

ROY F. PATTERSON  
3204 BROOK MANOR AVENUE  
HUNTSVILLE, AL 35816,

Taxpayer,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 12-1400

### **FINAL ORDER DENYING TAXPAYER'S APPLICATION FOR REHEARING**

This appeal involves a 2009 final assessment entered against the above Taxpayer. A hearing was conducted on May 8, 2013. The Taxpayer attended the hearing. Assistant Counsel Keith Maddox represented the Department.

A Final Order affirming the final assessment was entered on June 17, 2013. The Taxpayer has timely applied for a rehearing.

The Taxpayer failed to file a 2009 Alabama income tax return. The Department received W-2 information from SCI Technologies indicating that it had paid the Taxpayer wages in 2009. The Department accordingly entered the final assessment in issue based on that W-2 information.

The Taxpayer testified at the May 8 hearing that "we have a right to work for money without it being taxed." (T. 4). He also contended that "I was not a natural person domiciled in or residing in the State of Alabama" for purposes of the Alabama income tax levied at Code of Ala. 1975, §40-18-2.

The June 17 Final Order held that there is no constitutional or statutory right to work for money without paying taxes. Section 40-18-2(1) also levies the Alabama income tax on "[e]very individual residing in Alabama." The Taxpayer is an individual that admittedly

resides in Alabama. He also confirmed that he received money from SCI Technologies in 2009.

In his application for rehearing, the Taxpayer listed the reasons why he filed the petition, as follows:

1. The final order failed to address the link between Court References and Section 1-1-9.
2. The final order failed to address my constitutional right to acquire property by working for money (wages).
3. The final order failed to address the fact that my constitutional right to acquire property by working for money (wages) is exempted by Section 1-1-9.
4. The final order failed to address the seeming contradiction between Section 1-1-9 and Section 40-18-2(a)(1).
5. The final order failed to address the fact that Section 40-18-2(a)(1) applies to every individual residing in Alabama not exempted by Section 1-1-9 or elsewhere in the Code.
6. I confirmed that I received wages from SCI Technologies.
7. I was not a taxpayer under the Code unless I do not have a constitutional right to acquire property by working for money (wages).
8. The final order imposes a charge on me for exercising my constitutional right to acquire property by working for money (wages).

Code of Ala. 1975, §1-1-9 is entitled "Existing rights, remedies and defenses preserved." It provides that "[t]his Code shall not affect any existing right, remedy or defense, . . . ." Section 1-1-9 does not exempt the Taxpayer from the Alabama income tax.

The Alabama income tax statutes were enacted in 1935 by Act 194, Acts 1935. Shortly thereafter, they were found by the Alabama Supreme Court to be constitutional in every respect. *Weil v. State*, 186 So. 467 (Ala. 1939).

The Taxpayer may “acquire property by working for money (wages),” although I know of no constitutional provision specifically giving him that right. But assuming that the Taxpayer has a “constitutional right to acquire property by working for money (wages),” the State also has the constitutional and statutory authority to levy an income tax on that money earned in Alabama. See, Art. XI, §211.01 Alabama Constitution of 1901 and Code of Ala. 1975, §40-18-1, et seq.

The Taxpayer’s application for rehearing is accordingly denied. The June 17, 2013 Final Order is affirmed.

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

Entered July 9, 2013.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Warren W. Young, Esq. (w/enc.)  
Roy F. Patterson  
Kim Peterson