

BJORN AND FAYE RAMSKOG
5416 Cross Creek Drive
Mobile, AL 36693,

Taxpayers,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 99-135

FINAL ORDER

The Revenue Department denied income tax refunds requested by Bjorn and Faye Ramskog (together ATaxpayers@) for the years 1988, 1992, and 1996. 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 May 18, 1999. The Taxpayers represented themselves. Assistant Counsel Wade Hope represented the Department.

The issue in this case is whether Bjorn Ramskog (individually ATaxpayer@) was domiciled in Alabama during the years in issue, and thus subject to Alabama income tax pursuant to Code of Ala. 1975, ' 40-18-2.

The Taxpayer is a Norwegian citizen. His wife was born in Alabama and is a United States citizen. The Taxpayers lived in Norway and Sweden until December 1976, when they moved to Alabama to be near Mrs. Ramskog's mother. They purchased a home in Alabama at that time. The Taxpayers lived and worked in Alabama from 1976 until 1986. They filed Alabama income tax returns and paid Alabama tax on their income earned in those years.

The Taxpayer lost his job in Alabama in 1986. He was hired by the Norwegian Cruise Lines in March 1987. He has worked for Norwegian Cruise Lines since that time. The Taxpayer's job requires him to work on a cruise ship outside of the United States for at least eight months of each year. He resides with his wife in Alabama when not working.

The Taxpayers paid Alabama income tax on the income earned by Mrs. Ramskog in Alabama after 1986. They failed, however, to pay Alabama income tax on the income earned by the Taxpayer after 1986, except for the years in issue, 1988, 1992, and 1996. The Taxpayers paid Alabama tax on the Taxpayer's income earned in the subject years, and subsequently applied for refunds. The Department denied the refunds. The Taxpayers appealed.

This case turns on whether the Taxpayer was domiciled in Alabama during the years in question. All individuals domiciled in Alabama are subject to Alabama income tax, regardless of where their income is earned during the year. Code of Ala. 1975, § 40-18-2. An individual's domicile is the principal home to which the individual intends to return when absent. See generally, Whetstone v. State, 434 So.2d 796 (1983).

The Taxpayer was originally domiciled in Norway. He and his wife moved to Alabama in 1976. They purchased a house in Alabama and both Taxpayers lived and worked in Alabama from 1976 until 1987. The above actions indicate that the Taxpayers established Alabama as their domicile.

The Taxpayer began working outside of Alabama with the Norwegian Cruise Lines in 1987. However, he never abandoned Alabama as his domicile. His wife has lived and worked in Alabama since 1976, and the Taxpayer resides in Alabama when not working. The Taxpayer testified that he intends to eventually return to Norway, but that hope is belied by the fact that he and his wife have lived in Alabama for over 23 consecutive years. Because the Taxpayer was domiciled in Alabama during the years in issue, he was liable for Alabama income tax on his income earned in those years. The refunds in issue were properly denied by the Department.

The Taxpayer argues he is not liable for Alabama income tax on his income earned outside of Alabama based on a paragraph in the Department's Income Tax Instruction Booklet. The following paragraph is in both the 1997 and 1998 booklets:

If a citizen of a foreign country comes to Alabama to work (no matter how long he stays), buys a home, secures an Alabama driver's license, does not intend to apply for U. S. Citizenship, and intends to ultimately return to the country of origin, the individual does not become an Alabama resident. However, any income earned in Alabama would be subject to Alabama income tax as a non-resident.@

The above paragraph is misleading because it implies that if an Alabama resident that is a citizen of a foreign country does not apply for U.S. citizenship, the individual will never be liable for Alabama income tax on income earned outside

of Alabama. That is incorrect. There is no special provision that exempts a foreign citizen from Alabama income tax. Rather, if the foreign citizen establishes Alabama as his domicile, as the Taxpayer did in this case by living and maintaining a home in Alabama for over 23 years, then the individual is liable for Alabama income tax on income earned everywhere, even if the individual never applies for U. S. citizenship. In other words, a foreign citizen domiciled in Alabama is liable for Alabama income tax on his income earned everywhere.

The Department's denial of the refunds claimed by the Taxpayers is affirmed. This Final Order may be appealed to circuit court within 30 days. Code of Ala. 1975, ' 40-2A-9(g).

Entered July 20, 1999.

BILL THOMPSON
Chief Administrative Law Judge

BT: ks

cc: Duncan R. Crow, Esq.
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Bjorn and Faye Ramskog
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