

Revenue REVIEW

A Quarterly Publication of the Alabama Department of Revenue

4th
Quarter
FY 2002

(July, August,
September, 2002)

A Message from the Governor



I would like to take this opportunity to recognize all the employees at the Alabama Department of Revenue for their hard work this year. In particular, I would like to thank them for all of their efforts in collecting tax revenues as the fiscal year came to a close. Their hard work enabled the state to pay previously out-

standing corporate tax refunds and to end the fiscal year in the black. Their hard work also allowed me to keep true to my promise not to cut school funding for the FY 03.

Alabama must have an adequately funded, quality education system to continue moving forward. Ensuring that all tax returns are processed as quickly as possible provides greater accuracy in budgeting for education, health care and other important social services, which means a higher quality of life for all Alabamians. Revenue employees' assistance in this area has been invaluable this year and the people of Alabama will surely benefit from their dedication and expertise.

I applaud the employees at the Department of Revenue for their excellent job performances and thank them for their dedication and service commitment to Alabama's taxpayers and tax practitioner community.


Don Siegelman
Governor

Tax Practitioner Seminars 2002

The Outreach Program Office of Auburn University will sponsor its annual tax practitioner seminars during November and December. Held in cooperation with the Alabama Department of Revenue and the Internal Revenue Service, the seminars provide continuing education for tax practitioners, enrolled agents, certified public accountants, public accountants, and attorneys.

Program cost is \$85 per participant, for those registrations postmarked 10 days ("Early Bird" deadline) before the beginning of the selected seminar; \$25 additional fee for registrations received after the "Early Bird" deadline, but prior to the seminar; \$50 additional fee for on-site registration (space available). On-line registration is available.

Approval has been requested for CPE's, CLE's, and CEU's. For more information, call the AU Outreach Program Office at (334) 844-5100 or (334) 844-3107, or contact www.auburn.edu/outreach/tax. Questions may be E-mailed to Program Developer Scott Greenwood at greens1@auburn.edu.

Seminar Dates and Locations

Nov. 13-14	Dothan	Dothan Conference Center
Nov. 19-20	Florence	Guillot University Ctr., Univ. of North Alabama
Nov. 21-22	Huntsville	University Center, University of Alabama, Huntsville
Nov. 25-26	Birmingham	Main Campus, Jefferson State Community College
Dec. 3-4	Montgomery	Taylor Center, Auburn University at Montgomery
Dec. 5-6	Bessemer	Bessemer Civic Center
Dec. 9-10	Auburn	Auburn University Hotel & Dixon Conference Center
Dec. 12-13	Mobile	Adams Mark Hotel

Mobile County Business Owner Convicted on Tax Evasion Charges

A Mobile County business owner was convicted on felony sales tax evasion charges Sept. 18, 2002, in Mobile County Circuit Court, announced State Revenue Commissioner Cynthia Underwood.

Ali A. Abdirahman, owner of Delta Food Mart, located at 703 St. Stephens Road, Prichard, Ala., pleaded guilty Wednesday before Circuit Judge Herman Thomas to one count of state sales tax evasion for monthly sales tax periods beginning March 1, 1999, through March 31, 2002.

At the time of sentencing, Abdirahman paid \$25,000 toward his total restitution of sales taxes, penalties, and interest for state and local sales taxes he collected from his Delta Food Mart customers during

this period, but failed to report and pay to the state and local governments. The total amount of Abdirahman's state and local sales tax liability will be finalized in civil assessments.

Abdirahman's conviction carried a five-year jail sentence, suspended, with five years of supervised probation. Judge Thomas also ordered Abdirahman to accurately account for, file and pay all future sales tax returns on a timely basis.

Commenting on the conviction, State Revenue Commissioner Cynthia Underwood commended the Mobile County District Attorney's Office in its prosecution of the case and Department of Revenue Special Agent Robert McVay and Revenue Examiner Danny Leathers in their handling

of the case.

"Over the last several months, we've hired 15 new sales tax auditors. We plan to hire an additional 10 during the 2003 fiscal year. This will allow us to step up our compliance efforts within the state, as well as outside the state," explained Underwood.

"Tax evasion is costly to all involved, and the cost of tax offenses far outweighs any chance of personal gain. Convicted individuals face penalties and possible jail terms, but even more importantly, when tax evasion occurs, the Education Trust Fund (ETF) is short-changed because taxes are not properly paid. ETF provides the funding source for one of our state's most important responsibilities—the education of our children," said Underwood.

Tax Crimes

A ccording to Revenue Investigations Division Director Charles Crumbley, tax evasion is one of the most serious tax crimes, with income tax evasion the most prevalent criminal violation of the state tax laws. The term "tax evasion," however, refers to any taxes that are evaded, including state sales tax, excise tax, gasoline tax, etc.

