

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JAMES M. YATES,

Appellant

v.

DIRECTOR OF REVENUE.

Respondent

DOCKET NUMBER WD69876

DATE: February 24, 2009

Appeal From:

Administrative Hearing Commission

Appellate Judges:

Division Three: James M. Smart, Jr., P.J., Joseph M. Ellis, and James Edward Welsh, JJ.

Attorneys:

James M. Yates, Chesterfield, MO

Appellant Acting Pro Se,

Attorneys:

James R. Layton, Jefferson City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JAMES M. YATES, Appellant, v.
DIRECTOR OF REVENUE, Respondent**

WD69876

County

Before Division Three Judges: Smart, Jr., P.J., Ellis, and Welsh, JJ.

James M. Yates seeks judicial review of a decision by the Administrative Hearing Commission finding that Yates was a resident of Missouri during 2000 and was, therefore, liable for state income tax, additions to tax pursuant to section 143.741.1, RSMo 2000, and interest. Yates contends that, because he was a resident of Illinois in 2000, he did not owe Missouri income tax. He also contends that he is not liable for a twenty-five percent addition to tax because he acted in good faith and not with willful neglect in not filing a Missouri income tax return.

AFFIRMED.

Division Three holds:

(1) The evidence established that Yates was an owner of a house in Missouri, that he used the Missouri address for official correspondence, and that, although he worked in Chicago during the week, he returned "many times" to Missouri on weekends. Yates never renounced Missouri as his domicile and took up another in its stead. The Commission's decision that Yates was a Missouri resident and subject to Missouri income tax in 2000 was authorized by law and supported by competent and substantial evidence upon the whole record.

(2) Yates's difficulty in filing a joint return after his divorce became final in January 2002, does not explain why a 2000 state tax return was not filed by the due date. Yates knew that he had an obligation to file joint federal and state income tax returns for 2000 with his wife as required by the divorce decree. Yates complied with that obligation by filing a joint 2000 federal income tax return, but he did not file a 2000 state income tax return at that time. The Commission's decision that Yates's failure to file a Missouri 2000 income tax return was not in good faith and that, therefore, he was subject to a twenty-five percent addition to tax pursuant to section 143.741.1, RSMo, was authorized by law and supported by competent and substantial evidence.

Opinion by: James Edward Welsh, J.

February 24, 2009

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