

JEFFREY C. SELLARS
5003 Frankford Drive
Owens Cross Roads, AL 35763,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 02-859

FINAL ORDER

This case involves a disputed refund of 1999 income tax requested by Jeffrey C. Sellars ("Taxpayer"). The Taxpayer appealed to the Administrative Law Division on November 12, 2002. The Department was notified of the appeal by letter dated November 14, 2002. The Legal Division subsequently requested an extension to file its Answer in the case on December 13, 2002. The Administrative Law Division granted the Department a 60 day extension, as provided at Code of Ala. 1975, §40-2A-9(c).

The 90 day period within which the Department was required to file an Answer expired on February 12, 2003. On February 18, 2003, the Legal Division requested another extension to file its Answer, arguing that it had not yet received the Taxpayer's file from the Income Tax Division.

The Administrative Law Division also received a letter from the Taxpayer on February 18, 2003, in which he argues that the refund should be granted because the Department failed to follow the statutory appeal procedures. Specifically, the Taxpayer argues that the Department failed to file its Answer within 90 days, as required by §40-2A-9(c). I agree with the Taxpayer based on the rationale of *Sungard Business Systems, Inc. v. State of Alabama*, U. 94-310 (Admin. Law Div. 1/10/95), and *Bishop-Parker Furniture Co., Inc. v. State of Alabama*, S. 93-252 (Admin. Law Div. 3/31/94).

The Department is directed to issue the Taxpayer the refund in dispute.

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

Entered February 21, 2003.

BILL THOMPSON
Chief Administrative Law Judge