Section 40-29-110, **Code of Alabama**, defines tax evasion as follows: "Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000.00 (\$500,000.00 in the case of a corporation), or imprisoned not more than five years, or both."

Crumbley offers the following suspicious circumstances as the top ten "red flags" that may lead to a criminal tax investigation:

- Failing to file state income tax returns for multiple years, especially when federal returns have been filed
- Filing extensions for state income tax returns for multiple years, but not following up with the actual filing of the returns
- Omitting significant income from income tax returns; omitting significant gross receipts from sales tax returns
- Submitting substantial inconsistencies in reporting gross receipts on sales tax returns or other tax reports; the reporting does not match up when compared to income tax returns or other tax reports
- Cheating partners, business associates, or customers, along with the acts

of embezzlement, extortion, etc., which also results in tax cheating—a dual motive which may also constitute tax fraud

- A spouse reporting the cheating of taxes; hiding of income or assets during a divorce—a dual motive that may also constitute tax fraud
- Conducting an exotic, expensive lifestyle inconsistent with income reported on tax returns
- Asking, demanding, or manipulating an employee or agent to cheat in business affairs or in taxes
- Using exaggerated deductions and exemptions, followed by bragging about the receipt of a "big refund"
- Submitting altered checks or other false documents to justify deductions during an audit or review of tax returns.

ADOR Steps Up Enforcement, Encourages Tag Swap for Improper IRP Tags

The Alabama Department of Revenue encourages interstate trucking companies operating in Alabama to ensure compliance with their base state's registration laws and International Registration Plan (IRP) regulations by checking their motor vehicle tags. Those drivers not in compliance may be ticketed for improper registrations, not only in Alabama, but also in other IRP jurisdictions.

The department's warning of stepped-up enforcement efforts follows two recent Alabama District Court criminal rulings; recent IRP sanctions against the state of Oklahoma; and announcements of an ongoing Oklahoma Attorney General's investigation involving the Oklahoma Tax Commission, former commission employees, and third-party Oklahoma registration trucking agents.

On April 1, 2002, the IRP imposed sanctions against the state of Oklahoma for permitting third-party registration agents to allow interstate motor carriers to use their physical addresses and telephone numbers as qualifications for an Oklahoma base jurisdiction registration.

The International Registration Plan (IRP) was founded and operates on the "base jurisdiction" concept. A "base jurisdiction" means, for purposes of motor carrier fleet registration, the jurisdiction where the registrant has an established place of business, where mileage is accrued by the fleet, and where operational records of the fleet are maintained or can be made available for audit.

Third-party agents reportedly solicited Oklahoma IRP registrations through promotions of lower registration fees and allegedly legitimate tax avoidance schemes. In response to Oklahoma's failure to prohibit such actions, sanctions were issued by the IRP prohibiting other states from transmitting apportioned registration fees to Oklahoma until Oklahoma closed loopholes in its registration laws allowing regis-

trations by third-party agents. Later this year, the Oklahoma Tax Commission implemented new rules in compliance with the IRP provisions. Since that time, the IRP sanctions have been partially lifted, but investigations have continued.

According to Alabama Commissioner of Revenue Cynthia Underwood, the partial lifting of sanctions does not resolve Alabama's IRP issues regarding improper Oklahoma IRP registrations.

"Because the state of Oklahoma has not rescinded its illegal registrations for the current year, thousands of improper Oklahoma registrants continue to travel across the country. Alabama-based motor carriers refusing to register their vehicles under Alabama IRP registrations will face possible citations and fines, if convicted, up to \$500 per offense," warned Underwood.

To assist any improperly registered Alabama-based motor carrier in obtaining Alabama IRP registration credentials, the department will allow any improperly registered motor carrier to exchange its current Oklahoma IRP license plate for an Alabama IRP license plate, having the same registration period.

"No additional Alabama IRP registration fees will be charged for an unexpired Oklahoma license plate. The registrant will not have to seek a refund of IRP fees paid to the state of Oklahoma. The process will simply be a swap—an Alabama plate and cab card for an unexpired Oklahoma plate and cab card. However, an issuance fee of \$1.75 per vehicle will be charged and any Alabama property taxes and sales taxes determined to be due must be paid before an Alabama IRP license plate and cab card will be issued," explained Underwood.

"Over the past three years, Alabama has experienced a decline in approximately 3,000 IRP vehicle registrations. This decline spills over into other critical tax revenue areas such as property and sales tax mainly because in Alabama, the IRP registration is

linked directly to the collection of sales/use tax and property taxes on vehicles and equipment operated by the motor carrier. Licensing officials must obtain proof of payment of the taxes before the vehicles and/or equipment can be registered. By evading IRP registration in Alabama, registrants may also evade Alabama property and sales/use taxes as well," added Underwood.

