

**ALABAMA TAX TRIBUNAL**

AT&T SUPPLY I, LLC, §  
Taxpayer, § DOCKET NO. COUNTY 23-952-LP  
v. §  
JEFFERSON COUNTY, ALABAMA. §

**FINAL ORDER DISMISSING APPEAL**

This appeal involves the denial of a request for a refund of sales tax for the periods January 2018 through November 2018. A preliminary hearing regarding jurisdiction of the Tax Tribunal over this appeal was held on September 30, 2025. Brent Grainger represented Jefferson County; Joan Moffett and Eric Pruett appeared and testified on behalf of the County. Daniel Gwin and Andre Bennett represented the Taxpayer. Prior to the preliminary hearing, the parties submitted various filings, including a joint stipulation of facts.

The County argues that the Tax Tribunal has no jurisdiction to hear this case because the appeal was untimely filed. The Taxpayer argues that it was not untimely filed or, alternatively, that estoppel prevents the County from asserting that the appeal is untimely.

**FACTS**

The Taxpayer filed its petition for refund on or about February 9, 2021. The petition was deemed denied on August 9, 2021, at the expiration of 6 months per the Alabama Code, § 40-2A-7(c)(3). The Taxpayer then had two years in which to appeal that denial to the Tax Tribunal or circuit court. Ala. Code § 40-2A-7(c)(5). That two-

year appeal period expired on August 9, 2023. The Taxpayer filed this appeal on or about November 9, 2023.

On September 12, 2022, the County requested the Taxpayer complete and submit the refund petition on a new form. The Taxpayer did so.

After the deemed denied date, the parties continued to communicate with each other regarding the refund petition, and the County continued to consider the refund.

On or about December 27, 2022, the County mailed a formal denial notice to the Taxpayer; however, the Taxpayer did not receive the notice. On or about August 29, 2023, the Taxpayer emailed the County to inquire about the status of the refund petition and was sent a copy of the December 2022 denial notice in reply. Also on that date, the County emailed to the Taxpayer the sections of the Alabama Code pertaining to the filing of refund petitions and the appeal of denials of refund petitions.

#### LAW

The Alabama Code, 1975, provides the following statute regarding the denial of a refund petition:

The department shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the department. The taxpayer shall be notified of the department's decision concerning the petition for refund by first class mail, or by either United States mail with delivery confirmation or by certified mail, return receipt requested, sent to the taxpayer's last known address. If the department fails to grant a refund within the time provided herein, the petition for refund shall be deemed to be denied.

Ala. Code § 40-2A-7(c)(3).

Regarding the appeal of a denial of a refund petition, the Code states:

a. A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the Alabama Tax Tribunal within two years from the date the petition is denied, and the appeal, if timely filed, shall proceed as hereinafter provided for appeals to the Alabama Tax Tribunal.

...

c. If an appeal is not filed with the Alabama Tax Tribunal or the circuit court within two years of the date the petition is denied, then the appeal shall be dismissed for lack of jurisdiction.

Ala. Code § 40-2A-7(c)(5).

The Supreme Court of Alabama has held “that the State may be estopped from asserting that a taxpayer failed to timely appeal ‘where the untimeliness of the filing of their appeal was caused by misinformation furnished by the State’s officer and relied upon by the petitioners to their detriment.’” *Magee v. Home Depot U.S.A., Inc.*, 95 So. 3d 781, 788 (Ala. Civ. App. 2012) (quoting *Home Depot U.S.A., Inc. v. State of Alabama*, Docket No. S. 06-1079 (ALD 5/2/2007), quoting *Ex parte Four Seasons, Ltd.*, 450 So. 2d 110, 112 (Ala. 1984)). In applying this rationale, the Court has established that “if a governmental employee acting in his or her official capacity gives an individual or an entity erroneous information that is relied on in good faith by the individual or entity, and which directly results in the individual or entity failing to timely appeal, the

government is estopped from asserting the statute of limitations as a defense.” *Id.* at 788-789.

