

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
AADII, LLC) Docket No. **2024-29**
FROM A DECISION BY THE DEPARTMENT)
OF REVENUE (Excise Tax license))

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION, AND ORDER

APPEARANCES

Karl Anderson and James Peters, Senior Assistant Attorneys General, appeared on behalf of the Wyoming Department of Revenue, Sales and Use Tax Division (hereafter Department).

Patanga Patel-Spilker and Parinda Patel, pro se, appeared on behalf of Aadii, LLC (hereafter Taxpayer).

SUMMARY

[¶ 1] Taxpayer appeals the Department’s revocation of the sales tax license issued to Taxpayer/vendor following substantial failures to remit collected sales and lodging taxes, interest, and other charges. Taxpayer generally concedes that it has failed to remit collected taxes, citing a number of reasons stemming from the bankruptcy of a related business entity, and creditor strategies limiting Taxpayer’s ability to flexibly operate. Taxpayer complains that the Department did not offer it a payment plan, and it seeks reversal so that Taxpayer may continue to operate and remit sales and lodging taxes due the State. The State Board of Equalization conducted a contested case hearing to resolve Taxpayer’s appeal of the revocation. The Board, Chairman Martin L. Hardsocg, Vice-Chairman David L. Delicath, and Board Member E. Jayne Mockler, having received evidence and arguments of the parties in a contested case hearing, shall affirm the Department’s revocation of Taxpayer’s sales tax license.

ISSUES

[¶ 2] The parties do not identify issues, but the question generally raised is whether the Department revoked Taxpayer’s sales tax license in accordance with its authority to do so, having followed all applicable statutory and regulatory guidelines.

[¶ 3] Second, did the Department preliminarily deprive Taxpayer of statutory rights, such as a payment plan for payment of unremitted sales taxes?

JURISDICTION

[¶ 4] Following the Department’s decision to revoke Taxpayer’s sales tax license on October 18, 2024, Taxpayer appealed on November 14, 2024. Wyoming Statutes section 39-15-106(g) (2023) provides that “[t]he vendor may appeal a revocation under this subsection to the state board of equalization not more than thirty (30) days following the revocation of the license.” Having appealed within 30 days of the Department’s revocation decision, Taxpayer’s appeal is timely, and this Board has jurisdiction.

PROCEEDINGS AND EVIDENCE

[¶ 5] Taxpayer Aadii, LLC (pronounced “Audi”) appeals the Department’s revocation of its sales tax license, No. 02013693, with a “business start” date of January 1, 2024. (DOR Exs. 504, 513). Taxpayer seeks reversal of the revocation, in large part, to enable its continued operation of a Cheyenne hotel so that the hotel’s owner/business may pay debts owed in a Chapter 11 bankruptcy, including past unremitted sales taxes. (Audio Recording, 14:00-15:30, 2:09:00-2:22:00; Second Audio Recording, 01:07:00-01:20:00). Patanga Patel-Spilker, a principal and manager of Taxpayer, explained that she hoped to present recently developed funding options for the hotel business in bankruptcy, and that revocation of its sales tax license would foreclose that opportunity. *Id.* The Department, in light of the underlying business’ historic tax system noncompliance and Taxpayer’s recent noncompliance through 2024, asks this Board to affirm its license revocation. (Second Audio Recording, 51:00-01:06:00); *infra* ¶¶ 7-10.

[¶ 6] Taxpayer is a management company formed to operate the “Sure Stay” Best Western Hotel at 1781 Fleischli Parkway, Cheyenne, Wyoming. (Audio Recording, 17:50-18:20, 2:04:00-2:08:00). Sisters Patanga Patel-Spilker and Parinda Patel formed Taxpayer as a limited liability company in September of 2023. (DOR Ex. 503; Articles of Organization, filed with Wyoming Secretary of State; Audio Recording, 2:07:00-2:09:00; Second Audio Recording, 19:00-24:00). Taxpayer operates the hotel business pursuant to a management agreement with PJP Enterprises, Inc., an entity operated by the sisters’

parents, which owns the hotel and business. (DOR Ex. 502; Audio Recording at 39:00-40:00, 2:10:00-2:11:00, 2:15:00-2:17:00; Second Audio Recording, 41:00-43:00). The sisters earlier worked with the hotel's owner, PJP Enterprises, and another predecessor entity, Vrinda. (Second Audio Recording, 19:00-24:00, 41:00-43:00). The sisters assumed their parents' ownership of PJP Enterprises later in 2024. (Second Audio Recording, 41:00-43:00).

