

ALABAMA TAX TRIBUNAL

LOUIS & SHIRLEY ULMER, §
Taxpayer, § DOCKET NO. INC. 25-0574-RC
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

OPINION AND FINAL ORDER

FACTS

This appeal involves the entry by the Alabama Department of Revenue of a final assessment of income tax for the year 2024. The Tribunal held a hearing on April 21, 2026, at 10:00 A.M. The Department was represented by Alan H. Polson, Esq., and Watisha Nickerson, a Revenue Manager employed by the Department, testified. The Taxpayers were present and testified.

The Taxpayers filed their 2024 Alabama individual income tax return in a timely manner. That return, as filed, disclosed a balance due of \$2,734.00. The Taxpayers did not make a payment at the time they filed their return. The Department made no adjustments to the return. Because the Taxpayers themselves filed the return showing the amount due, the Department moved directly to a final assessment, as provided by Ala. Code (1975), § 40-2A-7(b)(1)b, That Final Assessment was entered on July 22, 2025, in the amount \$2,894.74, consisting of \$2,734.00 in tax, \$51.38 in interest, and a late payment penalty of \$109.36. The Taxpayers appealed that Final Assessment to the Tribunal. Their appeal was timely.

At the hearing, Ms. Nickerson testified to the above facts. She further testified that the Department had determined that the retirement account distributions the Taxpayers received were from a traditional IRA, and that traditional IRA accounts are defined contribution accounts. Therefore, traditional IRAs are not exempt from tax as are distributions from a defined benefit retirement plan. *See Ala. Admin. Code*, r. 810-3-19-.04(1). Ms. Nickerson stated that federal income tax had been withheld from the retirement account payments in question.

The Taxpayers stated that they believed that their retirement account distributions were exempt from tax. They indicated that this had been the advice of their insurance advisor, and they produced an information sheet from the plan provider, Allianz Life Insurance Company of North America, listing Alabama as among the states subject to “Voluntary State Tax Withholding.”

The Taxpayers indicated that they did not know how the amount due was calculated and were unaware of the balance due until they received the Department’s Final Assessment in the mail.

ANALYSIS

While the Taxpayers may be correct that the retirement account distributions they received were exempt from withholding under Alabama law, that is a different question than whether those distributions are taxable income in the first instance. First, taxable income in Alabama consists of

“gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind, or in whatever form paid, ... or from professions, vocations, trades, business, commerce

or sales, or dealings in property whether real or personal, growing out of ownership or use of or interest in such property; also from interest, royalties, rents, dividends, securities, or transactions of any business carried on for gain or profit and the income derived from any source whatever, including any income not exempted under this chapter and against which income there is no provision for a tax.”

Ala. Code (1975), § 40-18-14(a)(1). This provision is, and is intended to be, broad and all-encompassing. *See Devon M. Franklin v. State of Alabama Dep’t of Rev.*, Ala. Tax Trib., dkt. nos. INC. 22-239-JP & INC. 23-246-JP (June 30, 2023) (“the definition of ‘gross income’ in § 40-18-14(1) is expressly written in very broad, inclusive terms…”).

Certain types of income are, indeed, excluded from the definition of gross income for purposes of the statute. Distributions from defined benefit retirement plans are among those types of income. *See* Ala. Code (1975), § 40-18-19(a)(6) (exempting “all payments made ... to a retiree or his designated beneficiary under a ‘defined benefit plan,’ as defined under 26 U.S.C. § 414(j), to the extent such payment would be taxable for federal income tax purposes.”). However, the regulations define the term “defined benefit plan” by exclusion. “A ‘defined benefit plan’ is any plan that is not a ‘defined contribution plan.’” *Ala. Admin. Code*, r. 810-3-19-.04(2). A “defined contribution plan” is one that:

provides an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and for income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participants' accounts. This includes plans such as profit sharing, stock bonus, and money purchase pension plans. These plans ‘could’ be Keogh, SEP, or IRA plans.

Id. Looking at the plan documents the Taxpayers provided, and at the 1099-R that

they also provided, I conclude that the distributions the Taxpayers received were from a “defined contribution plan” and not a “defined benefit plan.” That being the case, the distributions the Taxpayers received are not within the exclusion of Ala. Code (1975), § 40-18-19(a)(6), quoted above. There is no other provision of Alabama law that would exempt the payments the Taxpayers received from the broad ambit of Ala. Code (1975), § 40-18-14(a)(1). Therefore, the payments were taxable income to the Taxpayers, and they quite properly reported them as taxable income on their 2024 Alabama individual income tax return.

Regarding the Taxpayers’ claims that they did not know of the amount due until they received the Final Assessment, the Tribunal notes that the amount of the Final Assessment above is taken directly from the income tax return that the Taxpayers themselves filed. The Taxpayers are presumed to know what was in their tax return. This is true even if a tax preparer or other agent prepared and filed the return on their behalf. *See Allen v. Commissioner*, 128 T.C. 37, 41 (2007). There was no irregularity in the Department’s entry of a final assessment based on the Taxpayers’ own return.

During the hearing, Mr. Polson stated that the Department would not be opposed to a waiver of penalties in this case. The Tribunal agrees that a waiver of penalties would be appropriate, based on the fact that the Taxpayers did accurately and timely file their return, and that they were understandably confused on the distinction between a payment being exempt from withholding versus being exempt from income tax altogether.

For the reasons stated above, the Final Assessment of July 22, 2025 is upheld, in the reduced amount of \$2,785.38 (the tax of \$2,734.00 plus the accrued interest of \$51.38 through July 22, 2025), plus such additional interest as shall have accrued from that date through the date of payment.

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

Entered April 23, 2026.

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

cc: Louis & Shirley Ulmer
Alan H. Polson, Esq.