

ALABAMA TAX TRIBUNAL

NBS MEMORIAL TRUST, §

Taxpayer, § DOCKET NO. S. 24-0533-RC

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

OPINION AND FINAL ORDER

This appeal involves the entry by the Alabama Department of Revenue of a final assessment of consumer's use tax for the periods April 2021 through June 2023. A trial was held on June 24, 2025. Bradley Steiger represented the Taxpayer. Hilary Y. Parks represented the Revenue Department, and Bernice Braswell, the Revenue Department's examiner, appeared and testified. The Tribunal thereafter entered a number of post-trial preliminary orders, the most recent of which was entered January 20, 2026, to which both parties have now responded.

FACTS

This appeal involves three entities; the NBS Memorial Trust (the "Trust"), TVF Trucking, LLC ("TVF"),¹ and Bradley J. Steiger, an individual who is currently the sole trustee and sole beneficiary² of the trust and the sole member and sole manager

¹ At various points in the parties' filings, the parties refer to this entity as "TVF Trucking, LLC." The electronic records of the Alabama Secretary of State contain no record for a "TVF Trucking, LLC," but do contain records for "TVF Trucking, LLC," of which Mt. Steiger was an initial member. The Tribunal assumes the entity involved in the appeal is TVF Trucking, LLC.

² While the Certificate of Trust provided by Mr. Steiger does not identify the beneficiary or beneficiaries of the Trust, the Department has since the beginning of its audit alleged that Mr. Steiger is the sole beneficiary of the Trust, which neither the Taxpayer nor Mr. Steiger have denied. Therefore, the Tribunal will assume that Mr. Steiger is, indeed, the sole beneficiary of the Trust.

of TVF. The Trust was created by a Declaration of Trust executed by Donna M. Steiger, who Bradley Steiger identifies as his late mother, on March 11, 2021. The Trust was created pursuant to Nevada law. Initially, both Bradley and Donna Steiger were co-trustees, but Donna Steiger passed away on June 2, 2021, leaving Bradley Steiger as the sole trustee. TVF is an Alabama limited liability company, created by filing a Certificate of Formation with the Probate Judge of Houston County, Alabama, on December 29, 2020. TVF's Organizer was Kelsey Polasek, who appointed both Bradley and Donna Steiger as members of TVF and appointed Bradley Steiger as TVF's sole manager. Upon Donna Steiger's passing, Bradley Steiger became the sole owner of TVF.

On May 28, 2021, the Trust purchased a semi-truck from a vendor in Missouri. The Department issued a certificate of title to the semi-truck to the Trust on July 21, 2021. On July 4, 2021, the Trust entered into what the Taxpayer states is a "Truck Lease/Operator Agreement" between itself and TVF. The Taxpayer states the purpose of this agreement was that "[the Trust would] receive monthly payments from [TVF], and [the Trust] would retain ownership and title of the vehicle until the termination/cancellation of the lease and, at [the Trust's] discretion, the vehicle could be purchased by [TVF] at fair market value. The lease agreement also contained provisions whereby Bradley Joseph Steiger was designated as the 'Operator' of the specified vehicle." *Taxpayer's Notice of Appeal*, at 3.

Prior to acquiring the semi-truck, the Trust had applied to the Department for and been granted a sales tax license, allowing the Trust to purchase items at

wholesale that it intended to resell or to lease. The Trust opened and maintained a rental tax account with the Department and paid rental tax on its lease proceeds from TVF regarding the semi-truck.

At some later date, the Department became aware that the Trust had not paid sales or use tax on the original purchase of the semi-truck in Missouri. The Department became aware further that the agreement between the Trust and TVF was not merely for the semi-truck, but also for TVF to provide a driver (Mr. Steiger), and that therefore the Department's view was that the agreement between the Trust and TVF was not a lease, whereupon the Department closed the Trust's rental tax account.

Upon audit, the Trust argued that it ought not to have been subject to rental tax either, because the lease included the provision of an operator (Mr. Steiger). The Taxpayer cited § 40-12-223(8), exempting from the lease tax “[a] transaction in which the lessor leases a truck or tractor-trailer or semitrailer for operation over the public roads and highways and such lessor furnishes a driver or drivers for each vehicle, and the transaction shall be deemed to constitute the rendition of service and not a ‘leasing or rental’ within the meaning of this article..” The Department's auditor concluded that because “[the Trust] only has one customer, [TVF], and the lease between them is not a taxable lease, [the Trust] does not have any taxable leases. ... Since [the Trust] makes no leases that are subject to the tax imposed by [the rental tax], the business should not possess a rental tax license.” The Department thereupon adjusted the Taxpayer's account to reflect a credit due for overpaid rental tax and a

balance due for underpaid use tax.

