

RICHARD C. MALONE
24256 Malone Estate
Athens, AL 35613,

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

MARTHA G. MALONE
24256 Malone Estate
Athens, AL 35613,

DOCKET NOS. INC. 00-108
INC. 00-109

Taxpayers,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

FINAL ORDER

The Revenue Department jointly assessed 1998 income tax against Martha G. and Richard C. Malone (ATaxpayers@). The Taxpayers filed separate appeals with the Administrative Law Division pursuant to Code of Ala. 1975, ' 40-2A-7(b)(5)a. A hearing was conducted on the appeals on March 23, 2000. Both Taxpayers were notified of the hearing by certified mail on January 28, 2000, but failed to appear. Assistant Counsel LaRonica Lightfoot represented the Department.

The issues in this case are (1) were the Taxpayers subject to Alabama income tax in 1998, and (2) did the Department correctly assess the Taxpayers for tax due in that year.

The Taxpayers filed a joint 1998 Alabama income tax return on April 14, 1999. The return reported wages received by Richard C. Malone from Steelcase in the amount of \$54,712, and wages received by Martha Malone from Rosalie Huber in the amount of \$14,931. The return reported tax due of \$337. The Taxpayers failed to pay that amount

with the return. The Department subsequently assessed the Taxpayers for the reported tax due, plus applicable penalties and interest.

The Taxpayers' appeals are 40 pages long and contain numerous references to the Internal Revenue Service (IRS), various federal income tax statutes, and other references to federal regulations and cases. The Taxpayers broadly allege that they are not subject to federal income tax. Specific allegations include (1) the Taxpayers did not receive wages or other income subject to federal income tax, (2) the Taxpayers were not domiciled within the jurisdiction of the United States or any State therein, (3) the Taxpayers are not a U. S. person, a domestic partnership, a domestic corporation, or any estate or trust within the meaning of the Internal Revenue Code (IRC), and (4) the Taxpayers' estate is a foreign estate and not a domestic estate within the meaning of the IRC. The Taxpayers make numerous other assertions to the end that they are not subject to or liable for federal income tax.

Alabama's income tax laws are modeled generally after the federal income tax statutes. However, a taxpayer's liability for Alabama income tax is not dependent on the taxpayer's liability for federal tax. Consequently, notwithstanding the Taxpayers' claims that they are not subject to or liable for federal income tax, which I do not agree with, the Taxpayers are liable for Alabama income tax for the following reasons.

The Alabama income tax is levied on every individual or natural person residing or domiciled in Alabama. Code of Ala. 1975 ' 40-18-2. The Taxpayers reside in Athens, Alabama, which is within the boundaries of the State of Alabama as established in Article

II, Section 37 of the Alabama Constitution of 1901. Consequently, the Taxpayers were subject to Alabama income tax in 1998.

Alabama income tax is levied on the net income of every individual residing in Alabama. Code of Ala. 1975, ' 40-18-2(b). Net income is defined as gross income less the deductions allowed at Code of Ala. 1975, ' 40-18-15. See, Code of Ala. 1975, ' 40-18-12.

Gross income is defined at Code of Ala. 1975, ' 40-18-14(1) as A...gains, profits, and income derived from salaries, wages, or compensation for personal services of whatever kind, or in whatever form paid,... As indicated, the Taxpayers reported wages earned in Alabama on their 1998 Alabama return. Because wages are specifically included in the Alabama definition of gross income, the wages received by the Taxpayers clearly constituted gross income as defined by Alabama law. That income, less the various deductions and exemptions allowed the Taxpayers, was clearly subject to Alabama income tax. See also, Lawrence W. Monk v. State of Alabama, INC. 99-468 (Admin. Law Div. 1/28/00).

A final assessment on appeal is *prima facie* correct, and the burden is on the taxpayer to prove the assessment is incorrect. Code of Ala. 1975, ' 40-2A-7(b)(5)c. The Department assessed the Taxpayers based on their signed 1998 return. The Taxpayers have presented no evidence or valid arguments establishing that the Alabama income tax assessed by the Department is incorrect. The final assessment is accordingly affirmed. Judgment is entered jointly and severally against the Taxpayers for \$381.39, plus applicable additional interest.

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

Entered March 27, 2000.

BILL THOMPSON
Chief Administrative Law Judge

BT:ks

cc: LaRonica Lightfoot, Esq.
Richard C. Malone
Martha G. Malone
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