

ALABAMA TAX TRIBUNAL

JOHN E. & MISTY B. BROWN, §
Taxpayer, § DOCKET NO. INC. 25-0596-RC
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

OPINION AND FINAL ORDER

This appeal involves the entry by the Alabama Department of Revenue of a final assessment of income tax for 2023.

John E. Brown and Misty B. Brown (the “Taxpayers”) filed their joint individual Alabama income tax return for the calendar year 2023. That return, as filed, disclosed an admitted tax liability of \$9,614.00. The Taxpayers did not pay any amount toward their admitted tax liability, either with the return or subsequently.

At some point, presumably after having filed their return, the Taxpayers fell victim to belief in a tax protestor scheme, because both Taxpayers submitted to the Department a document entitled “Affidavit Declaring Revocation of Election,” one for each of them, both dated January 31, 2025. Both such documents contain paragraphs of irrelevant, dubious, or entirely fanciful language and argument, which the Taxpayers no doubt hope will unlock some heretofore secret or little-known loophole absolving them of liability for Alabama income tax. In this, the Taxpayers have been sorely and entirely misled.

While it has been the practice of this Tribunal to reject tax-protestor type

arguments out of hand, for future reference and to forewarn other taxpayers who may be tempted to follow in these Taxpayers' perilous footsteps, the Tribunal will engage the arguments espoused in these documents, assuming that the Taxpayers knew what they wrote, knew what the words meant, and intended to write it as they did.

Both "affidavits" begin by stating the Taxpayer's name, followed by a claim that they are "distinctly different and distinguished from the PERSON/TAXPAYER [here the Taxpayer's name, rendered in all capital letters], [the last four digits of their social security number], and accept no responsibility and/or liability thereof, as said PERSON/TAXPAYER is an artificial entity created for the purpose of circumventing my inherent rights given to me by the God of Heaven."

This is the "strawman" theory, the belief that the person has two identities. "According to sovereign ideology, when an individual is born or naturalized, the US Government creates a fictitious entity—a strawman—in their name. The strawman is easily distinguished from the 'real' person in that its name is spelled in all capital letters. Sovereign citizens claim documents issued by government entities (letters, licenses, bills, legal documents), in which the name is spelled in all capital letters, refer to the strawman." Sovereign Citizen Extremism: A Primer, Federal Bureau of Investigation (Feb. 2015).¹ This is nonsense. No court of competent jurisdiction has ever held in favor of any person making this argument, but courts have with regularity rejected such arguments and deemed them frivolous. This has not dissuaded

1 Available online at https://tncourts.gov/files/docs/courtroom_security__self-represented_litigants_-_handout_i.pdf (last visited Jan. 27, 2026).

proponents from continuing to try, however, as in this case.

The documents continue “[t]his document exercises the option provided by the US Congress which provides Americans [defined as Nonresident Alien Individuals in Title 26 Statutes and Regulations] to terminate the unintended ‘voluntary election’ per 26 USC § 6013(g)(4)(A).”

While the statute cited by the Taxpayers is at least genuine, the Taxpayers ignore a fundamental flaw in this contention; the State of Alabama is not the United States of America. The State and the federal government are separate sovereigns. Whatever the Internal Revenue Code may or may not say about the Taxpayers’ obligations to pay federal income tax (and the Taxpayers’ arguments in this regard are just as wrong-headed as their other arguments), it has nothing whatever to say about Alabama state income taxes. Even assuming the Taxpayers were somehow able to win their position that they are nonresident foreigners and should not be treated as U.S. Citizens by the Internal Revenue Code, they will have accomplished exactly nothing relating to their Alabama income tax liability. Indeed, this failure runs throughout the remainder of the Taxpayers’ documents, as will be seen.

“It should be noted from the beginning [the Taxpayer] has been denominated a founding child by the Registrar of the State of Alabama and never as a PERSON within the meaning of any statute, code, ordinance, and the like.”

Firstly, there is no such office as “Registrar of the State of Alabama.” Secondly, a search of the CODE OF ALABAMA (1975) does not return any use of the word “founding.”

although there are provisions for the adoption of abandoned children.² With respect to this claim, the Taxpayers exited the realm of being merely misled or incorrect and have made a positive misrepresentation of fact, which they knew or should have known was a misrepresentation of fact when they made it.

The following paragraphs of the Taxpayers' "Affidavit" repeat assertions relevant only to the above-described Strawman Theory and are false and irrelevant for the reasons likewise described above.

The next seven pages of the Taxpayers' filing are dedicated to attempting to show that the federal income tax is somehow invalid, in that it allegedly only affects federal government employees. In addition to being ridiculous on its face, this argument ignores the fact mentioned above, that the State of Alabama is a different sovereign entity than the federal government of the United States. Even in a universe in which such arguments relating to federal income tax might be colorable (and, again, that universe is not our own), that question is wholly irrelevant to the imposition of income tax by the State of Alabama, which does not rely upon any provision of the United States Constitution for its validity. The Taxpayers again and again inveigh against the "federal income tax," without appearing to notice the word "federal" or to have an idea what the word might imply for their state income tax case.

