

**AGENCY FOR WORKFORCE INNOVATION
TALLAHASSEE, FLORIDA**

PETITIONER:

Employer Account No. - 2928026
ALL IN 1 HOME SERVICES LLC
PO BOX 152462
CAPE CORAL FL 33915

RESPONDENT:

State of Florida
Agency for Workforce Innovation
c/o Department of Revenue

**PROTEST OF LIABILITY
DOCKET NO. 2010-45740L**

ORDER

This matter comes before me for final Agency Order.

Having fully considered the Special Deputy's Recommended Order and the record of the case and in the absence of any exceptions to the Recommended Order, I adopt the Findings of Fact and Conclusions of Law as set forth therein. A copy of the Recommended Order is attached and incorporated in this Final Order.

In consideration thereof, it is ORDERED that the determination dated January 19, 2010, is REVERSED.

DONE and ORDERED at Tallahassee, Florida, this _____ day of **December, 2010**.



TOM CLENDENNING
Assistant Director
AGENCY FOR WORKFORCE INNOVATION

**AGENCY FOR WORKFORCE INNOVATION
Unemployment Compensation Appeals**

MSC 345 CALDWELL BUILDING
107 EAST MADISON STREET
TALLAHASSEE FL 32399-4143

PETITIONER:

Employer Account No. - 2928026
ALL IN 1 HOME SERVICES LLC
MARIO T D'AURIA
PO BOX 152462
CAPE CORAL FL 33915

RESPONDENT:

State of Florida
Agency for Workforce Innovation
c/o Department of Revenue

**PROTEST OF LIABILITY
DOCKET NO. 2010-45740L**

RECOMMENDED ORDER OF SPECIAL DEPUTY

TO: Assistant Director
Agency for Workforce Innovation

This matter comes before the undersigned Special Deputy pursuant to the Petitioner's protest of the Respondent's determination dated January 19, 2010.

After due notice to the parties, a telephone hearing was held on September 16, 2010. The Petitioner was represented by its accountant. The Respondent was represented by a Department of Revenue Senior Tax specialist. A Revenue Specialist II testified as a witness.

The record of the case, including the recording of the hearing and any exhibits submitted in evidence, is herewith transmitted. Proposed Findings of Fact and Conclusions of Law were not received.

Issue:

Whether the Petitioner is entitled to a waiver of penalty and interest for delinquent reports pursuant to Section 443.141(1), Florida Statutes and Rule 60BB-2.028(4), Florida Administrative Code.

Findings of Fact:

1. The Department of Revenue determined that the Petitioner was liable for payment of unemployment compensation taxes on employees. Upon receipt of that notification the Petitioner filed all tax reports that were due and paid the tax within 15 calendar days.
2. The Department of Revenue assessed late filing penalties and the Petitioner requested that the penalties be waived.
3. On or before January 27, 2010, a Revenue Specialist II denied the waiver request. The request was denied because the Revenue Specialist did not believe that she had the authority to waive the penalties.

4. The Petitioner filed a timely protest by mail postmarked January 26, 2010.
5. Since the tax reports were filed and the taxes were paid within 15 days the Department of Revenue has agreed that no penalties are due.

Conclusions of Law:

6. Rule 60BB2.025(1), Florida Administrative Code, provides:
 - (b) Each quarterly report must:
 1. Be filed with the Department of Revenue by the last day of the month following the calendar quarter to which the report applies, except for reports filed by electronic means, which are to be filed as provided in Rule 60BB-2.023, F.A.C. However, an employer reporting for the first time is authorized 15 consecutive calendar days from the notification of liability to submit reports for previous calendar quarters without incurring penalty charges. (emphasis supplied)
7. Since the Petitioner filed the tax reports and paid the tax within 15 calendar days of the notification of liability, no penalties are due.

Recommendation: It is recommended that the determination dated January 19, 2010, be REVERSED.

Respectfully submitted on September 17, 2010.



R. O. SMITH, Special Deputy
Office of Appeals