

JONATHAN B. BAKER  
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BRANSON, MO 65616-4190,

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

Taxpayer,

§

DOCKET NO. INC. 13-717

v.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

§

### FINAL ORDER

The Revenue Department assessed Jonathan B. Baker (“Taxpayer”) for 2007, 2008, and 2011 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 October 17, 2013. The Taxpayer and his representative, Enrolled Agent Robert Wells, attended the hearing. Assistant Counsel Christy Edwards represented the Department.

The Taxpayer was born and raised in Enterprise, Alabama. He graduated from Auburn University in 2006. He moved to Missouri in that year and began working as a professional singer.

The Taxpayer lived and worked in Branson, Missouri through 2007. In 2008, the Taxpayer’s employer assigned him to work on a cruise ship that sailed out of the State of Washington. He consequently lived and worked in Washington for most of 2008.

The Taxpayer returned to live and work in Missouri in 2009. He still lives and works in that state, and has an agreement with his employer to continue working in Missouri through at least the end of 2014. He testified that he also expects to continue living and working in Missouri after 2014.

Since moving to Missouri in 2006, the Taxpayer has returned to Alabama only for short periods to visit his parents in Enterprise. He has not lived or worked in Alabama

since 2006, has never owned property in Alabama, and has not voted in Alabama since at least 2006.

The Taxpayer renewed his Alabama driver's license in 2009. He explained at the October 17 hearing that he did so for convenience only.

The Taxpayer has filed Missouri income tax returns since 2007, except concerning 2008. The Taxpayer's representative explained that Missouri law does not require a person to file a Missouri return if (1) the person does not reside in Missouri for at least one-half of the year, and (2) the person has no Missouri-sourced income. The Taxpayer thus was not required to file a 2008 Missouri return because he lived in Washington most of that year and earned all of his income in that year in Washington.

The Taxpayer also filed a 2009 Alabama return. He explained that his father helped him file his 2009 State and federal returns using TurboTax. In so doing, his father mistakenly filed an Alabama return for the Taxpayer.

The Department received IRS information indicating that the Taxpayer was required to file Alabama returns in the subject years. Specifically, the IRS provided copies of the Taxpayer's W-2s for the subject years showing an Enterprise, Alabama address. The Department computed the Taxpayer's Alabama liabilities based on the W-2s. It then entered the final assessments in issue.

The Taxpayer explained that he has resided in four different apartments in Missouri since 2006. He consequently thought it best to list his address as his parents' address in Alabama so that he would be sure to receive (through his parents) any important mail. He did not know that having an Alabama address on his W-2s would cause the Department to

assess him for Alabama tax in the subject years.

All individuals domiciled in Alabama are subject to Alabama income tax, even if they reside outside of Alabama during the year. Code of Ala. 1975, §40-18-2(7). A person's residence is where the person currently resides. A person's domicile, however, is the person's true, fixed home to which he intends to eventually return when absent. *State ex rel Rabran v. Baxter*, 239 So.2d 206 (1970).

The burden is on a person claiming a change of domicile to prove that a change has occurred. A person changes domiciles from Alabama only if the person (1) abandons Alabama with the intent not to return, and (2) establishes a new domicile outside of Alabama with the intent to remain at the new location permanently, or at least indefinitely. See generally, *Whetstone v. State*, 434 So.2d 796 (Ala. 1983). "The intent to return is usually of controlling importance." *Whetstone*, 434 So.2d, at 797, citing *Jacobs v. Ryals*, 401 So.2d 776 (Ala. 1981).

The evidence shows that the Taxpayer has resided and worked in Missouri since 2006, except for a short time in 2008. The Taxpayer has also contracted to work for his present employer in Missouri through 2014, and he intends to continue living and working indefinitely in Missouri after 2014.

The Taxpayer also has had no ties to Alabama since 2006 other than his parents living in the State, his renewal of his Alabama driver's license in 2009, and his parents' address on his W-2s. As a general rule, the fact that a person's relatives live in Alabama has no bearing on whether the person is domiciled in Alabama. The Taxpayer also adequately explained that he renewed his Alabama driver's license and listed his parents'

address on his W-2s for convenience only.

The evidence, viewed together, shows that the Taxpayer abandoned Alabama as his permanent domicile in 2006, and that he established Missouri as his permanent or at least indefinite domicile at that time. The Taxpayer consequently was not domiciled in Alabama in the subject years. The final assessments are accordingly voided.

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

Entered October 31, 2013.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Christy O. Edwards, Esq.  
Robert L. Wells, EA  
Stoney Trammell