One other point, the Taxpayers allege that the federal income tax is levied by "deceitful trickery" and that "[t]he fact of this deceit is carefully kept from the American people to enable the continuing wholesale theft, rape, and plunder through

2 *See* Ala. Code (1975), §§ 26-10E-2(1), 26-10E-9(a)

taxation of the American people. The American people have not the slightest hint that the Income Tax liability is being imposed upon them by such an unconscionable deception. The means of removing this unintended ‘election of liability’ has been a closely guarded secret.”

To this, the response is that as many unsuccessful lawsuits and actions such as this one as have been filed over the years, the “secret” is surely out. A scheme which produces literally hundreds of results when casually searched on the internet would be, it seems, a particularly ill-kept secret.

On page 13, the Taxpayers, each in their own “Affidavit,” “declare, with God as my witness, that this entire writing is true to the best of my knowledge, experience, and belief.” While the Taxpayers may truly, if mistakenly, believe most of what they have written, as stated above they cannot possibly believe that they are or ever were “foundlings,” as no such status exists under Alabama law, nor that they registered as such with the “Registrar of Alabama,” as no such office or officer exists or did exist. These statements are willfully false.

Following the Department’s Answer and the Tribunal’s entry of a preliminary order giving the Taxpayers the opportunity to respond, the Taxpayers responded by each filing an “Affidavit of Non-Commercial Existence.” This reflects another tax-protestor theory, that only those who have agreed to do business with the federal government can be subject to tax and then only on their commercial activities.³ This is

³ See Anti-tax law evasion schemes – Law and arguments (Section III), Internal Revenue Service, available at <https://www.irs.gov/businesses/small-businesses-self-employed/anti-tax-law-evasion->

again so much nonsense, notable only for the use of every tax protestor's favorite phrase, "nunc pro tunc," which is fun to say because it rhymes but is wholly inapplicable to the Taxpayers and to the argument they are making. And, once again, this document expends its energy arguing against the federal income tax, which is not the tax that the Alabama Department of Revenue has assessed against them.

The Taxpayers at last recognize that they are not dealing with the federal government in a filing the Tribunal received November 6, 2025. In it, the Taxpayers state "THE STATE OF ALABAMA is a corporation. Since [sic] the state is a corporation, it must abide by corporate law. A contract is null and void if not all information is shared, or if someone is coerced into the contract." And then the root of the Taxpayers' argument, "[m]y standing is that if I do not owe Federal taxes I do not owe State taxes."

The State of Alabama is not a corporation. It is a sovereign entity:

The federal system established by our Constitution preserves the sovereign status of the States in two ways. First, it reserves to them a substantial portion of the Nation's primary sovereignty, together with the dignity and essential attributes inhering in that status. The States "form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them, within its own sphere." The Federalist No. 39, p. 245 (C. Rossiter ed. 1961) (J. Madison).

Second, even as to matters within the competence of the National Government, the constitutional design secures the founding generation's rejection of "the concept of a central government that would act upon and through the States" in favor of "a system in which the State and Federal Governments would exercise concurrent authority over the people—who were, in Hamilton's words, 'the only proper objects of government.' "

...

The States thus retain “a residuary and inviolable sovereignty.” The Federalist No. 39, at 245. They are not relegated to the role of mere provinces or political corporations, but retain the dignity, though not the full authority, of sovereignty.

Alden v. Maine, 527 U.S. 706, 714-15 (1999) (emphasis added).

Further, a taxpayer’s obligation to pay income tax is not at all a contractual liability. “Taxation is neither a penalty imposed on the taxpayer nor a liability which he assumes by contract. It is but a way of apportioning the cost of government among those who in some measure are privileged to enjoy its benefits and must bear its burdens.” Welch v. Henry, 305 U.S. 134, 146 (1938) (emphasis added). “Taxes are a charge by the state—a forced contribution—for the support of such government, laid upon the persons, property, rights, and privileges of the people by their common consent, implied by the promulgation and adoption of the Constitution.” State v. Weil, 168 So. 679, 681 (Ala. 1936). The Taxpayer cites no authority for his notion that “if I do not owe Federal taxes I do not owe State taxes.” In this, the Taxpayer is entirely mistaken.

Final Assessments by the Department of Revenue are *prima facie* correct, and it is the burden of the Taxpayers to show that they are incorrect. Ala. Code (1975), § 40-2A-7(b)(5)c.3. The Taxpayers themselves reported to the Department their income tax liability for the year 2023. They have not carried that burden, to say the least.

