

STATE OF ALABAMA  
DEPARTMENT OF REVENUE,

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

§

v.

§

DOCKET NO. S. 90-243

TROY REGAN ROBERTS  
d/b/a T.R. Roberts Motors  
1401 West Meighan  
Gadsden, AL 35901,

§

§

Taxpayer.

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FINAL ORDER

The Revenue Department entered preliminary assessments of State and City of Gadsden sales tax against Troy Reagan Roberts, d/b/a T. R. Roberts Motors (Taxpayer) for the period August 1, 1986 through July 31, 1989. A hearing was originally scheduled for September 13, 1990, but was continued until October 3, 1990 at the request of the Taxpayer's attorney, George C. Day, Jr., Esq. The hearing was continued a second time until October 24, 1990 to allow the parties additional time to settle the issues involved in the case. The parties failed to settle the matter and the hearing was conducted as scheduled on October 24, 1990. Assistant counsel Dan Schmaeling represented the Department. This Final Order is based on the evidence and arguments presented by the Department.

FINDINGS OF FACT

The Taxpayer is a used car dealer in Gadsden, Alabama. The Taxpayer failed to collect either State or City of Gadsden sales tax on the retail sale of automobiles during the period in question.

According to the Department, the Taxpayer contends that he was

unaware that sales tax should have been collected from his customers. The Taxpayer further argues that he thought the sales tax due was being paid by his customers at the courthouse upon transfer of title to the vehicle.

The Revenue Department audited the Taxpayer and computed the Taxpayer's sales tax liability based on the Taxpayer's sales journal. Tax was charged on retail sales only. Swaps were excluded from the audit. The preliminary assessments in issue are based on the audit performed by the Department.

#### CONCLUSIONS OF LAW

All persons or businesses are required to charge and collect sales tax on all retail sales in Alabama. See Code of Ala. 1975, §40-23-1, et seq. The Taxpayer was thus responsible for collecting sales tax on his retail sales and is liable for any tax not collected and paid over to the Department.

Alabama's "casual" sales tax applies to the sale of motor vehicles by any person or business that is not a licensed motor vehicle dealer. See, Code of Ala. 1975, §40-23-100, et seq. Casual sales tax must be paid by the purchaser to the county tax collector before the vehicle can be licensed by the judge of probate. However, as noted, casual sales tax applies to only unlicensed dealers. The Taxpayer in this case is a licensed dealer and the casual sales tax is inapplicable.

The above considered, the Department is directed to make the

assessments final, with interest running to the date of entry of the final assessments.

Entered this 25th day of October, 1990.

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BILL THOMPSON  
Chief Administrative Law Judge