On July 8, 2024, the Department entered a final assessment against the Trust for consumers' use tax in the total amount of \$2,396.11, consisting of tax of \$2,274.46 and interest of \$121.65. The final assessment imposed no penalties. The Trust appeals that final assessment to this Tribunal. Its appeal is timely.

ANALYSIS

With respect to the use tax, the Taxpayer's argument appears to be that the Trust ought to have been exempt from paying sales or use tax when it purchased the semi-truck and brought it into Alabama because Ala. Code (1975)³, § 40-23-61(c)(1) (levying the use tax on automobiles) imposes tax on "any automotive vehicle or truck trailer, semitrailer or house trailer ... purchased at retail ... for storage, use, or other consumption in this state...." The Taxpayer argues that having purchased the semi-truck for the purpose of leasing it to others, it did not purchase the truck "at retail," but rather purchased it at wholesale, which is not subject to the lease tax. The definition of an exempt "wholesale sale" at § 40-23-60(4)(j) includes "[a] sale of tangible personal property to any person engaging in the business of leasing or renting such tangible personal property to others, if the tangible personal property is purchased for the purpose of leasing or renting it to others under a transaction subject to the privilege or license tax levied in Article 4 of Chapter 12 [the rental tax] against any person engaging in the business of leasing or renting tangible personal property to others."

³ All references to code sections herein are to the Code of Alabama (1975), as amended to date, unless stated otherwise.

The Department replies that because the Taxpayer has acquired only one item of property and engaged in only one lease, to an entity under common control with the Taxpayer, it is not “engag[ed] in the business of leasing or renting....,” and thus the exemption does not apply. Further, the Department argues that, as the lease between the Trust and TVF provides an operator in addition to the tangible property, and thus is a provision of services and not a true lease pursuant to § 40-12-223(8), the Taxpayer did not purchase the semi-truck to use in the business of leasing or renting, regardless of the Taxpayer’s level of rental activity.

The Tribunal need not address that issue for a more fundamental reason; for tax purposes, neither the Trust nor TVF exist. They are both one and the same taxpayer as Bradley Steiger, and therefore the purported lease agreement between the Trust and TVF is a legal nullity. For tax purposes, Mr. Steiger has effectively acquired the semi-truck himself, and then purported to lease it to himself, a transaction that has no legal effect and cannot give rise to a lessor/lessee relationship, regardless of any agreement or any level of activity.

Section 10A-5A-1.07(b) states “for purposes of taxation [other than the Alabama business privilege tax], a limited liability company or foreign limited liability company shall be treated as a partnership unless it is classified otherwise for federal income tax purposes, in which case it shall be classified in the same manner as it is for federal income tax purposes.”

The federal rules for classifying organizations are contained in Treas. Reg. §§ 301.7701-1, -2, and -3. These regulations are commonly known as the “check-the-

box” regulations, as they allow taxpayers forming non-corporate entities to elect what classification the entity should receive. In particular, Treas. Reg. § 301.7701-3(a) states “[a] business entity that is not classified as a corporation ... can elect its classification for federal tax purposes as provided in this section. ... An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301-7701-2(b)(2)) or a partnership, and an eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.” Treas. Reg. § 301-7701-3(b) provides “unless the entity elects otherwise, a domestic eligible entity is (i) a partnership if it has two or more members; or, (ii) disregarded as an entity separate from its owner if it has a single owner.”

At no time has TVF or Mr. Steiger indicated that TVF has made an affirmative election with the IRS to be treated as an association and thus a corporation. It was, from its formation on December 29, 2020 until Donna Steiger’s death on June 2, 2021, a partnership. Following Donna Steiger’s death, TVF became “disregarded as an entity separate from its owner,” and, importantly, was so disregarded when the purported lease was executed on July 4, 2021.

On the other side of that purported transaction was the Trust. While the Tribunal has not been presented with the Declaration of Trust itself, the Certificate of Trust that is in the record states “[f]or U.S. Federal Tax purposes, the Trust shall be treated as a ‘Grantor Trust.’”

