

STATE OF ALABAMA
DEPARTMENT OF REVENUE,

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

§

v.

§

DOCKET NO. INC. 87-195

JOHN B. & GERTRUDE BAIRD
4363 Mountaindale Road
Birmingham, AL 35213,

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§

Taxpayers.

§

ORDER

The Revenue Department assessed income tax against John B. and Gertrude Baird ("Taxpayers") for the calendar year 1983. The Taxpayers appealed to the Administrative Law Division and a hearing was conducted on May 31, 1988. The Taxpayers were represented at said hearing by Mr. John B. Baird ("Taxpayer"). Assistant counsel Nancy Cottle appeared for the Department. Based on the evidence presented in the case, the following findings of fact and conclusions of law are hereby made and entered.

FINDINGS OF FACT

The Taxpayers filed a 1983 Alabama income tax return on April 16, 1984. An amended return was filed on October 2, 1984. The Department audited the amended return and made the following adjustments:

(1) Schedule C expenses of \$29,694.00 were disallowed because they were incurred by a corporation, Consolidated Health Care Services, and not the Taxpayers. Also, the Taxpayers failed to substantiate the expenses by adequate records.

The expenses were based on a computer printout showing various

expenditures by Consolidated Health Care Services. The Taxpayers argue that they incurred the expenses while operating under the corporate name, Stat Nurses, Inc., but that they should be allowed to personally claim the expenses because Stat Nurses, Inc. had been dissolved prior to the subject tax year. The Taxpayers produced deposit receipts showing deposits into the account of Stat Nurses, Inc., but no other records (cancelled checks, bills, invoices, etc.) were provided by which the expenditures could be substantiated.

(2) The Taxpayers sold stock in 1983 for \$71,825.00, of which \$55,935.00 was received and reported in 1983. The balance was received and reported in 1984. The Department included the entire amount as income in 1983 because more than 40% of the gross sales price was received in that year. Consequently, the sale could not be reported as an installment sale under Code of Ala. 1975, §40-18-44. The Taxpayers' income for 1984 was correspondingly reduced.

(3) The Department denied those deductions for meals, entertainment, lodging and automobile expenses that were not substantiated. The Department allowed all verified expenses. The Taxpayer testified that at least 90% of his entertainment expenses were paid by credit card. However, the Taxpayer failed to maintain contemporaneous records showing a specific business purpose for the expenses.

(4) Miscellaneous legal expenses were also disallowed for lack

of substantiation. No records were provided indicating that the legal fees were business related, and the Taxpayer testified that he could not recall why the fees were paid.

(5) The medical expense and sales tax deductions were adjusted due to the increase in adjusted gross income. The Taxpayers do not object to those adjustments.

CONCLUSIONS OF LAW

(1) A taxpayer must provide adequate records from which a claimed deduction can be verified. Showell v. C.I.R., 238 F.2d 148; Alsobrook v. U.S., 431 F.Supp. 1122. In the present case, the claimed Schedule C loss was based on a computer printout of expenses incurred under the name of Consolidated Health Care Services. However, even assuming that the expenses could be claimed personally by the Taxpayers on their individual return, no records were provided from which the claimed expenses could be verified. Thus, the Schedule C expenses were properly disallowed by the Department.

(2) Code of Ala. 1975, §40-18-44 governs installment sales and provided in 1984 that a taxpayer could report income on the installment basis only if less than 40% of the selling price was received in the first year. The 40% requirement was revoked effective January 1, 1985. Thus, because the Taxpayers received more than 40% of the stock sales price in 1984, §40-18-44 did not

apply and the entire amount should have been reported in 1984.

(3) As in paragraph (1) above, the Taxpayer was required to maintain proper records from which his business expenses could be clearly and fully ascertained. The Taxpayer produced a number of credit card receipts, but failed to designate a business purpose for the expenses. Without specific substantiation, the claimed expenses were properly disallowed.

(4) Again, the Taxpayer was required to establish by adequate records that the claimed legal fees were incurred for a business purpose. However, no such records were produced and the Taxpayer testified that he was uncertain as to why the legal fees were paid. Consequently, the claimed legal fee deduction was properly disallowed.

(5) The Taxpayer presented no objections to the Department's adjustments relating to the medical expense and sales tax deductions.

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

Done this 21st day of June, 1988.

BILL THOMPSON
Chief Administrative Law Judge