

ALABAMA TAX TRIBUNAL

CLAYTON P. & SHIRLEY R. MILES,	§	
Taxpayers,	§	DOCKET NO. INC. 18-421-JP
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

FINAL ORDER

This appeal concerns a final assessment of individual income tax for the year 2014. The issue is whether the Taxpayers were domiciled in Alabama during that year. Mr. Miles filed the appeal and claimed that he was a Georgia resident and thus owes no tax to Alabama. Ms. Miles, who filed for divorce in 2016, never contacted the Tax Tribunal despite the agency's efforts to inform her of these proceedings.

A hearing was held on February 4, 2020. Mr. Miles attended the hearing but refused to take the oath required of fact witnesses. Thus, Mr. Miles was not allowed to testify. See Ala. Code § 40-2B-2(k)(5).

Alabama income tax is levied on individuals residing in Alabama, Ala. Code § 40-18-2(a)(1). Persons who are domiciled in Alabama are presumed to be residing in the state. Ala. Code § 40-18-2(b). Simply put, Alabama law provides that a taxpayer domiciled in Alabama is liable for Alabama tax on income earned in the year, regardless of where the taxpayer resided or where the income was earned. 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). Once Alabama is established as a person's domicile, that domicile is presumed to exist until a new one is acquired. *Id.* To change domicile from Alabama, a taxpayer must

abandon Alabama and establish a new domicile elsewhere with the intent to remain there 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. *Rabren v. Baxter*, 239 So.2d 206 (1970).

Also, a final assessment on appeal is presumed correct, and the burden is on a taxpayer to prove that the assessment is incorrect. Ala. Code § 40-7A-7(b)(5)c.3.

Here, the record contains a copy of a 2014 federal income tax return of the Taxpayers that listed their address as being in Hoover, Alabama. The return was signed by the Taxpayers and was dated August 2015. The record also contains a copy of an Alabama income tax return for 2014 that was signed by the Taxpayers and was dated August 2015. The Alabama return listed the same Hoover address as on the federal return. Further, the record contains two Georgia returns for 2014. One, which appears to be dated April 2015, listed a Georgia address. The other listed the same Hoover address as the federal and Alabama returns and was dated the same as the federal and Alabama returns. Both Georgia returns list the same phone number for the Taxpayers and that number has an Alabama area code (205).

At the end of the hearing, Mr. Miles asked for time to submit documents to show that he filed his Alabama return only at the request of the Revenue Department. The documents submitted showed that the Revenue Department entered a preliminary assessment against the Taxpayers and that a Petition for Review of that preliminary assessment was filed with the Revenue Department. However, a December 5, 2017, letter from the Revenue Department which was included in the documents listed certain discrepancies “between the Georgia return originally filed with the Alabama resident return

[which apparently listed an Alabama address] and the Georgia return later included with the petition for review [which apparently listed a Georgia address],” among other discrepancies. Also, one letter from the Revenue Department, dated May 27, 2016, directed the Taxpayers to submit a return if they disagreed with the Revenue Department’s billing, but that letter pertained to tax year 2012, not 2014.

Suffice it to say that the Taxpayers did not prove a change of domicile from Alabama to Georgia, nor did they prove that the final assessment is incorrect. The Revenue Department has agreed to a waiver of penalties. Therefore, the final assessment, minus the penalties, is affirmed in the amount of \$4,454.06. Additional interest also is due from the date that the final assessment was entered.

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

Entered March 4, 2020.

/s/ Jeff Patterson

JEFF PATTERSON

Chief Judge

Alabama Tax Tribunal

jp:dr

cc: Clayton P. Miles
Shirley Renee Miles
Hilary Y. Parks, Esq.