

JOHN D. WHITE  
Dept. of Philosophy, Talladega College  
Campus Box 165  
Talladega, AL 35160,

Taxpayer,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 02-201

### FINAL ORDER

This case involves the 1998, 1999, and 2000 Alabama income tax liabilities of John D. White (Taxpayer). The Department assessed the Taxpayer for additional tax due in 1998 and 1999. It also reduced the refund claimed by the Taxpayer on his 2000 return. The Taxpayer appealed. A hearing was conducted on May 21, 2002. Assistant Counsel Gwendolyn Garner represented the Department. The Taxpayer represented himself.

This is the third appeal by the Taxpayer since 1994 concerning his Alabama income tax liabilities. A brief review of the two prior appeals will put this case in perspective.

The Department initially audited the Taxpayer and assessed him for additional tax due for 1990, 1991, 1992, and 1993. The Taxpayer appealed to the Administrative Law Division, and a hearing was conducted on December 14, 1994. An Opinion and Preliminary Order was subsequently entered on January 3, 1995.<sup>1</sup>

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<sup>1</sup>Copies of all Administrative Law Division and Circuit Court Orders referred to herein are attached to and made a part of this Final Order.

The January 3, 1995 Order affirmed the 1990 and 1991 final assessments because the Taxpayer had filed short form 40A returns in both years, and thus was prohibited by Code of Ala. 1975, ' 40-18-81 from filing amended returns in those years.<sup>2</sup> Concerning 1992 and 1993, the Administrative Law Division allowed various expenses claimed by the Taxpayer that were previously disallowed by the Department.

The Department applied for a rehearing concerning the 1992 and 1993 liabilities, arguing that the Administrative Law Division improperly allowed the Taxpayer to deduct the expenses in those year. A Final Order Denying the Department's Application for Rehearing was entered on January 26, 1995. The Department consequently allowed the disputed expenses and recomputed the Taxpayer's 1992 and 1993 liabilities as directed by the Administrative Law Division. A Final Order was entered on February 22, 1995 for the adjusted amounts due.

The Taxpayer appealed the February 22, 1995 Final Order to Montgomery County Circuit Court. That Court heard the case on November 8, 1995, and affirmed the Administrative Law Division's Final Order on November 14, 1995. The

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<sup>2</sup>Section 40-18-81 was amended in 1998 by Act 98-502. Under the amended statute, the filing of a short form is no longer irrevocable.

Taxpayer did not appeal.

The Department next audited the Taxpayer's 1994 return. It disallowed various deductions claimed on the return, and consequently reduced the refund claimed by the Taxpayer from \$898.81 to \$398.81. The Taxpayer appealed to the Administrative Law Division. A hearing was conducted on May 8, 1996. The Department indicated at the hearing that it had again reviewed the Taxpayer's 1994 return, and had increased the refund due to \$718.29. The Taxpayer agreed to that amount. The Department also agreed to accept the Taxpayer's 1995 return as filed, which showed a refund due of \$834.99. A Final Order concerning the 1994 and 1995 tax years was entered on May 9, 1996. The Taxpayer did not appeal.

The Department did not audit the Taxpayer's 1996 and 1997 returns. The Taxpayer received refunds of \$929.42 and \$644.08, respectively, in those years.

As indicated, this third appeal by the Taxpayer concerns his 1998, 1999, and 2000 liabilities. The Department initially accepted the Taxpayer's returns for 1998 and 1999 and issued him refunds of \$870 and \$699, respectively, in those years. It subsequently audited the returns and disallowed various deductions claimed on the returns. Specifically, the Department disallowed cash gifts by the Taxpayer to various students, and also amounts deducted by the Taxpayer for classes he taught for which he was not paid. The Department consequently assessed the Taxpayer for 1998 tax and interest of \$920.23, and 1999 tax and interest of \$681.46. It also reduced the Taxpayer's claimed 2000 refund from \$800 to \$93.28. As indicated, the

Taxpayer appealed, and a hearing was conducted on May 21, 2002.

