

FRED ASHMORE
1404 Smith Avenue #8
Decatur, AL 35601,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

' STATE OF ALABAMA
' DEPARTMENT OF REVENUE
' ADMINISTRATIVE LAW DIVISION

' DOCKET NO. INC. 99-142

FINAL ORDER

The Revenue Department reduced a refund of 1997 Alabama income tax claimed by Fred Ashmore (ATaxpayer@). The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, '40-2A-7(c)(5)a. A hearing was conducted on April 22, 1999. The Taxpayer informed the Administrative Law Division that he would not appear. Assistant Counsel Mark Griffin represented the Department.

The issue in this case is whether certain commodity trading expenses claimed by the Taxpayer on his 1997 Alabama income tax return were properly disallowed by the Department.

The Taxpayer reported wage income of \$32,048 and a stock loss of \$3,000 on his 1997 Alabama return. The Taxpayer also deducted \$10,270 on Schedule A as business expenses. The Taxpayer failed, however, to file a Schedule C relating to business income.

The Department requested an explanation of the claimed expenses from the Taxpayer's tax preparer. The tax preparer responded that the Schedule A

expenses related to the Taxpayer's commodity trading business. The tax preparer conceded, however, that the Taxpayer only traded for himself during 1997.

Based on the above, the Department disallowed the commodity expenses claimed by the Taxpayer. The Department also allowed the Taxpayer an additional loss of \$5,223 based on information from his 1997 federal return. The adjustments reduced the Taxpayer's claimed refund from \$375 to \$220. The Taxpayer appealed.

The Taxpayer argues that he should be allowed to deduct the commodity trading expenses because he is in the commodity trading business. The evidence establishes otherwise.

The Taxpayer concedes that he only traded for himself during 1997. Consequently, the Taxpayer's trading activities were personal in nature, and any expenses relating thereto cannot be deducted as trade or business expenses. The expenses were thus correctly disallowed.

The Department's reduction of the Taxpayer's 1997 refund is affirmed. This Final Order may be appealed to circuit court within 30 days. Code of Ala. 1975, ' 40-2A-9(g).

Entered July 29, 1999.

BILL THOMPSON
Chief Administrative Law Judge

BT: ks

cc: Mark Griffin, Esq.

Fred Ashmore
Kim Herman (411-68-5693)