

BOARD OF TAX APPEALS
STATE OF LOUISIANA
LOCAL TAX DIVISION

HARP FILMS, LLC

Petitioner

versus

BTA DOCKET NO. L01119

CALCASIEU PARISH
SALES AND USE TAX DEPARTMENT

Respondent

JUDGMENT ON EXCEPTION OF PRESCRIPTION AND PEREMPTION
WITH REASONS

On May 4, 2022, this matter came before the Board for hearing on the *Exception of Prescription and Peremption* filed by the Calcasieu Parish Sales and Use Tax Department (the "Collector"), with Local Tax Judge Cade R. Cole presiding. Present at the hearing were Russell Stutes, III, attorney for the Collector, and Dakota Harp, representative for Harp Films, LLC (the "Taxpayer"). At the conclusion of the hearing, the Board took the matter under advisement. The Board now renders Judgment in accordance with the attached reasons.

IT IS ORDERED, ADJUDGED AND DECREED that the Collector's *Exception of Prescription and Peremption* IS HEREBY SUSTAINED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there be Judgment in favor of the Collector and against the Taxpayer, and that the Petition is HEREBY DISMISSED.

Judgment Rendered and Signed at Baton Rouge, Louisiana on this 23rd day of
May, 2022.

FOR THE BOARD:



LOCAL TAX JUDGE CADE R. COLE

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Taxpayer seeks a redetermination of a Notice of Assessment issued by the Collector dated December 8, 2020 (the “Assessment”). Taxpayer filed its Petition on May 10, 2021. In due course, the Collector raised its Exceptions, arguing that the Taxpayer failed to file its Petition within 60 days of the issuance of the Assessment, as required by La. R.S. 47:337.51. In opposition to the Exception, Taxpayer contends that the Collector did not mail the Assessment to the Taxpayer’s address in the manner required by La. R.S. 47:337.51. The Collector maintains that it complied with all statutory requirements in issuing the Assessment. The Collector’s compliance with the mandatory notice requirements of La. R.S. 47:337.51(A) is a pre-requisite to the validity of the Assessment. *Catahoula Parish Sch. Bd., v. Louisiana Machinery Co., LLC*, 12–2504 (La. 10/15/13), 124 So.3d 1065. Accordingly, this Board’s resolution

of the Exception depends on whether the Collector mailed the Assessment to the proper address under the statute.

La. R.S. 47:337.51(A)(1) provides in relevant part:

Having assessed the amount determined to be due, the collector shall send a notice by certified mail to the taxpayer against whom the assessment is imposed at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. . . . [emphasis added].

At the hearing on the Exception, the Collector introduced into evidence a change of information request filed by the Taxpayer with the Parish E-file system generated on August 4, 2020. The Parish E-file system is a program managed by the state government. This evidence shows Taxpayer's address was changed to "318 PUJO ST," "Lake Charles, LA 70601." This document was admitted without objection as Exhibit D-3. The USPS Certified Mail Receipt attached to the Assessment shows that it was mailed to 318 Pujjo St., Lake Charles, LA 70601. The Assessment and the Certified Mail Receipt were admitted into evidence without objection as part of Collector Exhibit 1, in globo. The Collector argues that by mailing the Assessment to the Address shown in the Parish E-File system, it mailed the Assessment to an address from a state governmental entity.

Taxpayer introduced what it purports to be a Sales Tax Return into evidence, without objection, as Taxpayer Exhibit 1. This document shows a filing date of October 19, 2020. It lists the address of the Taxpayer as "726 RYAN ST," "STE C," "LAKE CHARLES, LA 70601." The Taxpayer contends that this was the address shown on the most recently filed report within the meaning of La. R.S. 47:337.51(A). The Taxpayer's interpretation of the statute is that the Collector's primary obligation is to send an assessment to the most recently reported address, instead of an address supplied by a governmental entity.

La. R.S. 47:337.51(A)(1) uses the disjunctive "or" in describing the different addresses to which the Assessment is to be mailed. There is nothing on the face of the

statute that requires the Collector to prefer one address over another. While, the jurisprudence clearly requires strict statutory compliance in issuing the Assessment, there is no directive to read requirements into the law that were not put there by the legislature. The Collector acted within the permissible bounds of the statute in issuing the Assessment to an address obtained from the state government, namely the Parish E-File system. Accordingly, the Assessment is valid and the Exception must be sustained.

Baton Rouge, Louisiana, this 23rd day of May, 2022.

FOR THE BOARD:



LOCAL TAX JUDGE CADE R. COLE