

YVONNE STOREY
528 Flint Parc Circle
Bessemer, AL 35022,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 04-367

FINAL ORDER

The Revenue Department assessed Yvonne Storey (“Taxpayer”) for 2000 Alabama income tax. 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 July 20, 2004. The Taxpayer attended the hearing. Assistant Counsel David Avery represented the Department.

The Taxpayer filed a 2000 Alabama income tax return, but failed to report \$50,000 received from a USDA lawsuit settlement. The Department consequently assessed the Taxpayer for the tax due, plus penalties and interest. The Taxpayer appealed.

The Taxpayer claims that the \$50,000 she received in 2000 was a “Black Farmers Grant,” and is not taxable. I disagree.

Alabama income tax is imposed on the taxable income of any person subject to Alabama income tax. Code of Ala. 1975, §40-18-2. “Taxable income” is defined as gross income less the deductions allowed in the income tax law. Code of Ala. 1975, §40-18-15.1. “Gross income” is defined at Code of Ala. 1975, §40-18-14 to include income from all sources, which would include the lawsuit settlement proceeds in issue in this case. Such proceeds are not deductible or exempt from tax under Alabama law. Consequently, they constituted taxable income and are subject to Alabama tax.

The Administrative Law Division also inquired with the law firm handling the lawsuit, Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC, and was informed that the lawsuit proceeds are taxable pursuant to the Consent Decree in *Pigford v. Veneman*, (D.C.C. 97-1978).

A penalty may be waived for reasonable cause. Code of Ala. 1975, §40-2A-11(h). Reasonable cause includes a one-time, honest mistake. Rev. Proc. 97-003. The Taxpayer in this case was unaware that tax was due on the lawsuit proceeds because she thought it was a grant. Her failure to report the income also constituted a one time, good faith mistake. Consequently, the penalties are waived for reasonable cause.

The final assessment, less the penalties, is affirmed. Judgment is entered against the Taxpayer for \$3,178.82. Additional interest is also due from the date of entry of the final assessment, March 24, 2004.

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

Entered July 22, 2004.

BILL THOMPSON
Chief Administrative Law Judge