

VICTORIA SECRET STORES, INC. § STATE OF ALABAMA
Post Office Box 16586 DEPARTMENT OF REVENUE
Columbus, Ohio 43216, § ADMINISTRATIVE LAW DIVISION
Taxpayer, § DOCKET NO. F. 94-448
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

A Preliminary Order was entered in this case on April 7, 1995 setting out the facts and issues in dispute. The facts set out in the Preliminary Order are adopted and made a part of this Final Order.

As stated in the Preliminary Order, the issue is whether certain indebtedness owed by the Taxpayer to a related corporation should be included as "capital" pursuant to Code of Ala. 1975, §40-14-41(b). That issue turns on whether the indebtedness is "long-term", and thus includable in capital under §40-14-41(b)(3), or "short-term", in which case it should not be included as capital.

The Department included the indebtedness as long-term because it was entered on the Taxpayer's balance sheet under the heading "Mortgages and Notes Payable - LT".

The Taxpayer's attorney offered an affidavit from an employee of the Taxpayer's corporate grandparent explaining that the indebtedness was an open account payable on demand, i.e. short-term. However, the Department properly objected to the affidavit because the employee was not present to be cross-examined. The Taxpayer presented no other evidence rebutting its balance sheet

designation of the indebtedness as long-term.

The above considered, the Department properly treated the indebtedness as capital under §40-14-41(b)(3). The final assessment is accordingly upheld, and judgment is entered against Victoria Secret Stores, Inc. in the amount of \$6,171.60, 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 June 28, 1995.

BILL THOMPSON
Chief Administrative Law Judge