[¶ 7] The Department initially denied Taxpayer's license application on October 24, 2023. (DOR Exs. 500-501; Audio Recording, 43:00-50:00). The Department's Sales Tax Division Administrator, Brett Fanning, testified that he was disinclined to grant the newly formed taxpayer a sales tax license given the Sure Stay hotel's past financial difficulties and unpaid sales taxes. *Id.* Taxpayer was, he reasoned, a successor entity established through the same family that formed the preceding business entities. (Audio Recording 44:30-47:30; Second Audio Recording, 41:00-42:00; DOR Ex. 501). Taxpayer, Mr. Fanning continued, would step into PJP Enterprises' and Vrinda's shoes as an operator of the Sure Stay hotel business. (Audio Recording, 39:00-42:00; Second Audio Recording, 41:00-42:00; DOR Exs. 500, 502).

[¶ 8] Additionally, the Department had entered several breached payment plans with Taxpayer's predecessors, PJP Enterprises and Verinda. (Audio Recording, 34:00-40:00, 48:00-52:00). Mr. Fanning testified that the Department had revoked the tax licenses issued to the predecessor entities, and it was acutely aware of the business' past tax payment problems. *Id.*

[¶ 9] Taxpayer appealed the Department's initial license denial to the State Board of Equalization, after which Taxpayer and the Department met in January of 2024 to discuss the impasse. (Audio Recording, 48:00-52:00, 2:07:00-2:08:30; DOR Ex. 514). The Department concluded that, notwithstanding the hotel's past struggles, it would permit the newly formed taxpayer an opportunity to operate the business and pay off the business' tax liabilities. However, the Department would give Taxpayer less leeway going forward given the past difficulties and taxes that remained unpaid. *Id.* The parties agreed to dismiss Taxpayer's appeal filed with the State Board. *Id.*

[¶ 10] Unfortunately, Taxpayer's operation of the Sure Stay Hotel soon encountered financial difficulties due to arrangements with various vendors, which sold services to the Hotel through "merchant cash advances." This meant that the Hotel's vendors would take immediate payment from the Hotel's daily cash flow, rather than waiting for payment at a later date. (Audio Recording, 13:00-14:30, 15:30-17:00, 2:10:00-2:20:00; Second Audio Recording, 8:00-24:00). Ms. Patel-Spilker explained that PJP Enterprises' bankruptcy, which heavily limited the business' ability to use revenues, prompted the service providers to demand this daily payment for services. *Id.* She also revealed that the PJP Enterprises bankruptcy proceedings allowed creditor efforts to intercept all revenues, including

unsegregated sales tax proceeds, to fund the bankruptcy plan. Creditors during the bankruptcy, Ms. Patel-Spilker explained, defeated efforts to segregate sales tax collections from the operating revenues. *Id.*

[¶ 11] Taxpayer, although it reported its sales tax collections, continuously failed to pay all sales and lodging taxes it was to collect and remit. (DOR Ex. 515; Audio Recording, 53:30-57:30; Second Audio Recording, 24:00-45:00). According to Mr. Fanning, Taxpayer first remitted taxes in May of 2024, and thereafter in larger sums throughout the year, but those payments were less than sums Taxpayer reported. *Id.* The Department, as it typically does when tax payment arrears become significant, referred Taxpayer's account to its external collection agency. *Id.* Throughout 2024, Taxpayer was not at any time current on the taxes it was required to remit. *Id.*; (Audio Recording, 57:00-58:00). As of the hearing date, Mr. Fanning totaled Taxpayer's known tax arrears at approximately \$81,000. (Audio Recording, 58:45-59:20).

[¶ 12] Mr. Fanning reviewed phone and email conversations between his office and Taxpayer, discussing its late returns, the Department's requests for tax payments, and questions and responses regarding Taxpayer's account. (DOR Exs. 505-506; Audio Recording, 59:30-01:05:00). Taxpayer requested the Department allow it to enter a payment plan in late May of 2024, which the Department denied. (DOR Ex. 505, pp. 39-42; Audio Recording, 1:05:00-1:10:00). Mr. Fanning testified that he denied the request because the taxpayer's omissions were not conducive to a payment plan option. *Id.* Mr. Fanning explained:

We do issue payment plans, but for this situation, and based on the history of all three entities, the department decided not to offer a payment plan because this is a pass through tax, sales tax and lodging tax collected from the customer ... it's hard when there is taxpayer money sitting in an account, and it could potentially be used for other operations.

