

MARK O. OLIVER	§	STATE OF ALABAMA
165 WILLOW CREST DRIVE		ALABAMA TAX TRIBUNAL
WETUMPKA, AL 36092,	§	
		DOCKET NO. INC. 15-186
Taxpayer,	§	
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

### **FINAL ORDER DISMISSING APPEAL**

The above Taxpayer appealed to the Tax Tribunal on January 12, 2015 pursuant to Code of Ala. 1975, §40-2A-8(a) from the Revenue Department Taxpayer Advocate's refusal to grant him extraordinary relief. Specifically, the Taxpayer indicated to the Advocate that the Department was attempting to collect delinquent income taxes allegedly owed by him for 1997 through 2003, and that "since the Department of Revenue has not documented proof that (Taxpayer) owes any taxes for the aforementioned years, we are requesting that your office issue a Taxpayer Assistance Order confirming that no debt exist(s)." September 24, 2014 letter from Taxpayer's representative to Taxpayer Advocate Brenda Russ. The Taxpayer Advocate denied the request by letter dated December 15, 2014. This appeal followed.

As originally enacted pursuant to Act 92-186 in 1992, §40-2A-8(a) broadly provided that "[a]ny taxpayer aggrieved by any act or proposed act or refusal to act by the department shall be entitled to" appeal to the Revenue Department's Administrative Law Division. The Taxpayer Advocate's refusal to grant the Taxpayer's request in this case would have been a refusal to act that could have technically been appealed under the original version of §40-2A-8(a).

Section 40-2A-8 was, however, amended by Act 2014-146, effective October 1, 2014. As amended, a taxpayer can now appeal to the Tax Tribunal under §40-2A-8(a) from “any act or proposed act or refusal to act concerning the denial or revocation of a license, permit, or certificate of title by the department. . . .” The Taxpayer Advocate’s refusal to grant a taxpayer’s request that does not involved the denial or revocation of a license, permit, or certificate of title thus cannot be appealed to the Tax Tribunal pursuant to §40-2A-8, as amended, or any other statute. Because this case does not involve the Department’s denial or revocation of a license, permit, or title, the Tax Tribunal does not have jurisdiction to hear the appeal.

The Taxpayer is also in substance asking the Tribunal to prevent the Department from collecting the tax due as assessed by the Department against the Taxpayer for 1997 through 2003. Section 40-2A-8(d) specifies that a taxpayer cannot appeal to the Tax Tribunal pursuant to §40-2A-8(a) concerning “the collection of any liability due the department.” The Taxpayer’s appeal is thus also prohibited by §40-2A-8(d).

The Taxpayer’s appeal is dismissed from the Tax Tribunal docket.

This Final Order Dismissing Appeal may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2B-2(m).

Entered May 27, 2015.

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BILL THOMPSON  
Chief Tax Tribunal Judge

bt:dr

cc: Ralph M. Clements, III, Esq.  
Dwight W. Pridgen, Esq.