In general, for federal income tax purposes, a “grantor trust” is one described

in the Internal Revenue Code, §§ 671-679, which meets certain criteria. “[I]f a trust grantor is deemed an owner, the trust ‘is not treated as a separate taxable entity for Federal income tax purposes to the extent of the grantor’s retained interest.’ Gould v. Commissioner, [139 T.C. 418. 435 (2012)]. To put it another way, when the grantor trust provisions apply, they function to ‘look through’ the trust form and ignore the ‘owned’ portion of the trust for Federal tax purposes as existing separately from the grantor.” Sage v. Commissioner, 154 T.C. 270, 283 (2020).

Until 2006, Alabama law was not in harmony with federal income tax law regarding the income taxation of trusts (known colloquially as “subchapter J” for the location in the Internal Revenue Code where provisions governing income taxation of trusts and estates are found). However, that year, Alabama Act 2006-114 was signed into law, entitled the “Subchapter J and Business Trust Conformity Act.” That act altered § 40-18-25(a) to read as it currently does: “[f]or purposes of this chapter, the income and deductions, including the distribution deduction, of estates and trusts shall be determined in accordance with Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code, 26 U.S.C. § 641 et seq., relating to estates, trusts, beneficiaries, and decedents, except as otherwise provided in this section.” It altered § 40-18-25(b) to mirror that treatment on the beneficiary side, providing “[f]or purposes of this chapter, the income and deductions of beneficiaries of estates and trusts, and persons who are treated as owners of any portion of a trust, shall be determined in accordance with Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code, U.S.C. § 641 et seq., relating to estates, trusts, beneficiaries, and

decedents, except as otherwise provided in this section.”

Specifically regarding grantor trusts, Act 2006-114 adopted § 40-18-25(g), stating “[e]xcept as may be provided for by the Department of Revenue regulations, any trust described in 26 U.S.C. § 671 [that is, any grantor trust], shall be subject to the filing and reporting requirements of Section 40-18-29. Notwithstanding such filing and reporting requirements, the grantor of such trust, or other person treated as the owners of such trust, shall take into account the income, deductions, and credits of such trust as provided in 26 U.S.C.” (emphasis added).

This conclusion is further buttressed by § 40-18-1(9), defining the term “disregarded entity,” providing that a “disregarded entity” is “[a]ny entity which is disregarded for federal income tax purposes.” As seen above, grantor trusts are “disregarded for federal income tax purposes,” and therefore it would seem that such trusts would consequently qualify as “disregarded entities” under Alabama law. This status matters both for issues of substantive tax law and for procedural issues. In a case in which the Department argued that a disregarded LLC lacked standing to appeal a sales tax assessment entered in the name of the LLC’s sole owner, the Court held “[a]s a disregarded entity, the LLC is not distinguishable from [its owner] for the purpose of appealing pursuant to § 40-2B-2(g)(2)a..... We, therefore, conclude that the LLC also had standing to appeal to the Tax Tribunal.” Alabama Department of Revenue v. Downing, 272 So. 3d 184, 189 (Ala. Civ. App. 2018). While this decision was rendered in the context of a limited liability company and not a trust, it nevertheless demonstrates that disregarded entities and their beneficial owners are

treated as one and the same entity by Alabama courts for tax purposes.

Both TVF and the Trust are disregarded for Alabama tax purposes. For that reason, there was never a lease of the semi-truck to begin with, and the Trust (which, again, this Tribunal must treat as if it were Mr. Steiger himself) could not possibly have purchased it for use in the trade or business of leasing such property. That being the case, the Taxpayer's claim that the truck was purchased at wholesale must fail. As far as the tax law is concerned, Mr. Steiger purchased the truck at retail. When he subsequently brought it into the State of Alabama to use in his actual business of freight delivery, he became subject to Alabama use tax.

The Final Assessment of the Department of Revenue is hereby upheld in its entirety, and judgment entered against the Taxpayer and for the Department in the amount \$2,396.11, plus interest that shall have continued to accrue since its entry on July 8, 2024.

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

Entered February 19, 2026.

/s/ Ralph M. Clements, III
RALPH M. CLEMENTS, III
Associate Judge
Alabama Tax Tribunal

cc: Bradley Steiger
Hilary Y. Parks, Esq.