

ARTHUR BROWN	§	STATE OF ALABAMA
1920 McDOWLING DRIVE		DEPARTMENT OF REVENUE
HUNTSVILLE, AL 35803,	§	ADMINISTRATIVE LAW DIVISION
Taxpayer,	§	DOCKET NO. INC. 12-1417
v.		
	§	
STATE OF ALABAMA		
DEPARTMENT OF REVENUE.	§	

**FINAL ORDER**

The Revenue Department assessed Arthur Brown (“Taxpayer”) for 2009 Alabama 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 May 8, 2013. The Taxpayer attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The Taxpayer failed to file a 2009 Alabama income tax return. The Department received IRS information indicating that the Taxpayer resided in Alabama in 2009 and received W-2 income of \$80,958 from SCI Group, Inc. in that year. It consequently computed the Alabama tax due based on the IRS information, and then entered the final assessment in issue.

The Taxpayer argues on appeal that the IRS information was fraudulently filed with or provided to the Department. He also contends that he was not an employee in 2009, and consequently did not receive taxable wages in that year.

Because the Taxpayer failed to file a 2009 Alabama income tax return, the Department was authorized by Alabama law to compute the Taxpayer’s liability for the year using the most accurate information available. Code of Ala. 1975, §40-2A-7(b)(1)a. As indicated, the Department did so by using information obtained from the IRS. The Department routinely receives federal taxpayer information as legally authorized pursuant

to Code of Ala. 1975, §40-18-53 and IRC §6103(d). IRC §6103(d) reads in pertinent part as follows:

6103(d) Disclosure to State tax officials and State and local law enforcement agencies.

(1) In general. Returns and return information with respect to (federal income tax) shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws. . . .

The federal information showed that the Taxpayer received W-2 or wage income in 2009. The Taxpayer denies that he was an employee in 2009, or that he received wages in that year. He does not dispute, however, that he worked for and received money from SCI Group, Inc. during the year.

The Alabama income tax is levied on every individual residing in Alabama. Code of Ala. 1975, §40-18-2(a)(1). Every individual residing in Alabama that has adjusted gross income of over \$1,875 is required to file an Alabama income tax return. Code of Ala. 1975, §40-18-27(a). “Adjusted gross income” is defined as gross income less various deductions. Code of Ala. 1975, §40-18-14.2

“Gross income” is defined to include “gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind, or in whatever form paid, . . . or transactions of any business carried on for gain or profit and the income derived from any source whatever, . . . .” Code of Ala. 1975, §40-18-14(1).

The money the Taxpayer received from SCI Group, Inc. in 2009 constituted gross income pursuant to the above definition, whether it was received as wages, non-employee

compensation, or in any other form. The Taxpayer was thus required by Alabama law to file a 2009 Alabama income tax return and report the income on the return. Because he failed to do so, the Department correctly computed his liability using the IRS information and entered the final assessment in issue.

A final assessment on appeal is prima facie correct, and the burden is on the taxpayer to prove that it is incorrect. Code of Ala. 1975, §40-2A-7(b)(5)c.3. The Taxpayer has failed to carry that burden in this case.

The final assessment is affirmed. Judgment is entered against the Taxpayer for 2009 tax, penalties, and interest of \$4,785.48. Additional interest is also due from the date the final assessment was entered, October 30, 2012.

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

Entered June 18, 2013.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Mark Griffin, Esq.  
Arthur Brown  
Stoney Trammell