

R. SCOTT & BECKY L. WILLIAMSON
3170 Bowdon-Tyus Road
Bowdon, GA 30108,

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayers,

DOCKET NO. INC. 01-227

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

FINAL ORDER

The Revenue Department assessed 1995 income tax against Scott and Becky L. Williamson. Scott Williamson (ATaxpayer@) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-7(b)(5)a. A hearing was conducted on May 29, 2001. The Taxpayer attended the hearing. Assistant Counsel Gwen Garner represented the Department.

The issue in this case is whether the Taxpayer should be relieved of liability for the 1995 Alabama tax in issue pursuant to 26 U.S.C. § 6015(c). That section allows the IRS to grant a taxpayer separate liability status under certain circumstances for an otherwise joint federal liability.

The Taxpayer and his wife, Becky Williamson (now ex-wife), filed a joint 1995 Alabama income tax return. The Taxpayer operated a poultry business in 1995. His ex-wife operated a separate advertising business. They maintained separate bank accounts for the two businesses, although the Taxpayer testified that his ex-wife sometimes gave him money for household and other expenses.

The IRS audited the couple's 1995 joint federal return, and disallowed some of the expenses concerning the ex-wife's business. The adjustments resulted in additional tax due. The IRS shared its audit findings with the Department, which entered the final assessment in issue.

The IRS granted the Taxpayer separate liability status for 1995 under § 6015(c) of the Internal Revenue

Code. The Taxpayer was thus relieved of liability for the additional federal tax due for the year.

Unfortunately for the Taxpayer, Alabama has not adopted ' 6015 of the Internal Revenue Code, which became effective for federal purposes in July 1998. Consequently, the expanded equitable relief allowed under that section does not apply under Alabama law.

Alabama law does allow for innocent spouse status to the same extent as allowed for pre-1998 federal purposes pursuant to 26 U.S.C. ' 6013(e). Code of Ala. 1975, ' 40-18-27(e). However, the Taxpayer failed to establish that he is entitled to innocent spouse status for 1995. An important consideration in granting innocent spouse status is whether the party claiming such status benefitted from the under-reported income in question. The evidence shows that the Taxpayer benefitted from his ex-wife's income because some of it was used for household and other common expenses shared by the couple.

Under the limited evidence submitted in the case, the Taxpayer is not entitled to innocent spouse status, and thus cannot be relieved of liability for the final assessment in issue. The Department is encouraged, however, to first attempt to collect the amount due from the Taxpayer's ex-wife, Becky Williamson.

The final assessment is affirmed. Judgment is entered jointly and severally against Scott and Becky Williamson for \$5,376.81. Additional interest is also due from the date of entry of the final assessment, January 30, 2001.

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

Entered June 21, 2001.