In *Home Depot*, the Revenue Department, after the taxpayer’s refund petition was deemed denied, “actively communicated” with the taxpayer concerning its refund claim and sent the taxpayer a refund denial letter notifying it of the date (i.e., two years from the date of the denial letter) in which the refund denial could be timely appealed. *See id.* at 789. The Alabama Court of Civil Appeals affirmed the Administrative Law Division’s finding that such communication was not required and, absent such communication by the department, “the burden would have been on [Home Depot] to determine how long it had to appeal, i.e., two years from when the petition was deemed denied.” *Id.* at 789-790. The Court of Civil Appeals has explained: “Estoppel would not, of course, apply in all cases where a Department employee gives a taxpayer erroneous advice concerning the taxpayer's appeal rights. Rather, it must be applied (or rejected) on a case-by-case basis. For estoppel to apply, the advice or information must seem reasonable on its face, and the taxpayer must rely on the advice or information in good faith.” *Magee v. Home Depot U.S.A., Inc.*, 95 So. 3d 781 (Ala. Civ. App. 2012).

The Tax Tribunal has previously heard the issue of estoppel in similar cases. *See AT&T Services, Inc. v. Ala. Dep’t of Rev.*, Docket No. S. 20-1085-LP (Opinion & Preliminary Order Regarding Revenue Department’s Motion to Dismiss Untimely Appeal, June 28, 2022) (holding that the Revenue Department’s multiple email

communications “reasonably indicate that [the examiner] saw the agreements as a means of extending the 6-month period in which the Department had to act on the Taxpayer’s refund petition, or its otherwise being deemed denied”) and *Russell County Community Hospital, LLC d/b/a Jack Hughston Memorial Hospital v. Russell County, Ala., Lee County, Ala., & Phenix City, Ala.*, Docket No. County/City 21-124-LP (Opinion and Preliminary Order, April 18, 2023) (holding that the local government’s “continuing to request additional documentation and working with the Taxpayer to consider and resolve the refund claim does not equate to ‘giv[ing] ... an entity erroneous information” and “does not warrant a finding of estoppel.”)

#### ANALYSIS

The Taxpayer argues that the petition for refund at issue was actually filed on or about September 12, 2022, and not August 9, 2021, and that, alternatively, the County’s notice in December of 2022 denying the petition is the date that the statute of limitations began under principle of estoppel.

On September 12, 2022, the Taxpayer resubmitted the refund petition on a new form at the request of the County. The email request from the County’s auditor, Ms. Moffett, reads as follows:

Your refund request has been reassigned to me. Can you please fill out the correct petition form and send it back to me? If there was any correspondence between you and Wilma Thornton (previous auditor) please send that as well. If you could send your supporting documentation to me on a flash drive that would be helpful. Or if you have a secure [website] where I can retrieve the documentation that would also work.

Taxpayer's Exhibit 5.

Testimony provided that Ms. Moffett requested the new petition form because she was working other AT&T-related companies' refund petitions and wanted all of the petitions to match in form.

I find that the September 12, 2022, petition for refund was not a new filing of a petition but rather fulfillment of a housekeeping request by the County. The evidence does not support that the Taxpayer believed the filing date to be the one from which the statute of limitations ran.

The Taxpayer also argues that the notice of denial from December of 2022 served as communication from the County to the Taxpayer that the appeal period began on the date of that notice of denial. There are no misrepresentations made in the notice of denial regarding an appeal. Furthermore, there are no misrepresentations regarding an appeal in the email dated August 29, 2023, from the County. Additionally, nothing in the communications during the period the refund was under consideration by the County misrepresented the appeal process or statute of limitations. The Taxpayer has not proven that the County "actively communicated" that the appeal period was extended. Therefore, I find that estoppel does not apply in this situation.

The appeal was deemed denied on August 9, 2021, and the appeal period expired two years after that date. The Taxpayer did not file the appeal within that two-year period. Therefore, the Tax Tribunal does not have jurisdiction to hear the appeal. Ala. Code § 40-2A-7(c)(5).

This appeal is hereby dismissed from the Tax Tribunal docket for lack of jurisdiction.

This Final Order Dismissing Appeal may be appealed to circuit court within 30 days, pursuant to Ala. Code § 40-2B-2(m).

Entered March 30, 2026.

/s/ Leslie H. Pitman  
LESLIE H. PITMAN  
Chief Tax Tribunal Judge

cc: Dan Gwin  
Brent G. Grainger, Esq.