

EDWARD GIBSON  
P.O. Box 975  
Dothan, AL 36303,

Taxpayer,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 03-613

### **FINAL ORDER**

The Revenue Department assessed 1999 income tax against Edward Gibson ("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 January 28, 2004. The Taxpayer was notified of the hearing by certified mail, but failed to appear. Assistant Counsel J.R. Gaines represented the Department.

The Taxpayer failed to file a 1999 Alabama income tax return. The Department received IRS information indicating that the Taxpayer lived in Alabama and had received income from Grand Casino Biloxi, CA Coffrey International, Inc., and Jefferson Kennel Club in 1999 that totaled \$17,679. The Department computed the Taxpayer's 1999 Alabama liability based on that income, after allowing him the standard deduction and a personal exemption.

A Department examiner contacted the Taxpayer by letter and by telephone concerning the amount due. The Taxpayer told the examiner that he would provide records concerning the subject year. He failed to do so. The Department subsequently entered a preliminary assessment against the Taxpayer on March 26, 2003. The Taxpayer filed a petition for review with the Department on July 14, 2003. The petition was denied by Hearing Officer James Griggs in a report dated July 18, 2003. The Department

subsequently entered the final assessment in issue. The Taxpayer appealed.

The Taxpayer's appeal letter to the Administrative Law Division reads as follows:

COMES NOW, I the Victim and Defendant, Edward Gibson, hereby file the above and below Notices and states for the Official Record(s), the Following:

1. That I tire of your Illegal Harrasements (sic) and Violations, and attempts to become UNJUSTLY ENRICHED, as well the False and known Selective Acts, etc., against me, as your Selective Target.

2. That You go ahead and set your Hearing(s), in which I anticipate your Legal Notice of such setting(s).

3. That you are also and now Legally informed that the Illegal Abuse, Taticts (sic), Harassments, Reputational (sic), Personal, Forseen (sic), and Unforseened (sic) Damages, etc. shall be addressed in a separate Action against you as is so proper and clearly founded, as well be informed that I shall file a \$128,000,000.00 Civil Action against you, and the State of Alabama; without Further Notice.

WHEREAS, I anticipate your setting a date for your cause as an alleged Appeal Hearing, as well my Civil Complaints shall also be filed without any further Notice.

After the case was set for hearing, the Taxpayer also filed a "Notice and Interrogatory" on November 18, 2003. The Taxpayer alleged in that document that he "unknowingly became the Unjustified Victim of the State of Alabama's Department of Revenue's Witch Hunt, Harassments, Libel, Target, etc., etc., in which has caused the Victim/Taxpayer, Edward C. Gibson, many Damages, not limited, as well Unlawful Abuses while the Department of Revenue, State of Alabama, mis-uses its Power, and Alleged Authority, to Selective (sic) Discriminate and Abuse same, etc., in which the Victim/Taxpayer, Edward C. Gibson DEMANDS, JUSTICE, and One Hundred Twenty Eight Millions (sic) Dollars (\$128M) in Damages, Costs, etc., as is Proper and Fitting, and Lawful."

The Department objected to the above document. The Taxpayer responded on December 3, 2003 with a "Motion To Compell (sic) and for Sanction, and to re-set," which further claimed that he was being illegally and improperly abused, harassed, etc., by the Department. He also subsequently requested a continuance of the hearing scheduled for December 11, 2003. The Administrative Law Division accordingly reset the hearing for January 28, 2004.

Finally, on December 16, 2003, the Taxpayer filed another document entitled "Taxpayer's Notice/Motion To File Complaint in The U.S. District Court, (With Constitutional Grounds, Federal Questions, etc.), and Taxpayer's Motion To Reverse Law Judge's Refusal To Compell (sic) the State to Answer Disposition/Interrogatories, (BY LAW Not limited to the Fourteenth Amendment, etc.), and in the Alternate a Taxpayer Full Favored Judgement (sic) to include \$128,000,000.00, plus."

As indicated above, the Taxpayer was duly notified of but failed to appear at the hearing on January 28, 2004.

While the Taxpayer generally objects to the Department's actions in this case, he has never denied that he resided in Alabama in 1999 and received the income in question in that year. There is also no evidence supporting the Taxpayer's claims concerning harassment, improper treatment, etc. To the contrary, the record shows that the Department followed its usual administrative procedures in determining the Taxpayer's liability for 1999, and then entering a preliminary and a final assessment against him for the tax due, plus applicable penalties and interest. He was allowed due process at all stages of the assessment process.

The final assessment in issue is *prima facie* correct, and the burden was on the

Taxpayer to establish that it was incorrect. Code of Ala. 1975, §40-2A-7(b)(5)c. The Taxpayer has failed to carry that burden. Consequently, the *prima facie* correct final assessment is affirmed. Judgment is entered against the Taxpayer for 1999 tax, penalty, and interest of \$1,101.15. Additional interest is also due from the date of entry of the final assessment, August 14, 2003.

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

Entered January 29, 2004.