

ALABAMA TAX TRIBUNAL

WILLIAM D. & KATHY L. TINO, §
Taxpayers, § DOCKET NO. INC. 24-0225-JP
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

FINAL ORDER

This appeal involves the denial by the Alabama Department of Revenue of the Taxpayers' request for a refund of individual income tax for 2021.

With their appeal, the Taxpayers included a copy of page 2 of Form 40 for 2021 bearing the signatures of the Taxpayers and the date of April 12, 2022. The Taxpayers also included a certified mail receipt from the U.S. Postal Service showing that a package was received for mailing on April 16, 2022. The addressee was the Alabama Department of Revenue, P.O. Box 327469 in Montgomery. A separate receipt from the U.S. Postal Service in Pelham, Alabama, showed that an envelope and postage were paid for the certified mail item addressed to the Alabama Department of Revenue. That receipt also was dated April 16, 2022. The Taxpayers also provided receipts purporting to show that the 2021 Alabama income tax return of their daughter and son-in-law was mailed at the same date and time from the same post office in Pelham.

The tracking information provided by the Taxpayers showed that the Taxpayers' 2021 return was delivered to the U.S. Post Office distribution center in Montgomery on April 17, 2022, and then delivered to the Post Office in Montgomery on April 18, 2022.

However, the Revenue Department stated that it did not receive the Taxpayers' 2021 return from the Post Office. (The Taxpayers stated that the 2021 return of their daughter and son-in-law, which was mailed at the same time and from the same Post Office in Pelham, was delivered to the Revenue Department on April 19, 2022.)

The Revenue Department mailed a letter dated June 14, 2023, to the Taxpayers stating that it had no record of receiving the Taxpayers' return for 2021. The Taxpayers re-mailed a copy of their 2021 return to the Revenue Department on June 20, 2023. That return was delivered on June 22, 2023.

By letter dated February 22, 2024, the Revenue Department denied the Taxpayers the refundable income tax credit provided by Act 2023-377 because the Revenue Department stated that the Taxpayers "filed your 2021 return on June 20, 2023. Since you did not timely file your return, you do not qualify for the rebate." The Taxpayers appealed to the Tax Tribunal.

Based on the facts and circumstances as described, as well as recent public reports of the U.S. Postal Service investigating stolen mail concerning the Montgomery Post Office, the Tax Tribunal referred this matter to the Revenue Department's Office of Taxpayer Advocacy for the Taxpayer Advocate to consider granting equitable relief to the Taxpayers pursuant to the Advocate's authority in Ala. Code § 40-2A-4(b).

After inquiring with the Taxpayer Advocate's office, the Tax Tribunal has learned that the Taxpayer Advocate refused to grant relief to the Taxpayers because "there is no documentation to verify the taxpayers' 2021 return was delivered to the State of Alabama Revenue Department timely."

The Tax Tribunal was aware of this fact when it referred this matter to the Taxpayer Advocate. If there had been documentation to verify that the Taxpayers' return was delivered to the Revenue Department timely, the Revenue Department presumably would not have denied the Taxpayers' refund request; the Taxpayers would have had no need to appeal to the Tax Tribunal; and the Tax Tribunal would have had no issue to refer to the Taxpayer Advocate. Instead, it was because of the fact that the Taxpayers' return was not delivered by the Post Office, coupled with the facts concerning the Taxpayers' mailing of their 2021 return to the Revenue Department in a timely manner using the U.S. Postal Service, that caused the Tax Tribunal to refer the matter to the Revenue Department's Office of Taxpayer Advocacy. That office has equitable powers that the Tax Tribunal does not have. *See* Ala. Code § 40-2A-4(b)(1)b. and c. However, as stated, the Office of Taxpayer Advocacy opted to not exercise those powers here.

Therefore, the Revenue Department's denial of the Taxpayers' request for the refundable income tax rebate, must be, and is, upheld. Judgment is entered accordingly.

This Final Order may be appealed to circuit court within 30 days, pursuant to Ala. Code § 40-2B-2(m).

Entered July 17, 2024.

/s/ Jeff Patterson
JEFF PATTERSON
Chief Judge
Alabama Tax Tribunal

jp:maj

cc: William D. & Kathy L. Tino
Warren W. Young, Esq.
Brenda Lausane, Director, Taxpayer Advocate