issue. The final assessment includes interest and the late filing and payment penalties levied at Code of Ala. 1975, ' ' 40-2A-11(a) and (b).

The Taxpayer subsequently filed returns for September through December 1998. The Department has agreed to also accept those returns. The reduced tax owed for September 1998 through March 1999, as reported by the Taxpayer, is \$8,592.

The Taxpayer argues that too much tax was reported on the returns. However, he does not dispute the adjusted amount claimed by the Department because he has no records to verify his claim.

The Taxpayer does dispute the penalties and interest assessed by the Department. The Taxpayer claims that Holiday Inn failed to train him and his employees concerning the computers at the motel. According to the Taxpayer, the computers were programmed to charge \$79 per night, although customers were actually charged \$45 or \$50 a night. Neither the Taxpayer nor his employees knew how to correct the computers to show the actual amount received. Consequently, the Taxpayer could not determine how many rooms had been rented, and at what rate. The Taxpayer has since figured out the system, and has timely filed and paid for the past eighteen months.

The Department assessed the corporation for the failure to timely file and pay penalties levied at Code of Ala. 1975, ' '40-2A-11(a) and (b), respectively. Those penalties can be waived for reasonable cause, which includes instances in which a taxpayer acted in good faith. Code of Ala. 1975, ' 40-2A-11(h).

The Taxpayer and his wife, who helps him run the business, are sincere, intelligent individuals. However, they also operated a motel in Clanton, Alabama before they took over the Holiday Inn Express, and thus were aware of their duty to file monthly lodgings tax returns and pay the tax due. They knowingly failed to do so. I believe the Taxpayer had a

problem with his computer system. But it was his duty to know how to operate the computer system before he began operating the business. Once he discovered he had a problem, he could have used another method to record his gross receipts subject to lodgings tax. Under the circumstances, reasonable cause does not exist to waive the penalties.

Interest is also required by statute and cannot be waived. Code of Ala. 1975, ' 40-1-44.

The final assessment, as reduced, is affirmed. Judgment is entered against Karsons International, Inc. for \$11,437.19.

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

Entered November 14, 2000.