

RICHARD E. HARDY
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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayer,

§

DOCKET NO. INC. 05-117

v.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

FINAL ORDER

The Revenue Department assessed 2001 Alabama income tax against Richard E. Hardy ("Taxpayer"). The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on May 18, 2005. The Taxpayer attended the hearing. Assistant Counsel Mark Griffin represented the Department.

The Taxpayer failed to file a 2001 Alabama income tax return. The Department received IRS information indicating that the Taxpayer resided in Alabama in 2001 and received wage income of \$19,080 and pension income of \$6,552 in that year. The Department taxed only the wage income. It also allowed the Taxpayer a personal exemption, the standard deduction, and a credit for federal tax paid of \$2,726. It then assessed the Taxpayer for the tax due, plus penalties and interest. The Taxpayer appealed.

The Taxpayer made various arguments at the May 18 hearing. His primary argument is that his wages are not gains or gross income, and thus are not taxable. I disagree.

To begin, while Alabama's income tax laws are modeled after the federal tax laws, the Alabama and federal laws are not the same. Consequently, unless Alabama has by

specific reference adopted a federal tax statute, the federal statute does not apply for Alabama tax purposes. Rather, the Alabama statute on the subject governs.

Alabama income tax is levied on the taxable income of all individuals residing in Alabama. Code of Ala. 1975, §40-18-2. "Gross income" is defined for Alabama income tax purposes as "gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind, or in whatever form paid, . . ." Code of Ala. 1975, §40-18-14. As indicated, "wages" constitute gross income under Alabama law.

"Taxable income" on which Alabama income tax is levied is defined by Code of Ala. 1975, §40-18-15.1 as "gross income," as defined in §40-18-14, less the deductions allowed in Chapter 18 of Title 40. The Department thus properly included the Taxpayer's wages as part of his gross income, which, after allowance for the applicable deductions, constituted taxable income in Alabama.

The Taxpayer's argument that wages are not income has also been repeatedly rejected by the federal courts. See, *Coleman v. C.I.R.*, 791 F.2d 68, 70 (1986) ("The code imposes a tax on all income. Wages are income. . .") See also, *U.S. v. Thomas*, 788 F.2d 1250 (1986); *Granzow v. C.I.R.*, 739 F.2d 265 (1984).

The final assessment is affirmed. Judgment is entered against the Taxpayer for 2001 tax, penalty, and interest of \$924.32. Additional interest is also due from the date of entry of the final assessment, December 13, 2004.

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

Entered May 19, 2005.

BILL THOMPSON
Chief Administrative Law Judge