(Audio Recording, 1:06:00-1:07:00). Mr. Fanning reiterated his position that past failures to remit taxes made the statutory payment plan provision less of an option. *Id.*

[¶ 13] The Department revoked Taxpayer's license on October 18, 2024, following two written notices of its Intent to Revoke on June 23, 2024, and July 6, 2024. The notices and revocation decision cited Taxpayer's failure to remit delinquent fees, interest, taxes and penalties to the Department. (DOR Exs. 512-513; Audio Recording, 1:13:00-1:18:00, 1:57:00-2:00:00; Second Audio Recording, 49:00-51:00, 53:00-55:00). The Department sought to strictly follow guidelines set forth in Wyoming Statutes Section 39-15-106(g) (2023), and claims that it did. *Id.*

[¶ 14] Taxpayer's representative, Ms. Patel-Spilker, challenged the Department's process, complaining that Taxpayer had not received mailed notices, which she had complained of

in emails to the departmental staff. (Audio Recording, 1:33:00-1:38:00, 1:47:00-1:49:00; Second Audio Recording, 28:00-40:00, 01:11:00-01:13:00; DOR Ex. 505, pp. 053-66, Ex. 506, 067-70). Mr. Fanning acknowledged that Ms. Patel-Spilker notified the Department of notices that she had not received, but that the Department was aware of only one undelivered notice. *Id.* Also, Ms. Patel-Spilker believed that Taxpayer was at one point current on its tax remittances, noting that Taxpayer had even made an “excess payment” to ensure such based on her review of the Department’s tax payment records. (Audio Recording, 1:37:00-1:42:00, 2:17:00-2:20:00; DOR Ex. 515). She recalled that the revocation surprised her in light of her belief that Taxpayer was current on its tax remittances. *Id.*

[¶ 15] Whether Taxpayer was statutorily entitled to enter a payment plan with the Department became a point of discussion during the hearing. *See* Wyo. Stat. Ann. § 39-11-102(a)(i) (2023). Mr. Fanning, testifying about the statutory “bill of taxpayer rights,” stated that the tax liabilities did not arise from a tax assessment and, consequently, the Department was not required to offer Taxpayer a payment plan. (Audio Recording, 1:50:00-1:56:00, 2:00:00-2:03:00; Second Audio Recording, 28:00-42:00); *see* Wyo. Stat. Ann. § 39-11-102(a)(i) (2023). Mr. Fanning added that a vendor’s failure to remit collected taxes often influenced whether or not the Department would offer a payment plan. *Id.* The Department, through counsel, argued that the bill of taxpayer rights did not apply to vendors, distinguishing between vendors and taxpayers. (Second Audio Recording, 53:00-1:04:00).

[¶ 16] Taxpayer generally admits that it has not remitted all taxes collected, and that it was required to remit. Taxpayer responds that it will remit all taxes and other sums, but that it needs additional time to work through bankruptcy and other constraints imposed on it through its predecessor, PJP Enterprises. (Second Audio Recording, 01:07:00-01:20:00).

CONCLUSIONS OF LAW

A. State Board’s review function and burdens of proof

[¶ 17] This Board shall “review final decisions of the department upon the application of any person adversely affected.” Wyo. Stat. Ann. § 39-11-209(b)(i) (2023). Our review of sales tax license revocations is more particularly set forth in Wyoming Statutes sections 39-15-106(g) and 39-15-108(c)(viii) (2023), which are nearly identical:

The department may, after providing two (2) written notices of intent to revoke identifying the reasons therefore, revoke the license of any vendor violating any provision of this article. The notices shall be provided at least on (1) week apart and the final notice shall be provided at least thirty (30) days prior to any revocation. The revocation of the department shall inform

the vendor of all steps necessary to conform with the revocation and shall include the consequences of failure to cease business activities and the opportunity to appeal as provided in this subsection. The vendor may appeal a revocation under this subsection to the state board of equalization not more than thirty (30) days following the revocation of the license. Appeals before the state board shall be conducted as contested case proceedings under the Wyoming Administrative Procedure Act.

