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| CONNIE L. EASTER | § | STATE OF ALABAMA |
| DAVID L. EASTER | | DEPARTMENT OF REVENUE |
| 10083 Poplar Point Road | § | ADMINISTRATIVE LAW DIVISION |
| Athens, AL 35611, | § | |
| | § | DOCKET NO. INC. 04-438 |
| Taxpayers, | § | INC. 04-437 |
| | § | |
| v. | § | |
| | § | |
| STATE OF ALABAMA | § | |
| DEPARTMENT OF REVENUE. | § | |

FINAL ORDER

This case involves final assessments of 2000 income tax entered against Connie L. Easter and her husband, David L. Easter. The Taxpayers appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. The cases were heard together on September 23, 2004. The Easters (“Taxpayers”) were notified of the hearing by certified mail, but failed to appear. Assistant Counsel Glen Powers represented the Department.

The Taxpayers failed to file either joint or separate Alabama income tax returns for 2000. The Department received IRS information indicating that the Taxpayers resided in Alabama and earned income sufficient to require them to file a return or returns in that year. The Department consequently assessed the Taxpayers, individually, based on their respective income received in 2000.

The Department notified the Taxpayers on several occasions concerning their 2000 Alabama liabilities. The Taxpayers responded by claiming that “I am in full agreement and realize the importance of being in compliance with all existing tax laws, and I am notifying

you that I have complied with all tax laws.”¹² The Taxpayers position, in substance, was that by submitting a “tax statement” to the Internal Revenue Service, they had complied with Alabama law and were not required to also file an Alabama tax return.

The statements submitted by the Taxpayers denied any knowledge of or liability for any tax, and requested (1) “A Certified True Bill showing the exact amount I am supposed to owe” to the U.S. Government; (2) a statement “showing all goods and/or services delivered to me by said entity”; (3) a copy of “the valid, binding and subsisting Instrument or Contract bearing my autograph which authorizes this or any related collection activity”; (4) a copy of “the mandatory Article VI Oath of Fidelity for each individual in your organization who is involved in this collection activity”; (5) “The policy number and name and address of the underwriter of the Bond(s) required by Law to insure said individuals in the handling of public funds”; and (6) “Positive identification of all real parties of interest to any valid Instrument or Contract which authorizes this collection activity”

Because the Taxpayers failed to submit any relevant information indicating that the Department’s calculations based on the IRS information were incorrect, the Department subsequently entered the final assessments in issue against the Taxpayers for the tax due, plus applicable penalties and interest. The Taxpayers appealed.

The case was initially set for hearing on August 19, 2004. The Taxpayers requested a continuance to allow them time to obtain an authorized representative to represent them in the appeals. The hearing was accordingly reset for September 23, 2004.

On September 21, 2004, the Taxpayers filed a joint 2000 Alabama income tax

¹ The quoted statement was contained in an identical “Administrative Notice” submitted by

return with the Administrative Law Division. The return was submitted to the Department's Income Tax Division for review.

The September 23 hearing was conducted as scheduled. The Taxpayers failed to attend. The Department's attorney, Glen Powers, indicated at the hearing that the Department will accept the Taxpayers' return, which shows tax due of \$619. The Taxpayers also owe interest through September 24, 2004 of \$118.91, and delinquent penalties of \$216.65.

At the September 23 hearing, the Department also requested that the Taxpayers be assessed for the minimum \$250 frivolous appeal penalty levied at Code of Ala. 1975, §40-2A-11(f). The request is granted. The Taxpayers' arguments are shopworn and frivolous positions that have been repeatedly rejected as such by the federal courts. See generally, *Edwards v. C.I.R.*, 680 F.2d 1268 (1982); *Denison v. C.I.R.*, 751 F.2d 241 (1984); *Moore v. C.I.R.*, 722 F.2d 193 (1984). If the Taxpayers had timely filed their 2000 return, as they were clearly required to do by law, instead of presenting their frivolous objections and arguments, the State, and its taxpayers, would have been spared the unnecessary costs incurred in computing the Taxpayers' liabilities, notifying the Taxpayers of the amounts due, and then docketing and administratively handling the Taxpayers' appeals.

The final assessments, as reduced, are affirmed. Judgment is entered against the Taxpayers, jointly, for 2000 tax, penalty, and interest of \$954.56, plus the \$250 frivolous appeal penalty, for a total due of \$1,204.56. Additional interest is also due from September 24, 2004.

both Taxpayers on November 14, 2003.

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

Entered September 24, 2004.

BILL THOMPSON
Chief Administrative Law Judge