

STATE OF MAINE
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS
DOCKET NO. BTA-2016-2

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer (the “Taxpayer”)] appeals from Maine Revenue Services’ (“MRS’s”) estimated assessment of Maine individual income tax, interest, and penalties for tax years [year 1] and [year 2] in the original total amount of \$[amount].¹ [The Taxpayer] contends that most of his liability for Maine income tax for those years has been satisfied through income tax withholding by his employers, and that the assessment is therefore overstated. Because insufficient evidence has been presented in support of [the Taxpayer]’s contention, however, we uphold the assessment as adjusted by MRS on reconsideration.

I. Background

At all relevant times, [the Taxpayer] was a resident individual of the State of Maine. Because [the Taxpayer] did not timely file Maine income tax returns for [year 1] and [year 2], MRS first requested, and then demanded, that he file them. When [the Taxpayer] did not respond to MRS’s filing demand, MRS issued an estimated income tax assessment for the period at issue based upon the best information available, including information provided to MRS by the Internal Revenue Service. The estimated assessment included credit for income tax

¹ On reconsideration, MRS recomputed the assessment for tax year [year 2] to allow for certain business expense deductions, reducing [the Taxpayer]’s Maine tax liability for that year by \$[amount].

withholding of \$[amount] for [year 1], leaving a tax balance due for that year. No further evidence of income tax withholding has been presented for either tax year at issue. The assessment also included interest computed from the respective dates the returns were due, as well as failure-to-file penalties. For tax year [year 2], the assessment also included a penalty for failing to pay estimated tax.

In his statement of appeal, [the Taxpayer] explained that he had misplaced his documentation that showed his claimed income tax withholding, but was working to obtain replacement copies of the documents from his employers. [The Taxpayer] did not request an Appeals Conference, opting instead to have his appeal considered solely on written materials submitted. 18-674 C.M.R. ch. 100, § 106(6) (2014). A case management conference was held, at which [the Taxpayer] and MRS were provided time within which to submit argument and evidence in support of their respective positions on appeal. MRS responded that it had no additional information supporting further adjustment of the assessment, while [the Taxpayer] did not submit any additional argument or evidence.

The sole issue on appeal is whether the assessment, as reduced by MRS on reconsideration, is overstated. [The Taxpayer] has the burden to show that it is more likely than not that the assessment is incorrect. 36 M.R.S. § 151-D(10)(F).

II. Discussion

Annually, Maine income tax is imposed “on the Maine taxable income of every resident individual of this State.” 36 M.R.S. § 5111. If an individual has a Maine income tax liability in a taxable year, the individual is required to make and file a Maine income tax return for that year. *Id.* § 5220(1). If the individual does not file the required return, MRS may assess an estimated tax liability based upon the best information otherwise available, and such an assessment is prima facie evidence of the tax liability for the period in question. *Id.* § 141(2)(C).

An individual who fails to file a Maine tax return within 60 days of receiving a formal demand from MRS is subject to a penalty of “\$25.00 or 25% of the tax due, whichever is greater.” *Id.* § 187-B(1)(B). Under section 187-B(7), MRS is required to waive or abate the failure to file penalty if the individual establishes “grounds constituting reasonable cause” or if MRS “determines that grounds constituting reasonable cause are otherwise apparent.”

An individual subject to Maine income tax is also required to make quarterly payments of the amount of tax that the person estimates to be due for the taxable year. *Id.* § 5228(2). The failure to make estimated payments as required by section 5228 is subject to penalties, which may be waived or abated “for cause.” *Id.* § 5228(5).

Finally, an individual who fails to pay a tax when due is liable for interest on the unpaid amount. *Id.* § 186. Interest may be waived or abated if the failure to pay the tax “is explained to the satisfaction” of MRS. *Id.*

In the present case, [the Taxpayer] did not timely file his Maine income tax returns for the period at issue, and did not file them within the additional period contained in MRS’s filing demand, resulting in failure-to-file penalties being imposed. Although [the Taxpayer] explained that additional Maine income tax was withheld by his employers for the subject years but was not credited in the assessment, he did not provide any documentary or other evidence of this for consideration on appeal. Consequently, [the Taxpayer] has not shown that the estimated assessment, as adjusted by MRS on reconsideration, is incorrect. Additionally, he has not shown that the penalty for failing to pay estimated tax was not correctly imposed, and has not adequately explained why interest on the unpaid tax balance is not due. Based on the evidence presented, we uphold the assessment as adjusted on reconsideration by MRS. No basis for further adjustment has been presented.

III. DECISION

[the Taxpayer] has not shown that he is entitled to credit, beyond that already contained in the assessment, for Maine income tax withheld by his employers for the period at issue. Also, he has also not shown that the penalties and interest contained in the assessment are not warranted. Accordingly, we uphold the assessment as previously adjusted on reconsideration by MRS.

The Board may, in limited circumstances, reconsider its decision on any appeal. If either party wishes to request reconsideration, that party must file a written request with the Board within 20 days of receiving this decision. Contact the Appeals Office at 207-287-2864 or see the Board's rules, available at <http://www.maine.gov/boardoftaxappeals/lawsrules/>, for more information on when the Board may grant reconsideration. If no motion for reconsideration is filed within 20 days of the date of this proposed decision, it will become the Board's final administrative action. If either party wishes to appeal the Board's decision in this matter to the Maine Superior Court, that party must do so within 60 days of receiving this decision. During the 60-day period in which an appeal may be filed with the Superior Court, [the Taxpayer] may contact Maine Revenue Services at 207-624-9725 for the amount of tax that is currently due, together with any interest or penalties owed. After that 60-day period has expired, Maine Revenue Services will contact [the Taxpayer] with an updated amount of tax and any interest or penalties due at that time.

Issued by the Board: July 21, 2016