

## ALABAMA TAX TRIBUNAL

BRUCE A. & ROBERTA L. BURGESS,	§	
Taxpayers,	§	DOCKET NO. INC. 24-0113-LP
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

### FINAL ORDER

This appeal involves the denial by the Alabama Department of Revenue of a request for a refund of income tax for 2021. The appeal came before the Tax Tribunal on February 25, 2025. Both Taxpayers, Bruce A. and Roberta L. Burgess, appeared and testified. Ryan N. Corley represented the Alabama Department of Revenue. Clifford Jennings, a Revenue Department tax accountant, appeared and testified.

On May 26, 2023, the Alabama Legislature enacted 2023 Ala. Act 377 (“the Rebate Act”), which provided a one-time refundable tax credit (“rebate”) to qualified taxpayers. The Rebate Act allotted to “individual taxpayers” who filed an Alabama 2021 individual income tax return “on or before October 17, 2022,” a “one-time refundable income tax credit” of “\$150.00 for single, head of family, and married filing separately” taxpayers, and \$300.00 for “married filing jointly” taxpayers. This appeal stems from the Revenue Department’s denial of the rebate allotted by the Rebate Act concerning the Taxpayers.

On February 1, 2024, the Revenue Department issued an “SB86 Rebate Denial Appeal” letter, denying the Taxpayers’ claim to the \$300.00 rebate. The Department

stated that the Taxpayers did not file their 2021 Alabama individual income tax return until June 13, 2023, well past the October 17, 2022, deadline imposed by the Rebate Act. The Taxpayers then filed a Notice of Appeal of the denial with the Alabama Tax Tribunal on February 13, 2024.

At trial, the Taxpayers argued that they filed their 2021 Alabama individual income tax return before the Rebate Act's October 17, 2022, deadline. The Taxpayers stated that the Revenue Department received their 2021 return on April 12, 2022. The Taxpayers also stated that a check for \$463.00 was included in the mailing with the return, and that the Department deposited the check on April 20, 2022. The Taxpayers provided the certified mail receipt they received from the United States Postal Service ("USPS") when they mailed the return on April 12, 2022. The Taxpayers also provided the certified mailing's tracking information, which showed the mailing was delivered on April 13, 2022. Further, the Taxpayers submitted a copy of the cancelled check made payable to the Department, as well as bank records that reflected the check was processed by the Department.

The Taxpayers argued that the "0 lb 3.40 oz." weight of the April 12, 2022, mailing reflected on the certified mail receipt evidences that both the check for the Taxpayers' outstanding liability as well as their 2021 return were included in the mailing. The Taxpayers produced copies of their 2021 return, the corresponding check, a legal envelope, and a scale at the trial. The Taxpayers utilized the scale to show that a legal envelope and check only weigh approximately 0.39 oz., while the combination of a legal envelope, check, and their 2021 return weighed approximately

3.9 oz.

Mr. Jennings, testifying for the Revenue Department, testified that the Department had no record of receipt of the Taxpayers' Alabama 2021 return before the October 17, 2022, deadline imposed by the Rebate Act. Instead, the Department's records reflected that the Department did not receive the return until June 13, 2023. Mr. Jennings testified that the Taxpayer's liability for 2021 was \$2,843.00. He acknowledged that the Department received and deposited the Taxpayers' April 12, 2022, check. However, Mr. Jennings testified that no return accompanied the Taxpayers' check and that the Department did not receive the Taxpayers' 2021 return until June 13, 2023, well after the October 17, 2022, deadline imposed by the Rebate Act. Finally, Mr. Jennings stated that it was a common practice for taxpayers to send the Department tax liability payments without also sending their return with the payment.

"Concerning [] refund petitions, the burden is on a taxpayer to prove that a refund is due." *Game Day Tents, Inc.*, No. S. 17-358-JP, 19 (Ala. Tax Trib. April 12, 2023). (quoting *The Package Store #1, Inc., and The Package Store #2, Inc. v. Ala. Dep't of Revenue*, No. S. 87-183, 3 (Admin. Law Div. Jan. 26, 1993)). Here, to qualify for the rebate allotted by the Rebate Act, a qualified Alabama taxpayer must establish that he filed his Alabama 2021 tax return before the October 17, 2022, deadline. The Taxpayers have met this burden. The Taxpayers' testimony that they mailed their return and check in the same envelope to the Revenue Department on April 8, 2022, supports the Taxpayers' position that they are entitled to the rebate.

The Taxpayers' USPS certified mail receipt further cements that the Taxpayers' return was both (1) timely mailed to the Department and (2) that there was more than just a check in the mailing. The cancelled check and bank records provided by the Taxpayers further evidence that the Revenue Department received the Taxpayers' April 12, 2022, mailing by April 20, 2022, well within the Rebate Act's deadline.

Therefore, the Taxpayers are due the \$300.00 rebate allotted by the Rebate Act, and the Revenue Department's denial of the Taxpayers' claim to the rebate is overturned. Judgment is entered accordingly. The Revenue Department is directed to issue a refund to the Taxpayers for the rebate in due course.

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

Entered April 30, 2025.

/s/ Leslie H. Pitman

LESLIE H. PITMAN

Associate Judge

Alabama Tax Tribunal

lhp:thb

cc: Bruce A. & Roberta L. Burgess  
Ryan N. Corley, Esq.