To qualify for the license plate exchange, the motor carrier must:

- Have an established place of business located in Alabama or be an owner-operator that leases a vehicle or vehicles to a motor carrier that has an established place of business in Alabama.
- Complete and file IRP Schedules "A," "B," and "E."
- Provide current Alabama property tax receipts from the county in which the registrant's fleet is based.
- Provide sales invoices or county tax receipts reflecting the payment of sales or use taxes.
- Provide a copy of each title application or certificate of title.
- Provide proof of payment or exemption of the federal heavy vehicle use tax (IRS Form 2290) for each power unit to be registered at 55,000 lbs. or more.
- Provide current license plate and cab card.
- Pay the IRP issuance fee of \$1.75 per vehicle.

Alabama IRP applications and forms are available in Montgomery at the department's IRP Office, located in Room 1239 of the Gordon Persons Building. Applications and forms may also be obtained at all Alabama county courthouses and all Alabama Department of Revenue Taxpayer Service Centers. Applications and forms may also be downloaded from the department's Web site at www.ador.state.al.us.

For more information concerning Alabama IRP registration requirements, contact the Alabama Department of Revenue IRP Office at (334) 242-2999, Monday through Friday, 8 a.m. through 4 p.m. CDT.

ADOR Joins Federal Refund Offset Program

During the October and November, the Alabama Department of Revenue sent notices to over 60,000 delinquent Alabama taxpayers informing them of the department's intent to seize their 2002 federal income tax refunds and apply their refunds to their state tax debts during the upcoming tax-filing season.

According to State Revenue Commissioner Cynthia Underwood, the 60,000 mailed notices represent over \$11 million in unpaid Alabama individual income taxes, the majority of which are admitted individual income tax liabilities.

"We have some taxpayers who file

their returns on time, but simply do not pay if they owe additional taxes. They sign their returns declaring that additional taxes are due, but for whatever reason, they do not pay the state taxes owed," explained Underwood.

Taxpayers received the department's *Notice of Intent to Offset Federal Refund Income Tax Refunds* through certified mail, and have 60 days in which to pay their state tax debts. If they fail to pay their state tax debts or fail to show reason why they should not be liable for the debts, their names and other taxpayer identifying information will be forwarded to the U.S. Treasury Department's Federal Refund Off-

set Program for input into a database that will be used in the upcoming 2003 filing season.

As federal income tax returns are filed and processed during the 2003 tax-filing season, the database will cross-reference listings of delinquent Alabama taxpayers with listings of taxpayers approved to receive federal refunds. If a match is made, the Federal Refund Offset Program will flag the 2002 federal refund, inform the taxpayer of the Treasury Department's action, and forward the refund payment to the Alabama Department of Revenue to apply to the taxpayer's state tax debt. After the state tax debt has been paid, any remaining federal refund amount will be sent to the taxpayer by the U.S. Treasury Department.

According to Underwood, most of the state debts are in the \$300 range and apply to the 2001 tax year. All of the debts are final tax judgment debts, meaning all taxpayer appeal rights have expired and are now subject to collection action by the department.

Twenty-four of the 42 states levying a personal income tax participated in the U.S. Treasury Department's Federal Refund Offset Program last year. The 2003 filing season will be Alabama's first full year of participation in the program. According to the Financial Management Services, a branch of the U.S. Treasury Department, Idaho, Oregon, Montana, Georgia, Vermont, and Hawaii plan to join Alabama next year in the program.

Federal legislation passed by Congress in 1998 (P.L. 105-206) authorizes the federal government to offset federal tax refunds to satisfy state tax delinquencies. Statistics compiled by the Federation of Tax Administrators through September 2002, indicate that over \$112.6 million in federal tax refunds were offset last year and applied to states' tax debts.

Statement of Gross Tax Collections

FY 2002

(Oct. 1, 2001 through Sept. 30, 2002)

	FY 2002	FY 2001	% Change
Business Privilege Tax	\$ 69,106,112.32	\$ 69,693,867.11	
Gasoline	393,369,093.10	383,169,025.82	2.66
Income Tax (Corporate)	304,539,069.44	180,392,397.44	68.82
Income Tax (Ind.)	2,399,852,475.94	2,437,639,868.54	(1.55)
Motor Fuels (Diesel)	117,824,673.80	118,751,693.49	(0.78)
Oil & Gas Privilege	38,589,911.11	77,444,667.85	(50.17)
Oil & Gas Production	14,644,905.06	29,579,034.64	(50.49)
Sales	1,550,266,271.99	1,513,061,037.78	2.46
Use	197,969,004.49	199,577,587.88	(0.81)
Utility Gross Receipts	316,762,102.89	321,319,193.02	(1.42)
Subtotal (Listed Taxes)	5,402,923,620.14	5,330,628,373.57	1.36
Subtotal (Other Taxes)	660,173,830.99	602,483,450.72	9.58
Total All Taxes	\$6,063,097,451.13	\$5,933,111,824.29	2.19

