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TAX APPEAL BOARD OF THE STATE OF DELAWARE

DAVID S. MARSHALL,)
)
 Petitioner,)
)
 v.) Docket No. 594
)
DIRECTOR OF REVENUE,)
)
 Respondent.)

Before: Joseph S. Yucht, Esquire, Vice-Chairman; Cyric
 W. Cain, Jr., Rhett Mc Griff, and Nettie C.
 Reilly, Board Members

David S. Marshall, pro se

Marjory Stone Levine, Esquire, Special Counsel for Respondent.

DECISION AND ORDER

Joseph S. Yucht, Esquire, Vice-Chairman: Petitioner is an individual with residence at 7 Croyden Road, Glendale, Newark, Delaware 19711. The taxes in controversy are for the calendar years 1965, 1966, 1967, 1969, 1971 and 1973. Petitioner admitted that he filed his State Income Tax Returns for the aforesaid years late and apparently did likewise on his Federal returns. He does not dispute that the amount of taxes due as computed by the Respondent is true and correct. Petitioner objects to paying the interest and penalties computed by Respondent to be due since he has

been out of work since February, 1975, and will be under a tremendous strain for he also is paying off the Federal taxes for the same period.

Petitioner stated he had no excuse for the non-payment of said taxes and requested that the Tax Appeal Board "drop the interest and penalties" and he further indicated that he would then begin to pay these "overdue taxes". No payments had been made by Petitioner on account of said taxes as of the date of the hearing.

The Board concluded that since Petitioner did not dispute the amount of taxes due, the computation made by Respondent would be correct as to the amount of the personal income tax due for the aforesaid years. The penalties imposed by the Respondent were computed in accordance with the applicable laws of the State of Delaware and accordingly are also found to be correct. The interest imposed by the Respondent was also computed in accordance with the applicable laws of the State of Delaware and accordingly is found to be correct. The fact that Petitioner did not file his tax returns timely for the aforementioned tax years is the basis for the imposition of said penalties and interest and said interest is to continue to be computed until the taxes are paid. The

claim that Petitioner is out of work or does not have sufficient funds to pay his taxes does not permit this Board to abate, negate nor forgive the penalties and/or interest due.

Accordingly Petitioner's claim for relief from paying the penalties and interest as aforesaid is denied.

IT IS SO ORDERED.

Dated: October 15, 1975

SYNOPSIS

DOCKET NO. 594

TAX SEGMENT: PERSONAL INCOME TAX

ISSUE: Taxpayer filed returns for 1965, 1966, 1967, 1969, 1971, and 1973 late. He did not dispute that the amount of taxes as computed was correct but objected to the payment of interest and penalties on the basis that he had been unemployed since February, 1975 and the payments would be a tremendous strain as he had not paid the Federal tax.

Petitioner admits he had no excuse for not filing but if the Tax Appeal Board would drop the interest and penalties he would begin to pay the overdue taxes. No payment had been made to the date of hearing.

TAB DECISION: The Tax Appeal Board concluded that the computations of overdue taxes and the imposition of interest and penalties by the Respondent were in accordance with the applicable law of the State of Delaware. The claim of the Petitioner that he was unemployed and did not have sufficient funds to pay his taxes, however, did not permit the Board to abate, negate nor forgive the penalties and/or interest due.

DECISION: For Respondent

DECISION DATE: October 15, 1975