



Ala. Code § 40-2A-7(c)(2)a. provides that a refund must be claimed within three years from the date the return was filed, or two years from payment of the tax, whichever is later. However, if no return was timely filed, as in this case, a taxpayer must claim a refund within two years from the date of payment of the tax. For purposes of the statute, tax paid through withholding is deemed paid on the original due date of the return.

The original due date for the filing of the Taxpayer's 2020 Alabama individual income tax return was April 15, 2021. The Revenue Department issued a notice extending the due date for filing 2020 individual income tax returns until May 17, 2021, because of the Covid-19 pandemic. Notice, Ala. Dep't Revenue, March 18, 2021. However, the Revenue Department's extension of the filing deadline for 2020 returns does not alter the application of Ala. Code § 40-2A-7(c)(2)(a)—"taxes paid through withholding . . . shall be deemed paid on the original due date of the return." See *Wynn v. Ala. Dep't of Revenue, INC.* 22-1202-JP (Ala. Tax Trib. Nov. 6, 2023) (emphasis added); see also *State v. Pettaway*, 794 So. 2d 1153, (Ala. Civ. App. 2001).

As indicated by Ms. Thomas' testimony, the Taxpayers did not file their return until May 25, 2023. The refund request then involved taxes that were paid through withholding. Because their return was filed late, the Taxpayers had two years from the original due date, or until April 15, 2023, to request their refund. See Ala. Code § 40-2A-7(c)(2)a. They did not do so. Consequently, the refund was properly denied by the Revenue Department. As the Alabama Court of Civil Appeals held in *Pettaway*, ". . . if the taxpayer files an income-tax return more than two years after

the original due date and requests a refund of taxes that were paid through estimated payments or through withholding, the refund must be denied, as a matter of law, because the refund request is outside the limitations period for claiming a tax refund.” 794 So. 2d at 1157.

I sympathize with the Taxpayers. Unfortunately, there is no good faith or reasonable cause exception to the two-year statute. The revenue Department’s denial of the Taxpayers’ 2020 income tax refund is affirmed.

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

Entered July 23, 2024.

/s/ Leslie Pitman  
LESLIE PITMAN  
Associate Judge  
Alabama Tax Tribunal

lhp:thb

cc: Earl A. & Jamie L. Stennis  
David M. Folmar, Esq.