



Steve Leimberg's Income Tax Planning Email Newsletter - Archive Message #299

Date: 09-Oct-26

From: Steve Leimberg's Income Tax Planning Newsletter

Subject: Marc Soss: The Alabama Department of Revenue Addresses State Domicile and Residency for Income Taxation

“Aggressive domicile and state residency audits are not solely limited to New York and California. In [Watson v. Ala. Dep’t of Revenue](#), Dkt. No. Inc. 24-0499-LP (Ala. Tax Trib. July 31, 2026), the Alabama Department of Revenue Dkt. No. Inc. 24-0499-LP (Ala. Tax Trib. July 31, 2026), the Alabama Department of Revenue (the “Department”) determined that Charlotte Watson, a Texas resident, who had moved to Alabama to care for her ailing family members in 2019, was domiciled in Alabama for all of 2019, and liable for individual income tax. Charlotte then successfully challenged the determination and was solely liable for income tax on the income she earned once she moved to Alabama in September 2019.”

Marc Soss, J.D., LL.M., provides members with commentary on *Watson v. Ala. Dep’t of Revenue*, Dkt. No. Inc. 24-0499-LP (Ala. Tax Trib. July 31, 2026), and its application to domicile and residency for income tax purposes.

Marc Soss’ practice focuses on estate planning, probate and trust administration, and corporate matters in Sarasota & Manatee County Florida. Marc is a frequent contributor to LISI and has published articles in the Florida Bar, Rhode Island Bar, North Carolina Bar and National Contract Management Association magazine. Marc is also a retired United States Navy Supply Corps Officer.

Here is his commentary:

EXECUTIVE SUMMARY:

Aggressive domicile and state residency audits are not solely limited to New York and California. In [Watson v. Ala. Dep’t of Revenue](#), Dkt. No. Inc. 24-0499-LP (Ala. Tax Trib. July 31, 2026), the Alabama Department of Revenue (the “Department”) determined that Charlotte Watson, a Texas resident, who had moved to Alabama to care for her ailing family members in 2019, was domiciled in Alabama for all of 2019, and liable for individual income tax.

Charlotte then successfully challenged the determination and was solely liable for income tax on the income she earned once she moved to Alabama in September 2019.

COMMENT:

In 2015, Charlotte Watson (“Charlotte”), a Texas resident for over forty (40) years, moved to Alabama to care for her ailing father. In 2018, Charlotte returned to Texas to care for her injured son. In September 2019, Charlotte again moved back to Alabama to care for her ill parents.

In 2019, the Alabama Department of Revenue issued an assessment against her for income tax and argued that she had been domiciled in Alabama for the entire 2019 tax year. In response, Charlotte submitted a lease for her Texas residence home, and a Texas driver’s license. Despite the documentation, the Alabama Department of Revenue argued that: (i) she had not submitted any dispositive evidence that she abandoned Alabama; (ii) indicated an intent to remain in Texas indefinitely; (iii) had filed Alabama income tax resident returns for tax years 2016, 2017, and 2023; and (iv) was advised that she had earned Alabama-sourced income in tax years 2018 through 2022.

Alabama Income Tax Law:

“An Alabama income tax is levied on individuals that reside in the State and on “individuals residing and earning income outside of Alabama that are domiciled in Alabama.” Ala. Code § 40-18-2. Once a person’s domicile is established in Alabama, that domicile continues until the person establishes a new domicile elsewhere with the intent to remain there permanently or at least indefinitely. The taxpayer bears the burden to prove a change of domicile.”

Under *Whetstone v. State*, 434 So. 2d 796 (Ala. 1983), an individual’s domicile is their true, fixed home to which they intend to return when absent. Once Alabama domicile is established, that domicile is presumed to exist until a new one is acquired. Further, to change one’s domicile from Alabama, a taxpayer must abandon Alabama and also establish a new domicile elsewhere with the intent to remain permanently, or at least indefinitely. The burden resides upon the taxpayer asserting the change of domicile to prove that it has occurred. *Rabren v. Baxter*, 239 So. 2d 206 (1970).

Alabama Case Law:

In the case of *Dunn v. State of Alabama*, Docket Inc. 18-1064-LP (T.T. 6/12/2019), the Alabama Department of Revenue addressed similar facts as “[t]he Taxpayer maintained no ties to Alabama other than family and the driver’s license.” However, the law is well settled that a taxpayer who solely has family in Alabama has minimal bearing on whether they are domiciled in the state. *Marsh v. State of Alabama*, Docket Inc. 17-963-CE (T.T. 8/14/2018).

CONCLUSION:

Charlotte appealed the matter to the Alabama Tax Tribunal, which reversed the Department of Revenue and solely held her responsible for Alabama income tax on the income she earned once she moved to Alabama in September of 2019.

HOPE THIS HELPS YOU HELP OTHERS MAKE A POSITIVE DIFFERENCE!

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CITATIONS:

Ala. Code § 40-18-2; *Whetstone v. State*, 434 So. 2d 796 (Ala. 1983); *Marsh v. State of Alabama*, Docket Inc. 17-963-CE (T.T. 8/14/2018); *Killingsworth v. State of Alabama*, Docket Inc. 14-804 (T.T. 1/9/2015).