

ALABAMA TAX TRIBUNAL

DMITRIY MINOND & IRINA TOKAR, §
Taxpayers, § DOCKET NO. INC. 18-1149-LP
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

This appeal involves a final assessment of 2017 income tax. A video hearing was conducted on January 16, 2020. Dmitriy Minond represented the Taxpayers. Chief Counsel Craig Banks represented the Revenue Department. The Revenue Department filed its post-hearing brief, and the Taxpayers filed a reply.

A Final Order was entered in Docket No. INC. 18-1259-LP, a case involving the Taxpayer and year 2015, which voided the 2015 final assessment of income tax. That Final Order also addressed the appeal of 2017 final assessment of income tax. That decision should have been entered under Docket INC. 18-1149-LP. Thus, the Final Order on year 2017 is restated herein, under the correct docket number.

Concerning the 2017 final assessment, the parties agree that a nonresident return is appropriate for the Taxpayers. However, the Taxpayers argue that the “adjusted income from all sources” line on the return should be limited to that of Mr. Minond and should not include his wife’s income because only he earned Alabama-sourced income, while the Department contends that his wife’s income should be included in “adjusted income from all sources.” The ratio of Alabama-sourced income to adjusted income from all sources is used to prorate certain deductions. The

inclusion of Mrs. Minond's income in the "all sources" amount reduced the percentage of deductions allowed to the Taxpayers, which resulted in a higher tax liability.

Rule 810-3-15-.21(2) of the Alabama Administrative Code, regarding deductions for individual nonresident taxpayers, states, "The phrase 'adjusted gross income from all sources' is comprised of income which would be included in gross income if received by a resident of the State of Alabama in accordance with § 40-18-14, Code of Ala. 1975, less the deductions described in § 40-18-14.2."

Under § 40-18-14(4), Code of Ala. 1975, the term "gross income" of a resident "includes income from sources within and outside Alabama." If the Taxpayers had been residents of Alabama, and filed a joint return as they did here, Mrs. Minond's income earned in Florida would have been included in the couple's gross income on their Alabama tax return. Thus, it is correct to include it in the "adjusted gross income from all sources" item on their nonresident joint return.

The 2017 final assessment is affirmed.

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

Entered April 29, 2021.

/s/ Leslie H. Pitman

LESLIE H. PITMAN

Associate Tax Tribunal Judge

lhp:cm

cc: Dmitriy Minond (w/enc.)
Craig A. Banks, Esq.