

ALABAMA TAX TRIBUNAL

SLJ HOLDINGS, INC.,
A DISSOLVED CORPORATION
F/K/A JORDAN SCRAP, INC.¹,

§

Taxpayer,

§

v.

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

DOCKET NO. S. 23-618-LP
S. 24-0469-LP
S. 24-0470-LP

OPINION AND PRELIMINARY ORDER

This appeal involves the denial by the Alabama Department of Revenue of a refund of sales tax for the periods February 2020 through October 2022. A hearing was conducted on June 11, 2025. SLJ Holdings, Inc., a dissolved corporation f/k/a/ Jordan Scrap, Inc. (the “Taxpayer”), was represented by Emmett Warren Maze. The State of Alabama Department of Revenue (the “Department”) was represented by David E. Avery, III. LeShayla Jackson, a Revenue Tax Accountant/Auditor in the Sales Tax Division of the Department, appeared and testified under oath.

FACTS

The Taxpayer filed a petition for refund on March 23, 2023, for taxes paid to Allgas, Inc., on purchases of propane gas. In the petition, the Taxpayer claimed that the sales tax on the purchases should have been at the reduced machine rate rather than the general rate. The Department’s witness, Ms. Jackson, testified that she

¹ The Alabama Department of Revenue notified the Tax Tribunal on March 5, 2025, that Jordan Scrap, Inc., amended its Articles, changing its name to SLJ Holdings, Inc., on December 13, 2024. The corporation was voluntarily dissolved by consent of its sole shareholder on December 31, 2024. The

denied the petition in part because about half of the periods were outside of the two-year statute of limitations that the Department applied. She also denied the petition because she found that the purchases did not qualify for the machine rate. The propane purchased was used in a piece of equipment similar to a blow torch, and the Department determined that torch to be a hand tool, not a machine. The Department understood the torch to be used to dismantle large structures, such as bridges, buildings, and boats. Additionally, the Taxpayer claimed the refund was due under an exempt code related to regulatory fees. That claim was also denied by the Department. However, that claim is not at issue here.

On June 6, 2023, the Department received a refund petition from the Taxpayer for taxes paid to Air Products & Chemicals, Inc., on purchases of oxygen which was used in the same process as the propane purchased. Also on June 6, 2023, the Department received a refund petition from the Taxpayer for taxes paid to Matheson Tri-Gas, Inc., on purchases of liquid oxygen. Again, the Taxpayer claimed that the purchases qualified for the machine rate. The Department denied both of these petitions under the same analysis as the first petition.

The Taxpayer's representative disagreed with the Department's exclusion of the three-year statute of limitations. Additionally, the representative stated that the gas purchases at issue here were used in the plant to cut down large metal pieces into smaller pieces of a marketable size and shape. Equipment used to dismantle large structures did not involve the gas purchases for which refunds are sought here.

BURDEN OF PROOF

“Concerning [] refund petitions, the burden is on a taxpayer to prove that a refund is due.” *Game Day Tents, Inc. v. State Dep’t of Revenue*, No. S. 17-358-JP, 19 (Ala. Tax Trib. April 12, 2023), (quoting *The Package Store #1, Inc., and The Package Store #2, Inc. v. State Dep’t of Revenue*, No. S. 87-183, 3 (Admin. Law Div. Jan. 26, 1993)). Additionally, it is well settled that a taxpayer seeking an exemption from tax must prove that he or she falls within the exemption. *State v. Ross Grady Ins. Agency, Inc.*, 266 So. 2d 787, 793-94 (Ala. Civ. App. 1972). Therefore, the burden here is on the Taxpayer to prove that the gas it purchased qualified for the machine rate.

ISSUE 1: TIMELINESS OF REFUND PETITION

The Department claims that the refund petitions of about half of the tax periods claimed were untimely filed. It argues that because the Taxpayer did not and was not required to file a return for the tax at issue, the three-year statute of limitations could not apply.

