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Alabama's Tax Tribunal Confirms a Three-Year Limitations Period for Refund Requests

In 2018, the Alabama Legislature passed Alabama Act 2018-180, which changed the procedure for consumers petitioning for refunds of Utility Gross Receipts Tax (UGRT), sales or use tax, or transient occupancy tax. Prior to Act 2018-180, the consumer was required to petition jointly with the seller.

Following the enactment of Act 2018-180, consumers who paid the tax can independently petition for refunds.

In a recent decision, *Alatrade Foods, Inc. v. State of Ala. Dep't of Revenue*, Ala. Tax Trib., No. S. 25-0013-RC, Dec. 10, 2025, Alabama's Tax Tribunal addressed the impact this 2018 legislation has had on the applicability to the statute of limitations.

Ala. Code § 40-2A-7(c)(2) provides that a petition for refund shall be filed with the department within (1) three years from the date that the return was filed; or (2) two years from the date of payment of the tax, whichever is later, or, if no return was timely filed, two years from the date of payment of the tax.

The statutory structure contemplates that the person petitioning for a refund will be the same as the person responsible for filing a return for that tax. The *Alatrade Foods* court noted that this statute made sense when the consumer and seller were required to jointly petition for a refund. However, the enactment of the legislation in 2018 allowing the consumer to independently petition for refunds complicated the statutory analysis.

In *Alatrade*, the petitioner requested a refund of taxes it paid to the seller, who then transmitted it to the Department. The petitioner also never filed any accompanying return.

The three-year limitations period begins upon the filing of a return. Because the consumer did not file a return, the Department argued that only the two-year limitations period applied. To complicate matters, if the seller requested the refund, it would have the benefit of the three-year limitations period but is required to first refund the consumer before requesting the refund from the Department. The Tribunal determined that the statute of limitations provision is ambiguous, noting that the Department had only recently changed its interpretation and application of the statute.

The Tribunal explained that after Act 2018-180, the seller would be placed in the precarious position of first being required to pay the incorrect tax to the consumer before filing for a refund, which may not be granted.

Given these requirements, the Department's dual interpretation of the statute of limitations means that consumers can more easily obtain refunds for taxes overpaid within the past two years. However, both consumers and sellers must navigate difficult—and sometimes nearly impossible—steps to recover taxes overpaid in the third year.

The Tribunal found it difficult to believe this was the Legislature's intention. As a result, it ruled that "the returns" referred to in § 40-2A-7(c)(2) are the returns filed by the seller with the department, and the three-year statute applied.

A day after the *Alatrade* decision, the Tribunal concluded the same application for sales and use taxes in *SLJ Holdings, Inc. v. Ala. Dept. Rev.*, Ala. Tax Tribunal, Dkt. No. S. 23-618-LP, Dec. 11, 2025, placing the burden of proof on the taxpayer to prove that the vendor's returns were timely-filed so that the three-year statute of limitation applies.

What this means to you

Taxpayers considering refund claims of Alabama UGRT, sales and use tax, or transient occupancy tax should assess the implications of this ruling on the period for which they make their petition.

Contact us

For further details or additional information, please contact Smitha Chintamaneni, Bill Schenkelberg, or a member of the Husch Blackwell State & Local Taxation team.