

DEMETRIA D. PRICE
4139 GASTON COURT
MONTGOMERY, AL 36105-2745,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 12-306

FINAL ORDER

The Revenue Department assessed Demetria D. Price (“Taxpayer”) for 2007, 2008, and 2009 paid tax preparer penalties. The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1976, §40-2A-7(b)(5)a. A hearing was conducted on September 18, 2012. The Taxpayer’s representative, David Kozich, was notified of the hearing by certified mail, but failed to attend. Assistant Counsel Keith Maddox represented the Department.

The Taxpayer operated a tax preparation business, Gateway Tax, during the years in issue. She electronically filed numerous returns and claimed refunds due for individuals in those years. Those refunds were direct deposited into accounts established by Gateway Tax.

Various individuals inquired with the Department about why they had not received their refunds for the subject years. The Department notified those individuals that the Department had issued the refunds. The Department investigated further, however, and discovered that the individuals that had inquired about their refunds had also filed returns in addition to the returns filed on their behalf by Gateway Tax.

The Department requested that the Taxpayer submit forms AL8453 for each electronically filed return, which would have authorized the Taxpayer to prepare the returns

on the individuals' behalf. The Taxpayer failed to submit the forms. The Department consequently assessed the Taxpayer a \$50 penalty for each form AL8453 the Taxpayer failed to submit. It also assessed a \$1,000 penalty pursuant to Code of Ala. 1975, §40-2A-11.1 for each "unreasonable" return filed by the Taxpayer. Finally, it further assessed the Taxpayer for the refunds issued as a result of the fraudulent returns filed by the Taxpayer.

Code of Ala. 1975, §40-2A-11.1 adopts the federal statutes at 26 U.S.C. §§6694 and 6695. Section 6694(a)(1)(3) levies a \$1,000 penalty for each return filed by a tax return preparer that intentionally takes an unreasonable position, i.e., a position without substantial authority. The evidence shows that in this case, the Taxpayer was not authorized to electronically file the returns in issue. The returns also contained incorrect information.

The final assessments are prima facie correct, and the Taxpayer has failed to prove that they are incorrect. Consequently, the final assessments must be affirmed. Judgment is entered against the Taxpayer for 2007, 2008, and 2009 penalties of \$17,231.73, \$263.13, and \$11,373, respectively. Additional interest is also due from the date the final assessments were entered, January 27, 2012.

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

Entered September 24, 2012.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Keith Maddox, Esq.
David Kozich, Esq.
Kim Peterson