

GENE A. & LINDA S. GRINDSTAFF § STATE OF ALABAMA
2202 Essex Drive SW DEPARTMENT OF
REVENUE
Decatur, AL 35603, § ADMINISTRATIVE LAW
DIVISION
Taxpayers, § DOCKET NO. INC. 01-
929
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

Gene A. and Linda S. Grindstaff (together “Taxpayers”) applied to the Department for a refund of 1999 Alabama income tax. The Department denied the refund. The Taxpayers appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(c)(5)a. A hearing was conducted on March 22, 2002 in Birmingham, Alabama. Assistant Counsel Jeff Patterson represented the Department. Gene A. Grindstaff (individually “Taxpayer”) represented the Taxpayers.

The issue in this case is whether a portion of the severance pay received by the Taxpayer in 1999 was exempt from Alabama income tax pursuant to Code of Ala. 1975, §40-18-19.1. That statute exempts severance pay up to \$25,000 if received due to administrative downsizing.

The Taxpayers filed their 1999 Alabama income tax return in February 2000, and paid the tax due as reported on the return. They later filed an amended 1999 return and excluded \$25,000 of the previously reported income as exempt severance pay pursuant to §40-18-19.1. The amended return claimed a refund of \$1,247. The Department denied the refund. The Taxpayers appealed.

The Taxpayer started working for Intergraph Corporation in Huntsville, Alabama in the 1980's. In 1999, Intergraph sold the division in which the Taxpayer worked. As a result, the Taxpayer and approximately 1,000 other Intergraph employees were involuntarily laid off. Intergraph paid the employees severance pay based on their years of service and base pay. The Taxpayer received \$38,439 as severance pay in 1999. As indicated, the Taxpayers excluded \$25,000 of that amount on their amended 1999 Alabama return.

Section 40-18-19.1 exempts up to \$25,000 received as severance or termination pay by an employee that is terminated, fired, or displaced from employment "as a result of administrative downsizing." Dept. Reg. 810-3-14-.11 defines "administrative downsizing" as a "reduction in the employer's workforce . . . in accordance with a business plan." Intergraph's sale of the division in which the Taxpayer worked was in accordance with a business plan. That plan resulted in the elimination of the Taxpayer's job. The Taxpayer did not quit and was not fired for wrongdoing. Rather, the Taxpayer was laid off due to administrative downsizing, as defined above. Consequently, the Taxpayer properly excluded \$25,000 of his severance pay from income in 1999.

The Department is directed to refund the Taxpayers \$1,247, plus applicable interest.

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

Entered May 6, 2002.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Jeff Patterson, Esq.
Gene Grindstaff
Kim Herman