

CURTIS G. & EDNA L. LOCKETT
6520 Heritage Trace Drive
Mobile, AL 36695-6204,

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayers,

DOCKET NO. INC. 01-277

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

FINAL ORDER

The Revenue Department assessed 1998 income tax against Curtis G. and Edna L. Lockett (ATaxpayers@). The Taxpayers appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-7(b)(5)a. A hearing was conducted on June 22, 2001 in Mobile, Alabama. Curtis G. Lockett (ATaxpayer@) attended the hearing. Assistant Counsel Duncan Crow represented the Department.

The issues in this case are:

- (1) Is the Revenue Department stayed from assessing the Taxpayers based on a complaint filed by the Taxpayer in May 2001 in the United States District Court for the District of Columbia; and,
- (2) Was a \$500,000,000 loss claimed by the Taxpayers on their 1998 Alabama income tax return properly disallowed by the Department.

The Taxpayers filed their 1998 Alabama income tax return on April 17, 2000. The return included a \$500,000,000 loss on Schedule D. The Taxpayer claims he discovered a drug that cures sickle cell anemia and other diseases. The \$500,000,000 loss claimed on the return is the amount the Taxpayer claims he would have received from the drug in 1998, but for the fact that he was prevented from developing and marketing the drug by various Alabama and federal officials. The Department processed the return, and issued the Taxpayers the \$2,600 refund claimed on the return.

The Department subsequently audited the 1998 return, and disallowed the \$500,000,000 loss. The

disallowed loss reduced the refund due the Taxpayers. The Department consequently entered the final assessment in issue for that part of the refund erroneously issued to the Taxpayers.

The Taxpayer first argues that the Department's assessment proceeding should be stayed based on a court action he filed in the United States District Court in the District of Columbia in May 2001. The complaint is 80 pages long. It relates generally to the Taxpayer's claim that he was kidnaped by the federal government in September 1997, and illegally detained for 32 months in various federal prisons. The defendants named in the complaint are those individuals the Taxpayer claims conspired to kidnap and illegally detain him, including George Bush, Jr., the President of the United States, John Ashcroft, the United States Attorney General, Jeff Sessions, United State Senator from Alabama, Don Siegelman, Governor of Alabama, Louis J. Freed, Director of the F.B.I., various United States and Alabama judges, and other government officials.

The sole issue before the Administrative Law Division is whether the 1998 final assessment entered against the Taxpayers is correct. Specifically, was the \$500,000,000 loss claimed by the Taxpayers in 1998 correctly disallowed. That issue has no relevance whatsoever to the issues raised by the Taxpayer in his federal complaint. Consequently, there is no legal or other reason why the Taxpayers' appeal of the 1998 final assessment should not be heard. Even if the Taxpayer was kidnaped and illegally detained, those facts would have no bearing on the legal issue of whether the loss claimed in 1998 should be allowed.

The Taxpayers had claimed similar losses in 1997 and 1999. The Department also denied those losses, which the Administrative Law Division affirmed in *Lockett v. State of Alabama, Inc.* 00-648 (Admin. Law Div. 5/15/01). Likewise, the claimed loss for 1998 is also disallowed.

As stated in the Final Order entered in Inc. 00-648, the burden was on the Taxpayers to prove they

were entitled to the claimed loss. *Betson v. Commissioner*, 802 F.2d 365 (1986). They failed to do so. No deductible loss occurred because there was no closed, completed transaction constituting a loss. *Corra Resources, Ltd. v. C.I.R.*, 945 F.2d 224 (1991). Unrealized income does not constitute a deductible loss for tax purposes.

The final assessment is affirmed. Judgment is entered against the Taxpayers for 1998 tax and interest of \$1,183.83. Additional interest is also due from the date of entry of the final assessment, March 20, 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 27, 2001.