



3:15 p.m. The purpose of this call was to request the form for an Extension of Time to File Return. The Petitioners gave the clerk their names and address so that the form could be mailed.

E. Petitioners then inquired of the clerk as to whether or not the form would be required if they expected to receive a refund. The clerk put Petitioners on "hold" and then returned in about three minutes telling them that "it was not necessary to file for an extension, if a refund was expected". The Petitioners then asked the clerk for a name they could quote. The clerk's reply was "Public Service Supervisor".

F. Petitioners never received via the mail the proper form for requesting a refund in 1980. As a result, Petitioners formed the belief that the request for extension was not important, if a refund was expected.

G. Petitioners on proper forms requested an extension of time to file Federal Income Tax Returns for tax years 1980 and 1981.

H. Petitioners filed their Federal and State Income Tax Returns for tax year 1982 on time.

Petitioners contend that they were misled by the Taxpayer Assistance Unit in 1980 when they did not get a form for filing an extension when they expected a refund. They then assumed that if you did not need to file a form for an extension when you expect a refund, then you need not file a form for an extension if you owe additional taxes. This conclusion is erroneous. Petitioners did not even attempt to calculate whether or not they were entitled to a refund as of the filing date. They only assumed they would get a refund because in prior years they received refunds.

Every taxpayer has a duty and an obligation to make the

computations necessary to see whether or not he owes any taxes. If the taxpayer owes any taxes and does not pay them timely or obtain an extension of time to file late, then the taxpayer owes a penalty as stated in the law. Any miscalculation as to whether you owe taxes or are to receive a refund will result in the assessment of a penalty if the taxpayer owes taxes, does not obtain an extension and files and pays late.

The Notice of Assessment dated September 2, 1982 is hereby affirmed.

IT IS SO ORDERED.

James W. ...  
Pattie C. ...  
John W. ...  
Wanda ...

Dated: June 14, 1985

SYNOPSIS

DOCKET NO. 791

TAX SEGMENT:           PERSONAL INCOME TAX

ISSUE:                   Whether or not a taxpayer receiving refunds in prior years for Personal Income taxes who fails to obtain an Extension of Time, files and pays taxes due late is subject to penalties imposed pursuant to the provisions of §1194 (a).

TAB DECISION:           The Tax Appeal Board held that it is the duty and obligation of a taxpayer to make calculations to determine whether taxes are due and; therefore, any miscalculation will result in the assessment of penalty if the taxpayer owes taxes, does not obtain an Extension of Time, files and pays taxes due late in accordance with the provisions of the law, §1194, Chapter 11, 30 Del. C.

DECISION:               For Respondent

DECISION DATE:         June 14, 1985