The Taxpayer has taught philosophy and music at Talladega College in Talladega, Alabama since at least 1990. He explained at the May 21 hearing that during the years in issue, he gave cash to poor students at the College to help them pay expenses and stay in school. He deducted approximately \$8,500 in cash gifts to students in 1998.

The Taxpayer's dedication to his students is admirable. He does not earn much money teaching at Talladega College, and giving away a large part of his income to needy students is commendable. Unfortunately, only contributions to charitable and specific other qualified organizations can be deducted for federal and Alabama income tax purposes. See, Code of Ala. 1975, ' 40-18-15(a)(10), which adopts by reference the federal deduction for contributions to charities at 26 U.S.C. ' 170. Gifts to individuals cannot be deducted. See, 2002 CCH U.S. Master Tax Guide at §1068 (A) Contributions made directly to an individual or to groups of individuals are not deductible . . . .

Concerning the amounts deducted for classes the Taxpayer taught for which he was not paid, the Taxpayer explained that he taught a number of classes for which the College could not afford to pay him. He also taught several classes which had almost double the normal number of students. He claimed a deduction of \$1,500 for each extra or overload class that he taught. He contends that he should be allowed \$3,000 for each overload, and that he did not claim all the

overloads that he could have.

Again, the Taxpayer's dedication to Talladega College and its students is commendable. However, the Taxpayer cannot deduct the estimated value of his unreimbursed services. See, 2002 CCH U.S. Master Tax Guide at §1061 (The value of services rendered to a charitable (and also an educational) institution is not deductible as a contribution, . . . .).

Because the Taxpayer cannot deduct his gifts to needy students or the estimated value of his unpaid teaching services, the Department correctly disallowed those items. Consequently, the 1998 and 1999 final assessments must be affirmed. Judgment is entered against the Taxpayer for 1998 tax and interest of \$920.23, and 1999 tax and interest of \$681.46. The reduced 2000 refund is also affirmed. That refund was correctly applied to the Taxpayer's 1998 liability.

The Taxpayer has consistently claimed that the Revenue Department has purposely treated him unfairly. I disagree. The Department's function is to audit tax returns to insure compliance with Alabama's tax laws. The Department has audited several of the Taxpayer's returns since 1990, but it has also reviewed thousands of other individual Alabama taxpayers during those years.

The Department initially disallowed several business-related deductions claimed by the Taxpayer on his 1992 and 1993 returns. As discussed, those valid deductions were subsequently allowed by the Administrative Law Division on appeal. Otherwise, to my knowledge, the Department has allowed all valid

deductible expenses claimed by the Taxpayer for which he has provided substantiating records.

The Taxpayer also continues to request the figures and explanations that the Department submitted to Judge Price concerning his initial appeal involving 1990 through 1993. Other than submitting the administrative record on appeal, the Administrative Law Division was not involved in the Circuit Court appeal. However, Judge Price's Order simply affirmed the Administrative Law Division's Final Order. As indicated, that Final Order affirmed the 1990 and 1991 final assessments because the Taxpayer had elected to file short form returns in those years, which was at the time an irrevocable election. Consequently, the various deductions claimed by the Taxpayer on his amended 1990 and 1991 returns were disallowed because the Taxpayer was statutorily barred from filing amended returns. As discussed, the Administrative Law Division allowed various previously disallowed deductions in 1992 and 1993. Judge Price also affirmed that holding, over the Department's objection.

Finally, the Taxpayer contends that he could have claimed numerous other deductions on his returns. That may be correct, but a deduction cannot be allowed unless it is claimed on a return and documented with accurate records. I would encourage the Taxpayer in the future to claim all allowable ordinary and necessary business-related expenses that he incurs in his position with Talladega College. All such expenses, if properly documented, will be allowed. I would

further suggest that the Taxpayer confer with a CPA, accountant, or other qualified tax preparer concerning exactly what he can claim, i.e. business-related travel, home office and related expenses, etc., and the documentation needed to support any such deductions. The Revenue Department also routinely helps taxpayers with such information, upon request.

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

Entered December 4, 2002.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr  
attachments  
cc: Gwendolyn B. Garner, Esq.  
John D. White  
Kim Herman