



for failure to pay gross receipts tax on revenue received as an auctioneer for the year 1976 in the amount of \$229.68, plus interest of \$175.72, plus penalty of \$229.68, totaling \$635.08.

4. Proposed assessment against Wilson Auction Sales, Inc. for failure to pay gross receipts tax on revenue received as an auctioneer from March, 1977 thru September, 1982 in the amount of \$3,535.34, plus \$1,085.26 interest, plus penalty of \$2,986.77, totaling \$7,607.37.

The Petitioners did not agree to the proposed assessments and filed an appeal with this Board.

The Petitioners contended that during the periods in question they relied on their accountant to take care of all the paper work connected with their business and the taxes imposed thereon. They stated that they or someone on their behalf requested that the appropriate forms be sent them by the Division of Revenue, but they never received them timely.

The Respondent's witnesses testified to numerous contacts with the Petitioners, but still the returns were not filed. In addition, Respondent's witnesses testified as to the practice of Respondent in complying with requests for forms. After hearing all the evidence, the Board determined that the following findings were made as to the facts:

1. David L. Wilson and Carolyn D. Wilson were engaged in the business of commercial lessor from March 31, 1978 thru September 30, 1982 and had gross receipts during that period of time.
2. David L. Wilson and Carolyn D. Wilson did not obtain a commercial lessor license for the years 1978, 1979, 1980, 1981, and 1982.
3. David L. Wilson acted as an auctioneer during the year 1976 and did not pay any gross receipts tax on his revenue received for such activity.
4. Wilson Action Sales, Inc. was engaged in the

business of an auctioneer from March, 1977 thru September, 1982 and did not pay gross receipts taxes on the revenue received for such activity.

As a result of these findings we concluded that the proposed assessments of the Respondent for additional taxes due plus interest thereon were proper and we so hold.

The Division of Revenue of the State of Delaware has thousands of taxpayers to monitor and our system of self-assessment in the initial calculation of a tax simply cannot work on any basis other than one of strict filing standards. Prompt payment of taxes is imperative to the government, which should not have to assume the burden of unnecessary ad hoc determinations. United States v. Boyle, 469 U.S. , 105 S.Ct. 687, 83 L Ed 2d 622, 630, (1985).

The Board further finds that the Petitioners have not convinced it that the penalties assessed should be abated. Their "reliance" on an accountant who did not file their returns timely because he did not have forms will not amount to reasonable cause for abatement of the penalties. As the Supreme Court of the United States said in the Boyle case:

"....one does not have to be a tax expert to know that tax returns have fixed filing dates and that taxes must be paid when they are due. In short, tax returns imply deadlines. Reliance by a lay person on a lawyer (sic) is of course common; but that reliance cannot function as a substitute for compliance with an unambiguous statute.

. . . . .

It requires no special training or effort to ascertain a deadline and make sure that it is met. The failure to make a timely filing of a tax return is not excused by the taxpayer's reliance on an agent, and such reliance is not 'reasonable cause' for a late filing under §6651(a)(1) (sic)."  
83 L Ed 2d 631, 632

For the foregoing reasons the decisions of the Director of Revenue  
are hereby affirmed.

IT IS SO ORDERED.

*Joseph Yucht, Chairman*  
*Joint Tax Appeal*  
*Board.*

Dated: March 14, 1986