Alabama Code (1975), § 40-2A-11(f) provides that “[i]f any appeal to the Alabama Tax Tribunal ... is determined to be frivolous or primarily for the purpose of delay or to

impede collection of any tax, a penalty of two hundred fifty dollars (\$250) or 25 percent of the tax in question, whichever is greater, shall be assessed in addition to any tax due.”

This provision does not contain a definition of the word “frivolous.” However, its immediate predecessor, § 40-2A-11(e), does provide guidance when it states that it applies to “a ‘frivolous return,’ as that term is used in 26 U.S.C. Section 6702.” That section of the Internal Revenue Code, in turn, defers this definition to the Secretary of the Treasury. “The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection.” I.R.C. § 6702(c). The Treasury Department fulfilled that legislative command, most recently in Notice 2010-33, 2010-17 I.R.B. 609 (Apr. 26, 2010).

Among the positions identified as frivolous are the following:

(3) A taxpayer’s income is excluded from taxation when the taxpayer rejects or renounces United States citizenship because the taxpayer is a citizen exclusively of a State (sometimes characterized as a “natural-born citizen” of a “sovereign state”), that is claimed to be a separate country or otherwise not subject to the laws of the United States. This position includes the argument that the United States does not include all or a part of the physical territory of the 50 States and instead consists of only places such as the District of Columbia, Commonwealths and Territories (e.g., Puerto Rico), and Federal enclaves (e.g., Native American reservations and military installations), or similar arguments described as frivolous in Rev. Rul. 2004–28, 2004–1 C.B. 624, or Rev. Rul. 2007–22, 2007–1 C.B. 866.”

(5) United States citizens and residents are not subject to tax on their wages or other income derived from sources within the United States, as only foreign-based income or income received by nonresident aliens and foreign corporations from sources within the United States is taxable, and similar arguments described as frivolous in Rev. Rul. 2004–30, 2004–1 C.B. 622.

(7) Only certain types of taxpayers are subject to income and employment taxes, such as employees of the Federal government, corporations, nonresident aliens, or residents of the District of Columbia or the Federal territories, or similar arguments described as frivolous in Rev. Rul. 2006–18, 2006–1 C.B. 743

(9)(c) Mandatory or compelled compliance with the internal revenue laws is a form of involuntary servitude prohibited by the Thirteenth Amendment.

(9)(j) The Sixteenth Amendment was not ratified, has no effect, contradicts the Constitution as originally ratified, lacks an enabling clause, or does not authorize a nonapportioned, direct income tax.

(20) A taxpayer is not obligated to pay income tax because the government has created an entity separate and distinct from the taxpayer—a “straw man”—that is distinguishable from the taxpayer by some variation of the taxpayer’s name, and any tax obligations are exclusively those of the “straw man,” or similar arguments described as frivolous in Rev. Rul. 2005–21, 2005–1 C.B. 822.

(23) Inserting the phrase “nunc pro tunc” on a return or other document filed with or submitted to the Service has a legal effect, such as reducing a taxpayer’s tax liability, or similar arguments described as frivolous in Rev. Rul. 2006–17, 2006–1 C.B. 748.

Notice 2010-33, 2010-17 I.R.B. 609, 609-11 (Apr. 26, 2010).

The Taxpayers’ filings in this case reflect all the above positions, and others which are manifestly similar. These arguments, along with the Taxpayers’ false statements regarding being registered “foundlings,” sorely tempt the Tribunal to impose the frivolous appeal penalty. Were that penalty to be imposed in this case, it would be in the amount of \$2,315.25 (25% of the admitted liability of \$9,261). Thus, the total affirmed to be due from the Taxpayers would increase from the Final Assessment figure of \$12,913.67 to \$15,228.92.

I hesitate only because (a) the penalty has not been imposed in the past, and (b)

taxpayers generally may not have had adequate warning that conduct similar to the Taxpayers' in this case may subject them to the penalty. I do not expect that ordinary citizens read with interest the opinions of our Tribunal, but state and local tax practitioners do. No ethical tax attorney, accountant, or other advisor would make arguments such as these, nor assist taxpayers who do. But through their influence in their own communities and organizations, such practitioners are the first line of defense against claims such as these that expose taxpayers to financial danger, waste precious government time and resources, and encourage similar lawlessness in others.

Therefore, both to these Taxpayers in particular and to the state and local tax bar at large, I wish to indicate that I will not in this one instance impose the frivolous appeal penalty with which the Legislature has endowed this Tribunal, but in the future, I will not hesitate to do so in the same or similar circumstances.

The Final Assessment of the Department of Revenue is hereby upheld in its entirety, and judgment entered against the Taxpayers and for the Department in the amount \$12,913.67, plus interest that shall have continued to accrue since its entry on July 24, 2025.

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

Entered February 5, 2026.

/s/ Ralph M. Clements, III
RALPH M. CLEMENTS, III
Associate Judge
Alabama Tax Tribunal

rc:ml

cc: John E. Brown
Ryan N. Corley, Esq.