

CHRISTOPHER L. & ASHLEY SIMPSON§
1571 HIGHWAY 39
CHELSEA, AL 35043-7435, §

Taxpayers, §

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
ALABAMA TAX TRIBUNAL

DOCKET NO. INC. 15-1566

FINAL ORDER

The Revenue Department assessed Christopher and Ashley Simpson (together “Taxpayers”) for 2012 Alabama income tax. The Taxpayers appealed to the Tax Tribunal pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on March 4, 2016. Chris Simpson (individually “Taxpayer”) attended the hearing. Assistant Counsel Jason Paulk represented the Revenue Department.

The Taxpayers failed to file a 2012 Alabama income tax return. The Department received IRS information indicating that the Taxpayers were required to file a 2012 Alabama income tax return. It consequently assessed the Taxpayers for that year based on the IRS information.

The Taxpayers lived in Pelham, Alabama until they moved to Taiwan in 2008. They subsequently moved to Korea, where they both taught school. The Taxpayer left Korea and moved to Tennessee in 2015 because the couple were getting divorced. He explained at the March 4 hearing that he wanted to continue living and teaching in Korea, but that it would have been awkward for him to do so because he and his soon to be ex-wife worked in close proximity at the same school in Korea. Ashley Simpson and the couple’s two children, both of whom were born in Korea, still live in Korea.

The Taxpayer testified that when the couple left Alabama in 2008, they did not intend to return to Alabama to live. He also explained that when they moved to Korea in 2010, they did so with the intent of living and teaching in Korea indefinitely.

Alabama income tax is levied on individuals residing in Alabama, Code of Ala. 1975, §40-18-2(1), and also on individuals residing and earning income outside of Alabama that are still domiciled in Alabama. Code of Ala. 1975, §40-18-2(7). A persons' domicile is his true, fixed home to which he intends to return when absent. *Whetstone v. State*, 434 So.2d 796 (Ala. 1983). In order to change domiciles from Alabama, a taxpayer must abandon Alabama, and also establish a new domicile elsewhere with the intent to remain permanently, or at least indefinitely. The burden is on a taxpayer asserting a change of domicile to prove that a change of domicile has occurred. The presumption is in favor of the original or former domicile, as against a newly acquired one. See generally, *Cobb v. State, Inc.* 96-272 (Admin. Law Div. 2/24/97).

The Taxpayers maintained some ties to Alabama after moving to Asia in 2008. For example, they still owned a house in Alabama, were still registered to vote in Alabama, and they renewed their Alabama driver's licenses after moving to Korea. The Taxpayer explained, however, that they have rented the house in Alabama to tenants since 2008, and that while they were still registered to vote in Alabama after moving to Asia, they never did so. He also testified that the couple renewed their Alabama drivers' licenses because they came back to Alabama once a year to visit relatives in the State, and they needed a valid Alabama driver's license to be able to legally drive during their visits.

Owning property in Alabama does not establish that the Taxpayers intended to return to Alabama to live. The Taxpayer also adequately explained why he and his wife

renewed their Alabama driver's licenses. And once an individual registers to vote in Alabama, the registration remains valid indefinitely, even if the individual leaves the State. Consequently, the fact that the Taxpayers were still registered to vote in Alabama after moving overseas is of no consequence. Finally, the Tax Tribunal has held on numerous occasions that the presence of a taxpayer's family members in Alabama has no bearing on whether the taxpayer is domiciled in Alabama. *Hinton v. State of Alabama*, Docket Inc. 14-1067 (T.T. 1/27/2016); *Simon v. State of Alabama*, Docket Inc. 15-653 (T.T. 11/10/2015).

Under the circumstances, the evidence establishes that the Taxpayers abandoned Alabama and established a new, permanent domicile in Korea when they moved to Korea in 2010. The final assessment in issue is accordingly voided.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2B-2(m).

Entered March 11, 2016.

BILL THOMPSON
Chief Tax Tribunal Judge

bt:dr

cc: Jason C. Paulk, Esq.
Chris & Ashley Simpson