

SANDRA DOUGLAS
3421 LeBron Road
Montgomery, AL 36111,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 02-920

FINAL ORDER

The Revenue Department denied a refund of 2000 income tax requested by Sandra Douglas (“Taxpayer”). The Taxpayer appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on March 17, 2003. The Taxpayer attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The issue in this case is whether the Taxpayer can deduct a loss on the sale of a rental house in 2000.

The Taxpayer’s mother lived in Florida. She died in 1998, and left her house to the Taxpayer and her two brothers.

The Taxpayer and her brothers rented the house for approximately two years. They subsequently determined that the upkeep on the house was too much. Consequently, they sold the house in July 2000 for approximately \$42,000 less than its appraised value at the time of their mother’s death.¹

The Taxpayer subsequently claimed \$14,077 as her share of the loss on an amended 2000 Alabama return. The Department disallowed the loss. The Taxpayer

¹The value of the house dropped dramatically due to a road-widening project that began after the house was transferred to the Taxpayer and her brothers.

appealed.

Section 40-18-15(a)(4) allows as a deduction losses sustained in a trade or business. The Taxpayer and her brothers had used the house in issue as rental property for two years before they sold it. Consequently, the loss on the rental property qualified as a loss in a trade or business. Further, even if the Taxpayer's rental activities did not reach the level of a trade or business, the transaction was entered into for profit, in which case the loss would be deductible under §40-18-15(a)(5).

The Department should issue the Taxpayer a 2000 refund in due course.

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

Entered March 19, 2003.

BILL THOMPSON
Chief Administrative Law Judge