

ALABAMA TAX TRIBUNAL

TIMOTHY C. & ASHLEY E. BAGWELL, §

Taxpayers, §

DOCKET NO. INC. 25-0398-LP

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

ORDER DENYING THE REVENUE DEPARTMENT'S MOTION TO DISMISS

This appeal involves the entry by the Alabama Department of Revenue of a final assessment of income tax for 2020. The Alabama Department of Revenue has filed a Motion to Dismiss the Taxpayers' Notice of Appeal.¹ In its Motion, the Revenue Department asserts that the Tax Tribunal does not have subject matter jurisdiction over this appeal because the Taxpayers failed to timely appeal the final assessments in issue within 30 days, as required by Alabama Code Section 40-2A-7(b)(5). The motion is denied.

Pursuant to Alabama Code Section 40-2A-7(b)(5)a, "[a] taxpayer may appeal to the Alabama Tax Tribunal from any final assessment *entered* by the department by filing a notice of appeal with the Alabama Tax Tribunal within 30 days from the date of mailing[.]" The 30-day appeal period must be strictly followed. *See Dansby v. State Dep't of Revenue*, 560 So.2d 1066, 1067 (Ala. Civ. App. 1990). If the appeal is not timely filed, "the appeal shall be dismissed for lack of jurisdiction." Ala. Code § 40-2A-7(b)(5)c. However, Alabama Code Section 40-1-45, commonly known as the "mailbox" rule, provides that if a document required to be filed within a certain time is postmarked by the United States Postal Service ("USPS") before the time deadline, the document shall be deemed timely filed.

¹ If the Taxpayer(s) did not receive a copy of the Answer from the Department of Revenue, the Taxpayer(s) should contact the Tax Tribunal.

The Revenue Department did not enter the final assessment in issue here until May 19, 2025, yet the Department's Motion claims that it mailed the final assessment on May 16, 2025. The Revenue Department provided tracking information that showed that the subject mailing of the tracking information arrived at a USPS facility in Montgomery, Alabama, on May 16, 2025. Delivery of the mailing to a location in Slocomb, Alabama, was first attempted on May 19, 2025, the same day the final assessment in issue reflects that it was entered. The mailing was ultimately delivered to a location in Slocomb, Alabama, on May 27, 2025, when it was picked up at a post office location. The Taxpayers then mailed a Notice of Appeal to the Tax Tribunal. The Taxpayers' Notice of Appeal was postmarked June 18, 2025, and received by the Tax Tribunal on June 24, 2025.

Because a taxpayer can only appeal a final assessment that has been "entered" by the Revenue Department, the time limit for the taxpayer to file a notice of appeal of the final assessment cannot start before the final assessment's date of entry. Therefore, the Taxpayers' mailing of their Notice of Appeal on June 18, 2025, which was within 30 days of the Revenue Department's May 19, 2025, entry of the 2020 final assessment, renders the appeal as filed timely pursuant to Section 40-2A-7(b)(5) and the mailbox rule promulgated by Section 40-1-45.

The Revenue Department is directed to file an Answer to the Taxpayer's Notice of Appeal no later than **September 11, 2025**. Appropriate action will then be taken.

Entered August 12, 2025.

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

lp:thb:la

cc: Timothy & Ashley Bagwell
Angela English
Margaret Johnson McNeill, Esq.