

STATE OF ALABAMA
DEPARTMENT OF REVENUE,

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

§

v.

§

DOCKET NO. MISC. 86-256

MARY P. SPAIN d/b/a DACO
5417 Caldwell Mill Road
Birmingham, AL 35243,

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Taxpayer.

§

ORDER

This matter involves a preliminary assessment of license tax entered by the Department against Mary P. Spain, d/b/a DACO ("Taxpayer") for the period October 1, 1985 through September 30, 1986. A hearing was set for 10:00 a.m., July 29, 1987. The Taxpayer was notified of said hearing by certified mail, the return receipt card showing receipt by the Taxpayer on June 18, 1987. At the time and location set for the hearing, the Taxpayer failed to appear. The hearing proceeded with assistant counsel J. Wade Hope representing the Department. Based on the evidence submitted in the case, the following findings of fact and conclusions of law are hereby made and entered.

FINDINGS OF FACT

The evidence, presented through the testimony of Revenue Inspection Officer Lieutenant L. E. Morgan, indicates that on several occasions during the period in dispute, the Taxpayer, Mary P. Spain, applied for a certificate of title to various rebuilt vehicles, along with an application for inspection of such salvage vehicles. The applications were in the name of either DACO, or

Mary P. Spain, d/b/a DACO, 5417 Caldwell Mill Road, Birmingham, Alabama. Lieutenant Morgan personally inspected the vehicles at the Taxpayer's residence listed on the applications. In substance, the Taxpayer was purchasing wrecked vehicles, repairing or having said vehicles repaired, and then selling or offering to sell the rebuilt vehicles to the public.

CONCLUSIONS OF LAW

Code of Ala. 1975, §40-12-51 levies an annual license tax on every person "dealing in, selling or purchasing for resale automobiles, trucks or other self-propelled vehicles." Likewise, Code of Ala. 1975, §40-12-390, et seq., requires that any person licensed under §40-12-51 that is engaged in the business of a motor vehicle dealer, motor vehicle reconditioner, motor vehicle rebuilder or motor vehicle wholesaler must also have a license under Title 40, Chapter 12, Article 8.

The evidence in the present case is clear that the Taxpayer operated as a motor vehicle dealer within the State of Alabama during the fiscal year in question. Accordingly, the Department was correct in entering the assessment in issue under the above cited sections.

The above considered, the Department is hereby directed to make final the assessment in issue, with applicable interest as required by statute.

Done this 3rd day of August, 1987.

BILL THOMPSON
Chief Administrative Law Judge