

STATE OF ALABAMA
DEPARTMENT OF REVENUE,

vs.

DAVID A. STAHL
1515 Harrison Street
Oshkosh, WI 54901,

Taxpayer.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 93-295

FINAL ORDER

The Revenue Department assessed 1988 income tax against David A. Stahl ("Taxpayer"). The Taxpayer appealed to the Administrative Law Division and a hearing was originally scheduled for January 22, 1994. The hearing was continued on several occasions to allow the Taxpayer to provide additional information to the Department. The hearing was finally conducted on September 21, 1994. The Taxpayer failed to appear. Assistant counsel Jeff Patterson represented the Department.

The issue in this case is whether \$6,800.00 received by the Taxpayer in 1988 constituted a scholarship or grant and thus should be excluded from his taxable income pursuant to Code of Ala. 1975, §40-18-14 and Department Reg. 810-3-14-.02(3)(a). A grant or scholarship is excludable from income under the above provisions to the extent that the student is not required to provide services that are beneficial to the school. See generally, Logan v. U.S., 518 F.2d 143; Sebberson v. C.I.R., 781 F.2d 1034; and Admin. Law Docket No. INC. 92-289.

The Taxpayer failed to report \$6,800.00 on his 1988 Alabama

return that he had received from the University of Alabama in that year. The Taxpayer claims that the \$6,800.00 was non-taxable because it was received for teaching and research activities that were required for his degree.

The Department disallowed the exclusion and entered the final assessment in issue. The Department now concedes that if the Taxpayer could verify that the \$6,800.00 was received for required teaching activities, it would be exempt from tax.

The Taxpayer subsequently provided a letter from the University stating that the Taxpayer was employed by the University and was required to teach in 1988 as a requirement for his degree.

However, the letter did not state how much if any of the \$6,800.00 in question was paid to the Taxpayer for his required teaching activities. The Taxpayer was again notified that he should provide evidence verifying the exact amount that he received for his required teaching activities. The Taxpayer failed to do so. Accordingly, because the Taxpayer has failed to verify that the \$6,800.00 in question was received for activities required for his degree, that amount cannot be excluded from income and thus was properly taxed by the Department.

The above considered, the final assessment in issue is affirmed. Judgment is accordingly entered against the Taxpayer for 1988 Alabama income tax in the amount of \$366.82. Additional interest is also due from the date of entry of the final

assessment, July 16, 1993.

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

Entered on October 25, 1994.

BILL THOMPSON
Chief Administrative Law Judge