

PHYLLIS A. THOMASON  
205 Shelton Beach Road, Apt. 35  
Saraland, AL 36571-2726,

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

Taxpayer,

DOCKET NO. INC. 99-357

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

### FINAL ORDER

The Revenue Department assessed Phyllis A. Thomason (ATaxpayer@) for 1992 through 1997 income tax. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-7(b)(5)a. A hearing was conducted on October 14, 1999. CPA Wayne Boggan represented the Taxpayer. Assistant Counsel Duncan Crow represented the Department.

The issue in this case is whether the Taxpayer received taxable alimony payments from her ex-husband during the years in issue.

The Taxpayer and her ex-husband, Walter P. Thomason, divorced in 1979. The Taxpayer is disabled and has not worked since the divorce. She has lived with and been supported by various relatives over the years.

The Department audited the Taxpayer's ex-husband for the years 1992 through 1997. The ex-husband claimed alimony deductions of \$5,200, \$8,500, \$8,500, \$6,500, \$6,500, and \$8,500 during those years, respectively. A Department examiner met with the ex-husband on August 11, 1998 concerning the audit. The Taxpayer also attended the conference as requested by her ex-husband. She confirmed to the Department examiner at that time that she had received the amounts claimed as alimony by her ex-husband. The Department examiner understandably allowed the alimony deductions without requiring the ex-husband to document the amounts claimed. The examiner also assessed the Taxpayer on the alimony payments she

admitted receiving. The Taxpayer appealed.

The Taxpayer testified that she never received money from her ex-husband during the years in issue. She explained that she told the Department examiner that she received the payments from her ex-husband only to help her ex-husband.

**A**The Court: Mrs. Thomason, why did you go to the audit meeting with your ex-husband?

**A**The Witness: Well, I was trying to be decent. And I didn't know that it would - if I knew that it was going to come back on me like this. But I thought I was doing a good deed. He helped us, he paid the rent and bought the groceries when my daughter couldn't work or something, and so I thought I was helping him.@

Transcript at page 18.

I believe the Taxpayer did not receive alimony payments from her ex-husband during the subject years. In any case, alimony can be deducted, and correspondingly must be included as income, only if the payments are required by a divorce decree. Code of Ala. 1975, ' 40-18-15(a)(17) and 26 U.S.C. ' 215. The Taxpayer's 1979 divorce decree required the ex-husband to pay the Taxpayer \$200 a month. The Taxpayer testified that but for a few payments shortly after the divorce, her ex-husband has never paid her anything. Consequently, even if the Taxpayer received alimony from her ex-husband during the subject years, it could not have been more than the \$2,400 a year required by the divorce decree, considerably less than the amounts claimed by the ex-husband on his returns.

The final assessments in issue are dismissed.

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

-3-

Entered November 3, 1999.