

TAX APPEAL BOARD OF THE STATE OF DELAWARE

SHAILESH K. LAD and SWARALI LAD,)
)
 Petitioners,)
)
 v.) Docket No. 1719
)
 DIRECTOR OF REVENUE)
)
 Respondent.)

BEFORE: Todd C. Schiltz, Esq., Chairman, Steven R. Director, Vice-Chairman,
Joan M. Winters, CPA, and Sindy Rodriquez and Robert Slavin,
Members

Shailesh K. Lad and Swarali Lad, *pro se*, for Petitioners

Edward M. Black, Esq., Deputy Attorney General, for Respondent

DECISION AND ORDER

The issue before the Board is whether the petitioners (the “Taxpayers”) timely protested the notice of proposed assessment issued by the Director of Revenue (the “Director”). The Board concludes the Taxpayers did not timely protest and, as a result, the proposed assessment became final and the Director is entitled to judgment on the pleadings.

On October 30, 2017, the Director sent the Taxpayers a notice of proposed assessment related to the failure to file a timely tax return for 2016 and an underpayment of estimated taxes. *See 30 Del. C. § 521(c)*. The notice proposed

the assessment of interest and penalty. In pertinent part, Title 30, Section 522 of the Delaware Code states:

Sixty days after the date on which it was mailed ..., a notice of proposed assessment ... shall constitute a final assessment of the amount of tax, interest, penalties, additional amounts and additions to the tax specified in such notice, excepting only those amounts as to which the taxpayer has filed a timely protest with the Director under § 523 of this title.

In pertinent part, Title 30, Section 523 of the Delaware Code states:

Within 60 days ... after the date of the mailing of a notice of proposed assessment ..., the taxpayer may file with the Director a written protest against the proposed assessment or disallowance in which the taxpayer shall set forth the grounds upon which the protest is based.

Under these statutory provisions, if a taxpayer does not protest a proposed assessment within sixty days of the mailing of the notice of proposed assessment, then the proposed assessment becomes “a final assessment of the amount of tax, interest, penalties, additional amounts and additions to the tax specified in such notice....” 30 *Del. C.* § 522.

On February 8, 2018, the Taxpayers filed a protest of the proposed assessment with the Director. On March 29, 2018, the Director issued a notice of determination pursuant to 30 *Del. C.* § 524 denying the protest in full on the ground that it was untimely. This appeal followed.

The Director mailed the notice of proposed assessment on October 30, 2017. The Taxpayers filed a protest of the proposed assessment with the Director on

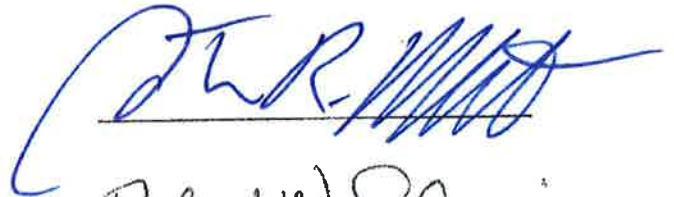
February 8, 2018. February 8, 2018 is more than sixty days after October 30, 2017, and the protest was untimely. As a result, the October 30, 2017 proposed assessment became "a final assessment of the amount of tax, interest, penalties, additional amounts and additions to the tax specified in such notice...." 30 Del. C. § 522.


For the foregoing reasons, the Board grants the Director's motion for judgment on the pleadings.











SO ORDERED this 25th day of September, 2018.