

STATE OF ALABAMA,

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V.

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DEPARTMENT OF REVENUE

ROBERT D. & AYNNE F. DAUGHERTY§

ADMINISTRATIVE LAW DIVISION

c/o Aramco

Box 9999

§

DOCKET NO. INC.85-

109

Box 6240

Dhahran, Saudi Arabia,

§

Taxpayers.

§

ORDER

This matter involves five preliminary assessments of income tax entered by the Revenue Department against Robert D. and Aynne F. Daugherty (Taxpayers) for the calendar years 1978 through 1982. A hearing was conducted by the Administrative Law Division on July 24, 1985. The Taxpayers were represented by attorney Robert Rouse.

The Revenue Department was represented by assistant counsel Adolph Dean. Based on the evidence submitted by the parties at said hearing, the following findings of fact and conclusions of law are hereby made and entered.

FINDINGS OF FACT

This is a domicile case. Upon investigation, the Revenue Department determined that the Taxpayers had been domiciled in Alabama during the years 1978 through 1982. Consequently, the Department set up a liability against the Taxpayers for each year based on information from the Taxpayers' 1978 and 1981 federal returns. The 1979 and 1980 adjustments were based on the 1978 federal return, with the Department adding ten percent to gross income for each subsequent year. The 1982 adjustment was based on

the 1981 federal return, plus ten percent. The preliminary assessments in issue are based on said adjustments.

The Taxpayers are both native Alabamians, and resided in the State at all times until 1978. In February, 1978, Mr. Daugherty accepted employment with the Arabian American Oil Company (ARAMCO).

After a one-week orientation period In Texas, Mr. Daugherty, with his wife and child, moved to Saudi Arabia to begin work.

Upon leaving Alabama, the Taxpayers terminated their church affiliation, and Mr. Daugherty terminated his Alabama real estate license as well as his membership in various clubs and professional organizations. The Taxpayers' Alabama drivers licenses, credit cards and voting rights terminated in due course.

The Taxpayers had purchased a house in Alabama in 1977. Upon moving to Saudi Arabia, the house was converted to rental property.

In 1978 the Taxpayers opened a checking account in McIntosh, Alabama for the purpose of receiving rent and paying expenses relating to the rental house. In 1985, the house was sold and the checking account was subsequently closed.

Upon their arrival in Saudi Arabia, the Taxpayers moved into permanent housing, joined a church, and Mr. Daugherty joined several professional organizations. While living In Saudi Arabia, the Taxpayers had two more children, which were born on November 5, 1979 and September 16, 1983.

After working and residing in Saudi Arabia for approximately four or five years, Mr. Daugherty was transferred by Aramco to the

Netherlands. The transfer was temporary (two years) and Mr. Daugherty knew and expected to return to Saudi Arabia to work after completion of the temporary assignment. To work in the Netherlands, that country's government requires all foreigners to become permanent residents. Consequently, the entire family moved to the Netherlands during Mr. Daugherty's temporary assignment there. The assignment lasted only eighteen months, and the Taxpayers are now in the process of returning to Saudi Arabia to live.

While living in Saudi Arabia, the Taxpayers opened a bank account in Texas and Mr. Daugherty obtained a Texas drivers license. The checking account was used to deposit Mr. Daugherty's pay in that U.S. citizens working in Saudi Arabia are required to have a U.S. bank account for such purposes. The drivers license was obtained so that Mr. Daugherty could legally drive while visiting the United States, and also for identification purposes.

The bank account and drivers license were obtained in Texas because Aramco's U.S. headquarters is located there and Mr. Daugherty visits there on occasion on company business.

The only ties the Taxpayers had in Alabama after moving to Saudi Arabia were the rental house, and the fact that several relatives resided in the State. Since moving to Saudi Arabia, the Taxpayers have returned to Alabama only a few times to visit relatives. At the hearing, Mr. Daugherty testified that at no time since moving to Saudi Arabia has he intended to return to Alabama

to live, and that he and his family intend to reside in Saudi Arabia for the foreseeable future.

#### CONCLUSIONS OF LAW

Code of Alabama 1975, 640-18-2(7) levies an income tax on "[E]very natural person domiciled in the state . . .". The question of domicile is governed by a person's Intentions, as evidenced by his actions, and a domicile once acquired is presumed under the law to exist until a new one has been established. Jacobs v. Ryals, 401 So.2d 766; State ex rel. Rabren v. Baxter, 229 So.2d 206; Whetstone v. State, 434 So.2d 796. To establish a new domicile, there must be both an abandonment of the old domicile, with no present intention of returning, and the establishment of a new place of residence with the intention to remain permanently, and the Intent to remain permanently may be inferred from the intent to remain for an unlimited or indefinite time. State ex rel. Rabren v. Baxter, supra; Whetstone v. State, supra.

In the present case, the Taxpayers clearly expressed by their actions their Intention to abandon Alabama as their domicile in 1978. Upon moving to Saudi Arabia, the Taxpayers broke all ties with Alabama, except for the ownership of a rental house and the presence of relatives in the State. Those facts alone are insufficient to establish that the Taxpayers did at some point in the future intend to return and reside in Alabama. Further, the

Taxpayers' actions since moving to Saudi Arabia show an intention to remain in that country permanently, or at least for an indefinite time.

Based on the above, it must be determined that the Taxpayers effectively abandoned their domicile in Alabama in 1978, and thereafter established a new domicile in Saudi Arabia. Accordingly, the assessments in issue are improper and are due to be reduced to zero for each year. The Revenue Department is hereby directed to enter final assessments accordingly.

Done this 13th day of August, 1985.

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BILL THOMPSON  
Chief Administrative Law Judge