

OLD LODGE CATERING, LLC  
59 COUNTY ROAD 843  
VALLEY GRANDE, AL 36701,

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

Taxpayer,

§

DOCKET NO. BPT. 12-1402

v.

§

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

§

### **FINAL ORDER**

The Revenue Department assessed Old Lodge Catering, LLC (“Taxpayer”) for 2007 through 2011 business privilege tax. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on March 19, 2013. The Taxpayer’s owner, Kenneth Melton, attended the hearing. Assistant Counsel Christy Edwards represented the Department.

The Taxpayer filed its articles of organization with the Alabama Secretary of State’s Office on February 23, 2007. The Taxpayer failed to file business privilege tax returns for the subject years. The Department consequently assessed the Taxpayer for the tax due for those years, plus penalties and interest.

The Taxpayer’s owner argued at the March 19 hearing that he stopped operating his business in December 2007. He concedes that he owes the business privilege tax for 2007, but argues that because his business “ceased to exist” in 2007, he should not be liable for the tax in the subsequent years in issue.

I understand the Taxpayer’s owner’s frustration because, like many other taxpayers, he was unaware that the business privilege tax applies to any entity qualified to do business in Alabama, even if no business is or was conducted in a given year. Alabama law is clear, however, that the business privilege tax applies to every corporation or LLC

that is “doing business in Alabama, or organized, incorporated, qualified, or registered under the laws of Alabama.” Code of Ala. 1975, §40-14A-22(a). Because the Taxpayer was registered with the Alabama Secretary of State’s office from 2007 until 2012, it was qualified to do business in Alabama in those years, and thus liable for the minimum \$100 business privilege tax in those years.

Under the circumstances, the penalties are waived for cause. Judgment is entered against the Taxpayer for 2007, 2008, 2009, 2010, and 2011 tax and interest of \$125.45, \$118.80, \$113.23, \$109.20, and \$105.41, respectively. Additional interest is also due from the date the final assessments were entered, November 1, 2012.

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

Entered March 27, 2013.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Christy O. Edwards, Esq.  
Kenneth Melton  
Cathy McCary