Required Monthly Returns Tax Activity

- 10th**
- Medicaid-related tax return and payment due for nursing facilities.
 - Tobacco use tax return and payment due.
- 15th**
- Gasoline information return due from carriers, transporters, and warehouses.
 - Lubricating oils information return due from carriers, transporters, and warehouses.
 - Motor carrier mileage tax return and payment due.
 - Oil and gas production tax and privilege tax return and payment due two months following month of production.
 - Withholding return and payment due from those employers required to remit on a monthly basis.
- 20th**
- Aviation fuel tax return and payment due.
 - Cellular telecommunication services tax return and payment due.
 - Coal severance tax return and payment due.
 - Coal transporters' and purchasers' returns due.
 - Contractors' gross receipts tax return and payment due.
 - Gasoline tax return and payment due.
 - Iron ore severance tax return and payment due.
 - Local solid minerals tax returns and payments due.
 - Lodgings tax return and payment due.
 - Lubricating oils tax return and payment due.
 - Medicaid tax return and payment due from pharmaceutical service providers.
 - Motor fuel tax return and payment due.
 - Pari-mutuel pool tax return and payment due.
 - Rental or leasing tax return and payment due.
 - Sales tax (state and local) return and payment due.
 - Tobacco tax (state and county) return and payment due.
 - Underground and aboveground storage tank trust fund charge due.
 - Use tax return and payment due.
 - Utility gross receipts tax return and payment due.
- 30th**
- Hazardous waste fee return and payment due.

Last day of

month • State horse wagering fee return and payment due.

Quarterly/Annual Tax Activity

(December '02, January, February, March 2003)

December

- 15**
- Fourth installment of estimated corporate income tax due (for calendar-year taxpayers).
- 31**
- Ad valorem tax on real and personal property delinquent after this date.
 - Expiration of the previous calendar year's motor fuel identification markers.

January

- 1**
- Quarterly Dry Cleaning Trust Fund fee return and payment due.
 - Utility license (2.2%) second quarterly payment due.
- 15**
- Fourth installment of estimated personal income tax due.
- 20**
- Quarterly sales tax return and payment due.
 - Annual sales tax return and payment due.
 - Quarterly use tax return and payment due.
 - Annual use tax return and payment due.
 - Quarterly rental or leasing tax return and payment due.
 - Annual rental or leasing tax return and payment due.
- 30**
- Forest products' severance tax return and payment due.
- 31**
- Quarterly withholding return and payment due from employer.
 - Quarterly IFTA tax return and payment due.

February

- 28**
- Annual withholding return due.

March

- 1**
- Freight line equipment return due.
 - Public utility property tax return delinquent after this date.
- 15**
- Corporate income tax return and information return due (for calendar-year taxpayers.)
 - Business Privilege Tax return (Form PSA) due for corporations.

IRS Interest Rate To Remain at 6% for Quarter Beginning Oct. 1, 2002

The quarterly interest rate for the calendar quarter beginning Oct. 1, 2002, will remain at six percent (6% APR) for underpayments, according to Internal Revenue Service News Release No. 2002-95.

According to §40-1-44, **Code of Alabama 1975**, the Alabama Department of Revenue will calculate interest on underpayments and overpayments (where applicable) at this same annual rate (6%), with the exception of land sold by the state for taxes, which shall be calculated at 12% as provided for under Sec. 40-5-9.

Administrative Rules

Effective Nov. 14, 2002

Adopted:

810-7-1-.13 Procedures for Taxing Snuff, Moist Snuff (Roll Snuff) and Smokeless Tobacco (Tobacco Similar in Composition to Snuff)

Interest Rates By Calendar Quarter

(Established by: 26 USCA §6621; §40-1-44, Code of Alabama 1975)

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
1982	20%	20%	20%	20%
1983	16%	16%	11%	11%
1984	11%	11%	11%	11%
1985	13%	13%	11%	11%
1986	10%	10%	9%	9%
1987	9%	9%	9%	10%
1988	11%	10%	10%	11%
1989	11%	12%	12%	11%
1990	11%	11%	11%	11%
1991	11%	10%	10%	10%
1992	9%	8%	8%	7%
1993	7%	7%	7%	7%
1994	7%	7%	8%	9%
1995	9%	10%	9%	9%
1996	9%	8%	9%	9%
1997	9%	9%	9%	9%
1998	9%	8%	8%	8%
1999	7%	8%	8%	8%
2000	8%	9%	9%	9%
2001	9%	8%	7%	7%
2002	6%	6%	6%	6%

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