

STATE OF MAINE
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS
DOCKET NO. BTA-2017-8

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer, the “Taxpayer,”] appeals from an assessment of Maine individual income tax, interest, and penalties for tax years [year 1] and [year 2], arguing that the assessment is overstated. We adjust the assessment and uphold it as adjusted.

I. Background

At all relevant times, [the Taxpayer] was a Maine resident individual. When [the Taxpayer] did not timely file Maine tax income returns for [year 1] and [year 2], Maine Revenue Services (“MRS”) first requested, and then demanded that he file them. When [the Taxpayer] did not respond to MRS’s filing demand within the 60-day timeframe provided, MRS issued an estimated assessment of Maine income tax, interest, and penalties against him for both years in the total amount of \$[amount], based upon the best information available, including information provided to MRS by the Internal Revenue Service.

[The Taxpayer] timely requested that MRS reconsider the amounts contained in the assessment for both years, and he subsequently submitted a [year 1] Maine income tax return

reporting a substantially reduced [year 1] tax amount. On reconsideration, MRS reduced the assessment of tax and interest for [year 1], and reduced the assessment of penalties for both years, for a total assessment of \$[amount] after reconsideration.

[The Taxpayer] argues on appeal that the tax amount contained in the reconsidered assessment should be further reduced and that the related interest and penalties amounts should be abated. In support of his position, [the Taxpayer] explained that he had been working out-of-state and had misplaced certain, unspecified documentation. Although [the Taxpayer] was provided time within which to submit additional argument and evidence, he presented nothing further. It is [the Taxpayer]’s burden to show that the assessment, as adjusted on reconsideration, 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).

A. Assessment of Tax

Although [the Taxpayer] complains that the reconsidered estimated assessment for [year 1] and [year 2] is incorrect, he did not provide evidence or argument on appeal supporting his position. [The Taxpayer] has not shown that the assessment of tax as computed by MRS for either [year 1] or [year 2] was incorrect. No further adjustment to the assessed tax amount is warranted.

B. Penalties

MRS is required to cancel or abate the type of penalties imposed in this case for reasonable cause.¹ [The Taxpayer] has not established any of the enumerated grounds for abatement under section 187-B(7). By letter dated [date], however, MRS advised the Appeals Officer that the failure-to-pay penalty contained in the reconsidered assessment for tax year [year 1] should be cancelled. The Board agrees that that penalty was incorrectly imposed. 36 M.R.S. § 187-B(2)(A). The failure-to-pay penalty for [year 1] in the amount of \$[amount] is hereby cancelled, and the reconsidered assessment is adjusted accordingly. Because no evidence supporting further abatement of penalties has been presented, no other adjustment is warranted.

C. Interest

[The Taxpayer] also seeks abatement of the assessed interest amounts. Interest accrues automatically on the amount of tax due, calculated from the last date prescribed for payment, and is compounded monthly. 36 M.R.S. § 186. MRS may waive the interest if the failure to pay the

¹ Reasonable cause includes, but is not limited to, the following circumstances:

- A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services;
- B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;
- C. The failure to file or pay resulted directly from a natural disaster;
- D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;
- E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;
- F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or
- G. The amount subject to a penalty imposed by subsection 1, 2, 4-A, or 5-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

36 M.R.S. § 187-B(7).

tax at issue “is explained to the satisfaction” of MRS. *Id.* As recognized by the Maine Law Court, the interest requirement

supports the reasonable purpose that the investment value of money retained by late payment of taxes should benefit the State, not the individual or entity that delayed payment. However, “[i]f [a taxpayer's] failure to pay a tax when required is explained to the satisfaction of [MRS], [MRS] may abate or waive the payment of all or any part of that interest.” 36 M.R.S. § 186. This statutory language indicates legislative intent to confer upon [MRS] broad discretion to waive or abate the interest due on an unpaid tax when the delayed payment is satisfactorily explained.

Victor Bravo Aviation, LLC v. State Tax Assessor, 2012 ME 32 ¶ 8, 39 A.3d 65. The language of section 186 “indicates a highly discretionary standard that is not easily met by the taxpayer.” *Id.* ¶ 14. Here, [the Taxpayer] has not met his burden of explaining satisfactorily his failure to pay when due the amounts of Maine income tax he owed for either tax year [year 1] or [year 2]. Consequently, no abatement of interest is warranted.

III. DECISION

On appeal, we cancel the failure-to pay penalty for tax year [year 1], in the amount of \$[amount], and we otherwise uphold the reconsidered assessment for tax years [year 1] and [year 2] in full. As adjusted on appeal, the reconsidered assessment is for tax of \$[amount], penalties of \$[amount], and interest of \$[amount]. We note that interest continues to accrue on the unpaid tax and interest portions of the reconsidered assessment.

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: October 3, 2017