

REL: 11/21/2012

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0649), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2012-2013

1111190

Ex parte State of Alabama Department of Revenue

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF CIVIL APPEALS

(In re: State of Alabama Department of Revenue

v.

HealthSouth Corporation et al.)

(Jefferson Circuit Court, CV-09-902941;
Court of Civil Appeals, 2100330)

STUART, Justice.

1111190

The State of Alabama Department of Revenue ("the Department") petitioned this Court for a writ of certiorari to review the Court of Civil Appeals' no-opinion affirmance of the circuit court's judgment awarding HealthSouth Corporation and related entities (hereinafter referred to collectively as "HealthSouth") refunds of Alabama income tax it had overpaid for the 1996, 1997, and 1998 tax years and awarding interest on those refunds. See State Dep't of Rev. v. HealthSouth Corp. (No. 2100330, March 2, 2012), ___ So. 3d ___ (Ala. Civ. App. 2012) (table). We granted the writ.

Before oral argument was conducted in this case, HealthSouth, in a letter to this Court, withdrew its claim to interest on the refunds of the income taxes it had overpaid. During oral argument, HealthSouth conceded that it was not entitled to interest on those refunds. Therefore, we reverse the judgment of the Court of Civil Appeals insofar as it affirms the circuit court's award of interest to HealthSouth on the income-tax refunds.

After reviewing the record and considering the applicable law, we quash the writ insofar as the petition asked us to decide whether the Court of Civil Appeals had erred in

1111190

affirming the circuit court's judgment awarding HealthSouth refunds of its overpaid Alabama income tax for the subject years.

Based on the foregoing, the writ is quashed in part; the judgment of the Court of Civil Appeals is reversed in part; and this case is remanded for the Court of Civil Appeals to reverse the circuit court's judgment insofar as it awards HealthSouth interest on the refunds of overpaid income taxes it had ordered the Department to pay HealthSouth and to remand the cause to the circuit court with instructions to vacate the portion of its judgment awarding HealthSouth interest on the refunds.

WRIT QUASHED IN PART; JUDGMENT REVERSED IN PART; AND REMANDED WITH DIRECTIONS.

Malone, C.J., and Woodall, Bolin, Parker, Shaw, and Wise, JJ., concur.

Murdock, J., dissents.