

CRIMINAL TAX OFFENSES

Attempt to evade or defeat tax - "Tax Evasion"

Section 40-29-110, Code of Alabama 1975

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 (\$500,000 in the case of a corporation), or imprisoned not more than five years, or both.

Willful failure to collect or pay over tax.

Section 40-29-111, Code of Alabama 1975

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

Willful failure to file return, supply information, or pay tax.

Section 40-29-112, Code of Alabama 1975

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return (other than a return required under Section 40-18-82), keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than one year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under subsections (a) and (b) of Section 40-18-80 with respect to such failure.

Fraudulent statement or failure to make statement to employees.

Section 40-29-113, Code of Alabama 1975

In lieu of any other penalty provided by law (except the penalty provided by Section 40-29-75) any person required under the provisions of Section 40-18-75 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under Section 40-18-75, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than \$1,000, or imprisoned

not more than one year, or both.

Fraudulent withholding exemption certificate or failure to supply information.

Section 40-29-114, Code of Alabama 1975

Any individual required to supply information to his employer under Section 40-18-73 who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under Section 40-18-73 shall, in lieu of any other penalty provided by law, upon conviction thereof, be fined not more than \$500, or imprisoned not more than one year, or both.

Fraud and false statements.

Section 40-29-115, Code of Alabama 1975:

(a) Any person who: (1) **DECLARATION UNDER PENALTIES OF PERJURY.** - Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or (2) **AID OR ASSISTANCE.** - Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the state revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or (3) **FRAUDULENT BONDS, PERMITS, AND ENTRIES.** - Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of this title, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or (4) **REMOVAL OR CONCEALMENT WITH INTENT TO DEFRAUD.** - Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Section 40-29-23, with intent to evade or defeat the assessment or collection of any tax imposed by this title; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than three years, or both. (b) It shall be unlawful for anyone to falsify or misrepresent the correct residence address of the owner or the correct address of the business location, of an automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer with the intent to avoid municipal or county ad valorem, sales or use tax in any county or municipality in which the owner resides, or in which the business owner of such vehicle or trailer is subject to tax. Violation of this subsection shall be a Class C misdemeanor.

Fraudulent returns, statements, or other documents.

Section 40-29-116, Code of Alabama 1975

Any person who willfully delivers or discloses to the commissioner or his delegate any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than one year, or both. Any person required pursuant to this title to furnish any information to the commissioner or his delegate who willfully furnishes to the commissioner or his delegate any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than one year, or both.

Failure to obey subpoena.

Section 40-29-117, Code of Alabama 1975

Any person who, being duly subpoenaed to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under subdivisions (7) and (8) of Section 40-2-11, or any other section in this title requiring the production of information, neglects or fails to appear without cause or to produce such books, accounts, records, memoranda, or other papers without cause, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than one year, or both.

Attempts to interfere with administration of state revenue laws; taxpayer protection from harassment.

Section 40-29-118, Code of Alabama 1975

(a) **Corrupt or forcible interference.** - Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the State of Alabama acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than three years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than one year, or both. The term "threats of force," as used in this subsection, means threats of bodily harm to the officer or employee of the State of Alabama or to a member of his family.

(b) **Forcible rescue of seized property.** - Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than \$500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than two years.

(c) **Intimidation or harassment of taxpayer; "threats of force" defined.** - Any employee of the state Department of Revenue acting in an official capacity under the provisions of this title who by unlawful force or threats of force endeavors to intimidate or harass a taxpayer, upon determination by a special board to be

appointed by the state Personnel Department that the charge is valid, shall be subject to immediate dismissal, and upon such dismissal may be subject to such penalties as provided under this section. The term "threats of force" as used in this subsection means threats of bodily harm to the taxpayer or to a member of his family.

Periods of limitation on criminal prosecutions.

Section 40-29-119, Code of Alabama 1975

No person shall be prosecuted, tried, or punished for any of the various offenses arising under the revenue laws unless the indictment is found or the prosecution instituted within three years next after the commission of the offense, except that the period of limitation shall be six years: (1) For offenses involving the defrauding or attempting to defraud the State of Alabama or any agency thereof, whether by conspiracy or not, and in any manner; (2) For the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof; (3) For the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the statute revenue laws, of a false or fraudulent return, affidavit, claim or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document); (4) For the offense of willfully failing to pay any tax, or make any return at the time or times required by law or regulations; (5) For offenses described in Sections 40-29-115 and 40-29-116 (relating to false statements and fraudulent documents); (6) For the offense described in Section 40-29-118 (relating to intimidation of officers and employees of the State of Alabama). The time during which the person committing any of the various offenses arising under the revenue laws is outside the State of Alabama or is a fugitive from justice within the meaning of the Code of Alabama, shall not be taken as any part of the time limited by law for the commencement of such proceedings.

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