[¶ 18] The Department offers no guidance as to what might result in revocation, and previous license revocation decisions have been issued without the participation of the taxpayer. *See e.g., In re Sona Iskandaryan and Gammon Enterprises, Inc.*, 2020 WL 529552, Doc. No. 2019-41 (Wyo. Bd. of Equalization, Jan. 28, 2020). Thus, our sole guidance is the statutory language: “any vendor violating any provision of this article.” Wyo. Stat. Ann. §§ 39-15-106(g), 39-15-108(c)(viii), *supra* ¶ 17.

[¶ 19] As the adjudicating body, we “[d]ecide all questions that may arise with reference to the construction of any statute affecting the assessment, levy and collection of taxes, in accordance with the rules, regulations, orders and instructions prescribed by the department[.]” Wyo. Stat. Ann. § 39-11-102.1(c)(iv) (2023).

[¶ 20] “[T]he Petitioner shall have the burden of going forward and the ultimate burden of persuasion, which burden shall be met by a preponderance of the evidence. If Petitioner provides sufficient evidence to suggest the Department determination is incorrect, the burden shifts to the Department to defend its action.” Rules, Wyo. State Bd. of Equalization, ch. 2 § 20 (2021).

B. Analysis

[¶ 21] Because Taxpayer admitted that it continually failed to remit taxes it collected, as the Department asserts, there is no question that Taxpayer has violated provisions in the sales tax statutes. (Second Audio Recording, 01:13:00-01:19:00). The Department, therefore, had authority to initiate the revocation process.

[¶ 22] We next consider whether the Department satisfied all procedural guidelines. The Department offered into evidence three documents necessary in any license revocation: two notices of intent to revoke, dated more than 30 days prior to the actual revocation and at least one week apart, and the final revocation. *Supra* ¶¶ 13-14. The notices and revocation cited Taxpayer’s failure to remit taxes, interest, and penalties to the Department. *Id.*

[¶ 23] A question during the hearing, however, was whether Taxpayer received the Department’s notices. Ms. Patel-Spilker complained that she was not receiving notices and was, at one point in time, surprised that the Department was revoking Taxpayer’s

license because she had not received notices in the mail. *Supra* ¶ 14. She directed the Board to the email and phone correspondence records, wherein she complained that the Department’s notices were not received. *Id.* Mr. Fanning acknowledged that one notice was sent back as undelivered, but believed that all other notices were successfully sent and delivered. *Id.* The record contains the notices themselves, but not evidence of their mailing or receipt. Yet, Ms. Patel-Spilker was notified by email of the Department’s intent to revoke and continually sought to enter a payment plan with the Department. *Id.* The notices and impending revocation, as well as numerous other messages notifying of tax payment delinquencies, were frequently discussed and included in electronic messages between the Department and Taxpayer. *Id.*

[¶ 24] The record establishes that Taxpayer was amply notified that the Department would revoke its license, and that Taxpayer sought guidance several times concerning its appeal rights before the revocation finally issued. *Supra* ¶¶ 13-14. Although the Department was remiss for not providing documentary evidence of its mailing of the notices, as those would have clarified Taxpayer’s concern, Mr. Fanning testified to his review of the records and verification that only one notice was returned undelivered. *Id.* The Department’s communication log, containing emails between the Department and Taxpayer’s principals, alleviate any concern that the Taxpayer was uninformed or caught off guard. Finally, Wyoming Statutes section 39-15-102(d) (2023) provides that “[n]otices required to be mailed by the department under this article if mailed to the address shown on the records of the department shall be sufficient for the purposes of this article.” We find by a preponderance of evidence that the Department satisfied the notice requirements. Taxpayer merely complained that it was not getting notices when originally sent, but eventually received notices upon inquiry, and well before the eventual revocation. *Supra* ¶¶ 11-16.

[¶ 25] Another procedural question that arose at the hearing, Wyoming tax law prescribes “taxpayer rights,” including, “[a] right to enter into installment payment agreements on tax assessments for tax liabilities where repayment requirements are met and where payment in a lump sum would cause severe inconvenience to the taxpayer.” Wyo. Stat. Ann. § 39-11-102(a)(i)(E) (2023). The Department instructs that:

Taxpayers may request in writing an installment payment agreement to pay sales or use tax, penalty, and interest on payment terms and conditions the Department may require. The agreement shall be on a form provided by the Department and shall be signed by the taxpayer along with the Department Director or Excise Tax Division Administrator.

