

BF&R Docket No. 2326338
Petition Filed: 2/13/2024
License No. [REDACTED]
IN RE: WAWA INC
PETITION FOR Review of Refund for Sales/Use Tax
PERIOD(S) 09/15/2020 TO 09/15/2023

AND NOW, June 6, 2024, pursuant to the Fiscal Code, the Act of 1929, April 9, P.L. 343, as amended, (72 P.S. § 1 et seq), the Board of Finance and Revenue of the Commonwealth of Pennsylvania, based upon the reasons set forth herein, hereby ORDERS the following:

Jurisdiction

This petition comes before the Board of Finance and Revenue pursuant to Section 2704 of the Tax Reform Code of 1971, *as amended*, 72 P.S. § 9704.

Issue

Whether Petitioner has demonstrated it is entitled to a refund of tax paid on various computer software purchases that were utilized in locations outside of the Commonwealth.

Statement of the Case

Petitioner, Wawa, Inc., operates a chain of convenience stores in Pennsylvania and other states. Petitioner filed a Petition for Refund with the Board of Appeals (“BOA”) on September 15, 2023, arguing it erroneously paid sales tax on the purchase of software which was utilized in locations outside of Pennsylvania. In support of its contentions, Petitioner submitted to the BOA an appeal schedule, copies of invoices, reason codes, a narrative of its issues and arguments, proof of payment documentation, and other supporting evidence.

In a Decision and Order dated February 12, 2024, the BOA found Petitioner’s proof of payment to be sufficient to establish payment of tax but denied Petitioner’s request for relief in its entirety. The BOA concluded that Petitioner did not establish out of state use as there was insufficient documentation provided to determine the type of software being accessed, who the end users were, and the location of the end users.

Mailed: JOSEPH SANDRI
KEYSTONE TAX ASSOCIATES LLC
600 N 12TH STREET
SUITE 202
LEMOYNE, PA 17043

on June 14, 2024

Subsequently, Petitioner timely appealed the BOA's decision to this Board on February 13, 2024. On appeal, Petitioner argues it purchased software for "self-checkout stations" used throughout its various store locations. Petitioner is requesting a refund of tax paid on the software which was utilized exclusively in its out of state store locations. In support of its position, Petitioner has now provided this Board with the invoice, a software letter signed and prepared by its Senior Tax Accountant which briefly describes the purpose of the software as well as the percentage of out of store locations that utilized the software, and a list of all of its store locations which utilize the specific software at issue.

Conclusion

Petitioner has sufficiently demonstrated it is entitled to a refund of tax paid on software accessed by out of state users. Petitioner's software letter sufficiently describes the purchases being made as well as how many licenses were purchased for each identified location. Petitioner has sufficiently established the number of out of state licensed sites for the software in dispute. Therefore, Petitioner has sufficiently established out of state use and is entitled to the requested relief.

Accordingly, this Board enters the following:

ORDER

The Department of Revenue shall issue Petitioner a refund in the total amount of \$ [REDACTED] plus applicable interest, subject to any outstanding tax obligations owed by Petitioner.

By Order Of The Board Of Finance And Revenue

**Jacqueline A. Cook, Chair
Designee for Stacy Garrity, State Treasurer**

David R. Kraus, Board Member

Paul J. Gitnik, Board Member

