

**ALABAMA TAX TRIBUNAL**

BILLY J. BROWN, §  
Taxpayer, § DOCKET NO. INC. 18-303-JP  
v. §  
STATE OF ALABAMA §  
DEPARTMENT OF REVENUE.

**FINAL ORDER**

This appeal involves a final assessment of 2013 Alabama individual income tax. A hearing was held on February 5, 2019. The Taxpayer was notified of the hearing, but he failed to attend. Assistant Counsel Billy Young represented the Alabama Department of Revenue.

The Taxpayer did not file a 2013 Alabama income tax return. However, the Revenue Department received information from the IRS that the Taxpayer had Alabama-sourced income in that year. It consequently prepared a “blanket” return based on the IRS information and assessed the Taxpayer for tax, plus penalties and interest. The Taxpayer claimed in his notice of appeal to the Tax Tribunal that he lived and worked in Florida in 2013 and thus did not owe tax to the State of Alabama.

The Revenue Department answered the Taxpayer’s appeal and requested that the Taxpayer provide documentation to prove that he was not domiciled in Alabama in 2013. In response, the Taxpayer provided two W-2 forms for 2013 that showed a Florida address. The Taxpayer also submitted a letter, which reads in part:

This is in response to your continued insistence that I owe taxes to the State of Alabama for year 2013. As I have stated several times I did not reside in Alabama in 2013 so I therefore do not owe taxes for that year. I do not have

copies of a lease agreement as everything was handled online. I also resided at 810 Arbor Lake Drive in Crestview, FL 32536 for the last 6 months of 2013.

In its Fifth Preliminary Order, the Tax Tribunal directed the Taxpayer to provide to the Tax Tribunal all documents which proved that he abandoned Alabama prior to 2013 with no intention to return and that he established a new domicile in another state prior to 2013 with the intent to remain in that other state permanently or at least indefinitely. The Taxpayer failed to respond, so the case was set for hearing.

Alabama income tax is levied on every person residing in Alabama. Ala. Code § 40-18-2(a)(1). A person who is domiciled in Alabama is presumed to be residing in Alabama for income tax purposes. Ala. Code § 40-18-2(b). Also, the tax is levied on nonresident individuals who receive income from property owned or business transacted in Alabama. Ala. Code § 40-18-2(a)(6). A person's domicile is his true fixed home to which he intends to return when absent. *Whetstone v. State*, 434 So. 2d 796 (Ala. 1983). To change domiciles from Alabama, a taxpayer must abandon Alabama with no present intention to return and establish a new domicile elsewhere, with the intent to remain there permanently or at least indefinitely.

A final assessment is presumed correct, and the burden is on a taxpayer to prove that the assessment is incorrect. Ala. Code § 40-2A-7(b)(5)c.3. As stated, the Taxpayer failed to attend the February 5 hearing, and has otherwise failed to prove that he was not domiciled in Alabama during 2013. Also, the Revenue Department stated that its records show that the Taxpayer earned Alabama income from 2010 through 2017, which includes the year at issue in this appeal.

The final assessment is affirmed. Judgment is entered against the Taxpayer for 2013 tax, penalties, and interest of \$1,490.26. Additional interest is also due from the date the final assessment was entered on February 26, 2018.

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

Entered February 5, 2019.

*/s/ Jeff Patterson*

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JEFF PATTERSON

Chief Judge

Alabama Tax Tribunal

jp:dr

cc: Billy J. Brown  
Warren W. Young, Esq.