

BILLY K. GARRISON  
P.O. BOX 4997  
ST. STEPHEN, SC 29479,

Taxpayer,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 07-699

### **FINAL ORDER DISMISSING APPEAL**

This appeal involves final assessments of 1999 and 2000 Alabama income tax entered against the above Taxpayer. A copy of the Department's Answer is enclosed with the Taxpayer's copy of this Order. The Taxpayer failed to file Alabama income tax returns for the subject years. The Department received IRS information indicating that the Taxpayer was required to file Alabama returns for those years. It consequently assessed the Taxpayer for the tax due, plus penalties and interest.

The Administrative Law Division received a faxed copy of a letter from attorney Alex Harris on July 31, 2007. The letter was addressed to the Income Tax Division's Individual Hearing Section, and reads – "Attached please find the Power of Attorney per your request. Please give me a call regarding this file with any questions or concerns. I look forward to speaking with you." No appeal or other correspondence was otherwise received from Mr. Harris. The Administrative Law Division docketed the faxed letter as an appeal of the 1999 and 2000 final assessments entered against the Taxpayer.

The Alabama Supreme Court has held that a faxed notice of appeal does not constitute a proper filing of an appeal, absent an agency rule to the contrary. *Ex parte Tuck*, 622 So.2d 929 (Ala. 1993); *Ward Associates, Inc. v. State of Alabama, Corp.* 05-1053 (Admin. Law Div. 10/18/2005). The Revenue Department does not have a rule

allowing the filing of an appeal by fax with the Administrative Law Division. Consequently, the faxed letter was insufficient and should not have been docketed as an appeal.

The Taxpayer's appeal is dismissed for lack of jurisdiction. The Taxpayer may, however, pay the final assessments in full and then petition for refunds. If the refunds are denied, the Taxpayer may appeal to the Administrative Law Division or to circuit court pursuant to Code of Ala. 1975, §§40-2A-7(c)(5)a. and b., respectively.

This Final Order Dismissing Appeal can be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(b) and (g) and Department Reg. 810-14-1-.24(3).

Entered November 1, 2007.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: David E. Avery, III, Esq.  
Alex Harris, Esq. (w/enc.)  
Tony Griggs