

Konover & Associates during October through December 1990. He disputes, however, that he owes Alabama tax on income earned prior to October 1990 because he lived in Florida during that period.

The Taxpayer testified at the December 4 hearing that he resided and worked in several states before moving to Florida in 1988. He lived in Florida but worked two or three days a week in Alabama beginning in late 1989. He stayed in a rented apartment or a rented condominium while on business in Alabama during 1990. He finally moved permanently to Alabama in October 1990 at the request of his employer.

Alabama income tax is levied on any individual residing or domiciled in Alabama. Code of Ala. 1975, §40-18-2. The Department reasonably assessed the tax in issue based on the IRS information, which indicated that the Taxpayer resided in and earned income in Alabama during 1990. But the undisputed testimony of the Taxpayer indicates that he did not permanently reside, nor was he domiciled, in Alabama before October 1990. The fact that the Taxpayer traveled to Alabama on business two or three days a week before October 1990 does not make him liable for tax on income earned during that period. The Taxpayer was not domiciled in Alabama before October 1990 and thus is not liable for Alabama income tax on income earned before that date.

The Taxpayer's attorney is directed to provide the Department with the Taxpayer's W-2 form from Konover from which the Department can recompute the Taxpayer's liability for the subject year. A Final Order will then be entered for the adjusted amount due.

This Opinion and Preliminary Order is not an appealable Order. The Final Order, when entered, may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered December 10, 1996.

BILL THOMPSON
Chief Administrative Law Judge