Rules, Wyo. Dept. of Revenue, ch. 2, § 9(a) (2024).

[¶ 26] Taxpayer, likely because its predecessors had unsuccessfully entered tax installment payment agreements, pressed the Department for a payment plan as early as May of 2024, and continued doing so into October. *Supra* ¶¶ 12-15. The Department delayed answering Taxpayer’s request, finally denying the request on September 6, 2024, and again on October 7. *Id.*; (DOR Ex. 505, pp. 057-060). The Department simultaneously informed Taxpayer that the pending revocation process, initiated months before, would continue unless the Taxpayer resolved its substantial delinquent tax account. *Id.*

[¶ 27] Although the statutory payment plan language raises more questions than it answers, Taxpayers do not have an absolute right to enter a repayment plan. The Department has discretion to deny a payment plan if it determines a Taxpayer will be unable to comply with a plan, the intent we infer from the language “where repayment requirements are [not] met.” Wyo. Stat. Ann. § 39-11-102(a)(i)(E) (language inserted). This language implies discretion to withhold payment plans from vendors who appear unable to remit taxes collected, but not paid.¹

[¶ 28] Taxpayer’s financial struggles through 2024 arose from a number of causes, including the bankruptcy demands of its predecessor and owner of the hotel property, PJP Enterprises. *Supra* ¶¶ 5-8. The evidence concerning PJP Enterprises’ bankruptcy, although inconclusive and sketchy at best, suggests that creditors of PJP Enterprises insisted on seizing or limiting use of not just operational revenue streams to which the hotel was entitled, but also that part of the revenue that the hotel business was required to remit to the state—collected sales and lodging taxes. *Supra* ¶ 10. Ms. Patel-Spilker testified that creditors resisted segregating sales taxes from the hotel’s daily proceeds. *Id.* While the Department certainly could, and probably should, have interceded and objected to such an unlawful diversion of sales and lodging taxes due the state, Taxpayer was in the best position to do so as the hotel’s active manager, and so was PJP Enterprises as its owner. Nevertheless, this is compelling, troubling evidence that “repayment requirements are [not] met.”

[¶ 29] We need not address the Department’s suggestions that it was not required to offer a payment plan because there was no “assessment,” or because Taxpayer was a vendor. *Supra* ¶ 15.

¹ The legislature’s use of the word “repayment” seems misplaced as the word “repay” means “to make a return payment” or “to make requital for.” *Repay*, *Merriam-Webster’s Collegiate Dictionary*, 1055 (11th ed. 2014). Taxpayers, whether or not they are vendors, are not typically repaying the Department, and their obligation is to either pay sales taxes incurred from a taxable sale, or to remit sales taxes collected from customer transactions as vendors. The term “repayment” must logically be understood as “payment.”

CONCLUSION

[¶ 30] The Department's revocation of Taxpayer's sales tax license was procedurally consistent with statutory and regulatory law. The Department's refusal to offer Taxpayer a payment plan for unremitted sales taxes did not render its subsequent license revocation improper, as the Department had discretion on whether to offer Taxpayer a payment plan in accordance with Wyoming Statutes section Wyo. Stat. Ann. § 39-11-102(a)(i)(E) (2023). The Department did not abuse that discretion.

ORDER

[¶ 31] **THEREFORE**, it is hereby ordered that the Department of Revenue's revocation of Taxpayer Aadii, LLC's sales tax licenses is affirmed, and that Taxpayer is required to immediately adhere to all departmental directives concerning the discontinuation of business operations pursuant to that license.

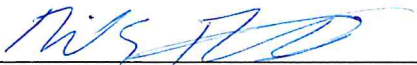
[¶ 32] **Pursuant to Wyoming Statutes section 16-3-114 (2023) and Rule 12, Wyoming Rules of Appellate Procedure, any taxpayer aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.**

DATED this 21 day of January 2025.


STATE BOARD OF EQUALIZATION



Martin L. Hardsocg, Chairman



David L. Delicath, Vice-Chairman



E. Jayne Mockler, Board Member

ATTEST:


Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 21 day of January 2025, I served the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION, AND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

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