For a refund petition, the statute of limitations to file is “(i) three years from the date that the return was filed or (ii) two years from the date of the payment of the tax, whichever is later.” Ala. Code § 40-2A-7(c)(2)a.

Recently, this Tribunal found that “in the context of petitions for refund of [utility gross receipt tax], ‘the return’ in question in § 40-2A-7(c)(2) is the return filed by the [s]eller with the Department.” *Alatrade, Inc. v. State of Ala. Dep’t. of Revenue*, S. 25-0013 (Alabama Tax Tribunal, Dec. 10, 2025). The refund of the utility gross receipt tax is governed by the same statute, and the same sentence of that statute, as sales

and use taxes pursuant to Chapter 23. *See* Ala. Code § 40-2A-7(c)(1). The same is true for the time limitation for filing a petition for refund. *See* Ala. Code § 40-2A-7(c)(2). Therefore, I find the conclusion in *Alatrade* is applicable to sales and use taxes pursuant to Chapter 23 as well. Here, the Taxpayer had three years from the date of filing of the return by the gas vendors, if timely. At the hearing, the Taxpayer's representative questioned the Department's witness: "And I believe you indicated that you did verify that these returns were filed by the seller?" To which the witness replied: "Yes. The seller has an active account, yes." (Transcript, p. 58). The witness did not state whether the filings were timely. The burden of proof is on the Taxpayer to prove that the returns were timely-filed so that the three-year statute of limitations applies.

ISSUE 2:

The second issue is whether the purchases by the Taxpayer of propane and oxygen qualified for the machine rate.

The Alabama Code provides for sales tax at the machine rate as follows:

Upon every person, firm, or corporation engaged or continuing within this state in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property an amount equal to one and one-half percent of the gross proceeds of the sale of the machines. The term "machine," as herein used, shall include machinery that is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of the machines, attachments, and replacements therefor, that are made or manufactured for use on or in the operation of the machines and that are necessary to the operation of the machines and are customarily so used.

Alabama Code § 40-23-2(3).

In *Southern Natural Gas Co. v. State*, 73 So.2d 731 (Ala. 1954), the Alabama

Supreme Court held that, in regards to the machine rate statute, “[i]t is apparent that the word ‘process’ is synonymous with the expressions ‘preparation for market’ and ‘to convert to marketable form.’” *Id.* at 735.

The Alabama Supreme Court has also applied the “integral function” test to determine whether the machine rate applies. The Court stated:

[The machines’] status is not controlled by the material of which they are composed, but by the office they serve in the process. If the article in question performs an integral function in the procedure by which the tangible personal property is produced, we think it is part and parcel of the machinery used in its production.

State v. Newbury Mfg. Co., 93 So. 2d 400, 402 (Ala. 1957).

The Department argues that the Taxpayer’s purchases do not qualify for the machine rate because the items are not used in a manufacturing process but rather in a service, i.e. the dismantling of large structures or objects. However, the Taxpayer’s representative stated that the gas purchases for which refunds are at issue were not used in the dismantling process. Instead, the gases were used to cut large pieces of metal into smaller pieces for marketability.

I find that the use of the gases for cutting metal in this circumstance constitutes processing for the purpose of the machine rate. Therefore, the machine rate does apply to the purchases at issue.

CONCLUSION

The Department’s refund denials based on the determination that the Taxpayer’s purchases did not qualify for the machine rate are reversed. However, the Taxpayer has not met its burden to prove that all tax periods at issue qualify for the

three-year statute of limitations as it has not proved that the returns were timely filed.
The **Taxpayer** is directed to provide proof to the Tax Tribunal by **January 16, 2026**,
that the returns were timely filed.

Entered December 11, 2025.

/s/ Leslie Pitman
LESLIE PITMAN
Associate Judge
Alabama Tax Tribunal

cc:

Emmett Warren Maze
Michael Friedmann
SLJ Holdings, Inc. f/k/a Jordan Scrap, Inc.
David E. Avery III, Esq.