

purchased from the Tennessee Valley Authority (TVA). The Department denied the refunds and the Taxpayers appealed to the Administrative Law Division. The appeals were consolidated and set for hearing on December 2, 1992. The Taxpayers were notified of the hearing by certified mail but failed to appear. Assistant counsel Wade Hope appeared for the Department.

The issue in this case is whether vehicles purchased by the Taxpayers from the TVA were subject to the casual sales tax levied at Code of Ala. 1975, §40-23-100, et seq. That same issue was addressed in a previous administrative law case, State v. Meares, Docket No. S. 92-249, decided October 6, 1992. In Meares, I held that the casual sales tax was due on vehicles sold by the TVA. The reasoning is that the casual sales tax is on the purchaser, and consequently, tax is due as long as the purchaser is not exempt.

The fact that the seller (TVA) may be exempt is not relevant. A copy of the Meares decision was sent to each of the above Taxpayers along with their notice of hearing, which probably explains why none of the Taxpayers appeared at the December 2nd hearing.

The Meares rationale should also be applied in this case. Accordingly, the refunds in issue were properly denied by the Department.

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

Entered on December 4, 1992.

BILL THOMPSON
Chief Administrative Law Judge