

GARRELL C. & MILDRED M. NOAH §
1103 Houston Park
Selma, AL 36701-6530, §

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayers, §

DOCKET NO. INC. 04-703

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

The Revenue Department assessed Garrell C. and Mildred M. Noah (“Taxpayers”) for 2001 Alabama income tax. The Taxpayers appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on October 5, 2004. The Taxpayers were notified of the hearing by certified mail, but failed to appear. Assistant Counsel Gwendolyn Garner represented the Department.

The Taxpayers failed to file a 2001 Alabama income tax return. The Department received IRS information indicating that the Taxpayers resided in Alabama in 2001 and received income sufficient to require them to file a return in that year. It consequently assessed the Taxpayers for the tax due, plus penalties and interest.

The Taxpayers claim in their appeal letter that they are not liable for or subject to Alabama income tax because they are “non-citizen national(s)” and live in the Republic of Alabama, not the State of Alabama. I disagree.

Alabama income tax is levied, in part, on every “individual residing in Alabama,” Code of Ala. 1975, §40-18-2(1), and on every “natural person domiciled in the State of Alabama.” Code of Ala. 1975, §40-18-2(7). As used in §40-18-2, the terms “individual” and “natural person” are synonymous. They refer to a person or human being. The Taxpayers are all of the above. Consequently, they are subject to the Alabama income tax levied at

§40-18-2.

The Revenue Department has the statutory authority to enforce the tax laws of Alabama. Code of Ala. 1975, §40-2-11(1). It is also empowered to compute and assess tax based on the best information available. Code of Ala. 1975, §40-2A-7(b)(1)a. It accordingly assessed the Taxpayers in this case based on IRS information, i.e. the best information available. Code of Ala. 1975, §40-2A-7(b)(1)a. A final assessment based on the best information available is *prima facie* correct, and the burden was on the Taxpayers to prove that the assessment was incorrect. Code of Ala. 1975, §40-2A-7(b)(5)c. They failed to do so.

The Taxpayers' claim that they reside in the Republic of Alabama is also rejected. The same claim was made in a prior appeal decided by the Administrative Law Division. The Administrative Law Division held as follows:

The Alabama income tax is levied on every individual or natural person residing or domiciled in Alabama. Code of Ala. 1975, §40-18-2. The Taxpayers admittedly reside and are domiciled in Selma, Dallas County, Alabama, which is clearly within the boundaries of the State of Alabama as established in Article II, Section 37 of the Alabama Constitution of 1901. Consequently, the Taxpayers' claim that they live in the Alabama Republic, and not the State of Alabama, is incorrect. There is no recognized legal entity known as the Alabama Republic.

Harris v. State of Alabama, Inc. 97-316 (Admin Law Div. 10/29/97) at 2.

The final assessment is affirmed. Judgment is entered against the Taxpayers for 2001 tax, penalty, and interest of \$16,416.70. Additional interest is also due from the date of entry of the final assessment, July 6, 2004.

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

Entered October 6, 2004.

BILL THOMPSON
Chief Administrative Law Judge