

BEVERLY C. HENDRICK
142 LAKE FOREST WAY
MAYLENE, AL 35114-5114,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

§

§

§

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. INC. 12-1224

FINAL ORDER

The Revenue Department assessed Beverly C. Hendrick (“Taxpayer”) for 2009 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 February 21, 2013. The Taxpayer attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The Taxpayer failed to file a 2009 Alabama income tax return. The Department received IRS information indicating that the Taxpayer had received approximately \$100,000 in income in 2009, and was thus required to file an Alabama return for that year. It consequently assessed the Taxpayer for the tax due, plus penalties and interest, based on the IRS information.

The Taxpayer responded by submitting a joint 2009 Alabama return with her husband. She failed, however, to report the approximately \$100,000 in income on the return. The Department responded by asking the Taxpayer to explain why the income was omitted from the return. The Taxpayer failed to adequately respond, and the Department consequently entered the final assessment in issue.

The Taxpayer testified at the February 21 hearing that her mother died in February 2008. She inherited her mother’s house when the mother’s estate was probated later in

2008. She subsequently sold the house and received the approximately \$100,000 in issue.

Alabama law provides that for property acquired from a decedent, the taxpayer's basis in the property shall be determined in accordance with 26 U.S.C. §1014. Section 1014 provides that concerning property acquired from a decedent before 2010, which includes the house in issue, the recipient's "stepped-up" basis in the property shall be the fair market value of the property at the decedent's death.¹ In this case, the Taxpayer received the house from her mother's estate in mid-2008 and sold it through a realtor on the open market in February 2009. It can be assumed that the sales price was the fair market value of the house at the time of sale, and because of the short time between receiving the house and selling it, it can be further assumed that the sales price was also the fair market value of the house when her mother died. The Taxpayer consequently had no taxable gain on the house.

The final assessment in issue is voided. Judgment is entered accordingly.

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

Entered February 25, 2013.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Margaret Johnson McNeil, Esq.
Beverly C. Hendrick
Stoney Trammell

¹ For 2010 and later years, the recipient's basis is the lesser of the adjusted basis of the property in the hands of the decedent or the fair market value of the property on the date of the decedent's death.