

STATE OF ALABAMA,  
DEPARTMENT OF REVENUE,

vs.

WALLACE BULLARD  
6012 Cruce Road  
Adamsville, AL 36005,

Taxpayer.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 90-279

FINAL ORDER

The Revenue Department assessed income tax against Wallace Bullard (Taxpayer) for the years 1986, 1987 and 1988. The Taxpayer appealed to the Administrative Law Division and a hearing was conducted on February 16, 1993. The Taxpayer was present at the hearing. Assistant counsel Claude Patton represented the Department.

This is a domicile case. The Taxpayer owes the tax in issue if he was domiciled in Alabama during the subject years, but is not liable if he was not domiciled in Alabama during those years.

The Taxpayer was born and grew up in Alabama and graduated from high school in Alabama in 1974. He served in the United States Navy from 1974 until 1978.

The Taxpayer was hired by RCA International Service Corporation (later Raytheon) in 1979. Beginning in 1982 and continuing through the years in issue, the Taxpayer's job required him to be on board a ship in international waters for approximately

9 months of each year. The Taxpayer's ship normally docked on the West Coast when it returned to port.

The Taxpayer was married from 1982 until 1985 and his wife and two children lived in Alabama. The Taxpayer divorced in 1985, and during 1986 and 1987 he returned to Alabama for only two or three week periods to visit his children and his mother, who also lived in Alabama.

The Taxpayer remarried another Alabama woman in 1988. The Taxpayer moved what few personal items he had into his second wife's apartment in Alabama at that time. The Taxpayer at all times used his mother's address in Adamsville, Alabama as his permanent mailing address, except for a brief period in 1985.<sup>1</sup> The Taxpayer also used his mother's address as his permanent address on his federal income tax returns. The Taxpayer kept a current Alabama driver's license and car tag during the subject years so he could drive his own car when visiting Alabama.

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<sup>1</sup> The Taxpayer testified that when he divorced in 1985, he moved his belongings and his mailing address to Florida. However, he transferred his mailing address back to his mother's address shortly thereafter to avoid confusion. The Taxpayer did not explain why he did not use his first and second wives' mailing addresses as his own mailing address.

The Taxpayer testified that he filed Alabama returns in 1982 and 1983, but then quit filing on the advice of an accountant. The Taxpayer did not file returns or pay state income tax to any other state during the subject years.

The Taxpayer in this case owes Alabama income tax if he was domiciled in Alabama during the subject years. Code of Ala. 1975 §40-18-2. "Domicile" has been defined as a person's true, fixed home to which he intends to return when absent. Every person is presumed to have one and only one domicile, and a domicile once established remains until it is abandoned and a new domicile is established elsewhere with the intent to remain permanently. The original domicile must be abandoned and a new one established for a change to occur. Rabren v. Baxter, 239 So.2d 206; Whetstone v. State, 434 So.2d 796. There is a strong presumption in favor of the original or established domicile and the burden is on the one asserting a change of domicile to prove that a change has in fact occurred. Rabren v. Baxter, supra.

The Taxpayer in this case did not reside in Alabama during the years in issue. However, he was originally domiciled in Alabama and there is no evidence that he established a permanent domicile elsewhere with the intent to remain at the new domicile permanently. While the Taxpayer may have abandoned Alabama, he failed to establish a new domicile elsewhere. Accordingly, the

Taxpayer remained domiciled in Alabama for tax purposes and is liable for Alabama income tax for the years in issue.

The above holding is supported by the fact that the Taxpayer's first wife, his second wife, his children and his mother all lived in Alabama during the subject years, the Taxpayer used Alabama as his permanent mailing address and his permanent address for federal income tax purposes during the subject years, and he maintained an Alabama driver's license and registered a vehicle in Alabama during the subject years.

The assessments in issue are affirmed and judgment is entered against the Taxpayer for 1986 income tax in the amount of \$2,246.32, 1987 income tax in the amount of \$2,570.88, and 1988 income tax in the amount of \$1,304.78, with additional interest computed from July 20, 1990 until the date of payment.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered on April 9, 1993.

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BILL THOMPSON  
Chief Administrative Law Judge