

STATE OF ALABAMA,  
DEPARTMENT OF REVENUE,

§

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

§

vs.

§

ZACK N. AZAR, JR.  
3655 Debby Lane  
Montgomery, AL 36111,

§

DOCKET NO. MISC. 94-200

§

Taxpayer.

FINAL ORDER

The Revenue Department entered a final assessment of privilege license tax against Zack N. Azar, Jr. ("Taxpayer") for the period October 1991 through September 1993. The Taxpayer appealed to the Administrative Law Division and a hearing was conducted on June 20, 1994. The Taxpayer was notified of the hearing by certified mail but failed to appear. Assistant counsel J. Wade Hope represented the Department.

The issue in this case is whether the Taxpayer is liable for the privilege license tax levied at Code of Ala. 1975, §40-12-143.

That section levies a license tax on any person "dealing in" pistols, revolvers, etc.

The Taxpayer obtained a federal firearms license in 1987 and held the license during the years in dispute. The Department investigated and discovered that the Taxpayer sold pistols during the subject years. Based thereon, the Department determined that the Taxpayer was "dealing in" handguns, and thereby subject to the license required by §40-12-143.

The Taxpayer argues that he is in the men's clothing business, not in the business of selling handguns. The Taxpayer concedes that he has purchased and resold at least 24 handguns since 1987, but only as a convenience to his clothing customers that need handguns in their work.

The license in issue is required of any person "dealing in pistols, revolvers . . . , whether principal stock in trade or not . . .". The Taxpayer's principal business is men's clothing. However, the evidence also indicates that he was dealing in pistols and handguns within the purview of the licensing statute. A profit motive is not necessary, United States v. Shirling, 572 F.2d 532, nor is the Taxpayer relieved of liability because he made only a limited number of sales.

The Department initially assessed the Taxpayer for October 1990 through September 1993 in the amount of \$885.78. However, the Department removed the first year from the assessment because it was barred by the three year statute of limitations. Accordingly, the final assessment in issue involves only the period October 1991 through September 1993 in the amount of \$583.31. The final assessment is upheld, and judgment is entered against the Taxpayer in the above amount.

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

Entered on June 23, 1994.

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BILL THOMPSON  
Chief Administrative Law Judge