

MADUABUCHI I., II & ROSEMARY  
ONYEKWE  
4110 TRIANA BLVD., APT. 170  
HUNTSVILLE, AL 35805,

Taxpayers,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 11-845

### FINAL ORDER

This appeal involves a final assessment of 2006 Alabama income tax entered against the above Taxpayers. Maduabuchi Onyekwe (individually "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, 2012. The Taxpayer attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The Taxpayers were technically married in 2006. The Taxpayer's wife, Rosemary Onyekwe, had, however, moved to Louisiana in 2005 and filed for a divorce. The Taxpayer had no contact with his wife in 2006, and they were finally divorced in early 2007.

The Taxpayer filed a joint 2006 Alabama return with his wife on the advice of his tax preparer. The return indicated that the Taxpayer's wife was unemployed. It consequently reported only the income received by the Taxpayer from SCI Technology and the City of Huntsville. The return also claimed the standard deduction and personal exemptions for the Taxpayer and his wife.

The Department received IRS information showing that the Taxpayer's wife had wages, interest, and annuity income of \$11,706, \$3, and \$10,732, respectively, in 2006. It jointly assessed the Taxpayers on the unreported income. This appeal followed.

The Taxpayer claims that he is entitled to innocent spouse status in 2006 because he was not aware of the 2006 income earned by his wife, did not benefit from the income, and it would be inequitable to hold him liable for tax on the income. I agree.

The Administrative Law Division previously addressed the requirements for granting innocent spouse relief in *Laney v. State of Alabama*, Docket Inc. 02-156 (Admin. Law Div. 8/29/2002). The Final Order in *Laney* reads in pertinent part as follows:

As indicated, an Alabama taxpayer may be allowed innocent spouse status to the same extent allowed under federal law. Section 40-18-27(e). Under current federal law, a person qualifies as an innocent spouse (1) if they file a joint return which has an understatement of income due to erroneous items of the spouse, (2) when they signed the joint return they did not know or have reason to know that there was an understatement of tax, and (3) taking into account all facts and circumstances, it would be unfair to hold the innocent spouse liable for tax on the unreported income. 26 U.S.C. §6015. (footnote omitted)

*Laney* at 2 – 3.

The Taxpayer is entitled to innocent spouse status in this case because the understatement of income on the 2006 return involved the Taxpayer's spouse's income, the Taxpayer had no reason to know about the income when he filed the return, and it would be unfair to hold the Taxpayer liable for tax on the income because he did not benefit from the income.

The Taxpayer is deleted from the 2006 final assessment. Judgment is entered accordingly. The final assessment remains valid against the Taxpayer's ex-wife, Rosemary Onyekwe.

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

Entered July 25, 2012.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Keith Maddox, Esq.  
Maduabuchi I Onyekwe, II  
Stoney Trammell