

RICHEY'S BARBEQUE, A PARTNERSHIP §
AND ITS PARTNERS, REX B. LEFFEL,
GARY M. RICHEY §
9575 US HWY. 411
BRANCHVILLE, AL 35120-4729, §

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayer,

DOCKET NO. S. 08-156

v.

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

The Revenue Department assessed Richey's Barbeque, and its partners Rex B. Leffel and Gary M. Richey, for State sales tax for November and December 2004 and January and February 2005. Rex B. Leffel ("Taxpayer") appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on September 5, 2008. The Taxpayer attended the hearing. Assistant Counsel Wade Hope represented the Department.

The Taxpayer and Gary Richey formed a partnership doing business as Richey's Barbeque in July 2003. The partners jointly applied to the Department for an Alabama sales tax account number. The Department issued the partnership a sales tax license in due course.

The business failed to file sales tax returns with the Department for the months in issue. The Department attempted to obtain the returns, but was unable to do so. It consequently estimated the business' liability for the subject months and assessed the partnership and the partners, individually, for the tax due, plus penalties and interest. The Taxpayer appealed.

The Department argues that the Taxpayer is liable for the sales tax in issue because he signed the sales tax application and never notified the Department that he had sold his interest in the partnership. The Taxpayer testified at the September 5 hearing that he and Richey signed a Partnership Dissolution Agreement in June 2004. He also submitted a copy of the Agreement.

The Administrative Law Division has previously held that a partner is only liable for the taxes of a partnership that accrue while the individual is a partner. An individual partner is not liable for the debts of a partnership that accrue after the individual withdraws from and is no longer active in the partnership. See, *Best Deal Mobile Home Sales v. State of Alabama*, S. 01-551 (Admin. Law Div. 12/21/2004).

Because the Taxpayer was not a member or otherwise involved in the partnership during the months in issue, he is not liable for the sales tax in issue. His name is accordingly deleted from the final assessment.

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

Entered September 11, 2008.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: J. Wade Hope, Esq.
Rex B. Leffel
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