

WILLIAM J. TAYLOR
69 PEACH TREE LANE
TALLADEGA, AL 35160,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

§

§

§

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 06-1019

PRELIMINARY ORDER

The Revenue Department assessed William J. Taylor (“Taxpayer”) for 1997 and 1998 income tax. 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 January 18, 2007. The Taxpayer attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The Taxpayer failed to file 1997 and 1998 Alabama income tax returns. The Department received IRS information indicating that the Taxpayer resided in Alabama in 1997 and 1998, and had income sufficient to require him to file returns for those years. It consequently assessed the Taxpayer for the tax due, plus penalties and interest. The Taxpayer appealed.

The Taxpayer installed carpet during the subject years. He argues that he should not be liable for Alabama income tax in those years because he lived and worked in Georgia.

The Taxpayer explained at the January 18 hearing that he lived with his father in Talladega, Alabama until early 1997. He moved in with a friend in Auburn, Georgia in January 1997 because his friend was ill and needed help. He worked for Bryant Carpet Installations in Logansville, Georgia while living in Georgia. He moved back to Talladega in

late 1998, where he currently resides.

The Taxpayer was domiciled in Alabama before he moved to Georgia in January 1997. Consequently, while the Taxpayer resided in Georgia in 1997 and most of 1998, he would still owe Alabama tax on his income earned during that period if he remained domiciled in Alabama. Code of Ala. 1975, §40-18-2.

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). In order to change domiciles from Alabama, a taxpayer must abandon Alabama, and also establish a new domicile elsewhere with the intent to remain 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. The presumption is in favor of the original or former domicile, as against a newly acquired one. See generally, *Cobb v. State, Inc.* 96-272 (Admin. Law Div. 2/24/97).

In this case, the Taxpayer's move to Georgia was only temporary. He kept his Alabama driver's license and motor vehicle registration, and there is no evidence that he intended to permanently reside in Georgia. He thus remained domiciled in Alabama, and is liable for Alabama tax on his income earned in the subject years. He would be entitled to a credit against his Alabama liability for tax paid to Georgia. He testified, however, that he did not file Georgia returns and pay Georgia tax in the subject years.

The Taxpayer submitted copies of his 1997 and 1998 federal returns at the January 18 hearing. The returns claimed various deductions and expenses. (The Department had only allowed the Taxpayer the standard deduction.) The Department should review the returns and respond. Appropriate action will then be taken.

Entered January 22, 2007.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Gwendolyn B. Garner, Esq.
William J. Taylor
Tony Griggs