

THE TAX APPEAL BOARD OF THE STATE OF DELAWARE

DANNY WILLIAMS,)
)
 Petitioner,)
)
 v.) Docket No. 814
)
 DIRECTOR OF REVENUE,)
)
 Respondent.)

BEFORE: Joseph S. Yucht, Esq., Chairman; James C. Eberly, Sr.,
Esq., Vice-Chairman; Cyric W. Cain, Jr.; Nettie C.
Reilly; Harry B. Roberts, Jr., Members

Danny Williams, pro se

Joseph Patrick Hurley, Jr., Esq., Deputy Attorney General for
Respondent

DECISION AND ORDER

Cyric W. Cain, Jr., Member: The issue to be decided in this
case is whether Petitioner timely filed his petition, and if so, does it
comply with Rule 6 of the Rules of the Tax Appeal Board.

The facts are as follows:

1. Petitioner is an individual residing in Rising Sun,
Maryland.
2. Taxes in controversy are income taxes for the years
1980, 1981 and 1982.
3. Notices of Assessment dated September 26, 1983,
citing the deficiencies were mailed to the Petitioner.

4. Petition filed by Petitioner shows it was received and clocked in by the Tax Appeal Board December 28, 1983.

5. No Notice of Assessment was attached to the petition although Petitioner alleged that it was attached.

6. Respondent filed an Answer on January 9, 1984 which contained an Affirmative Defense alleging that the petition was not timely filed and does not comply with Rule 6 of the Rules of the Tax Appeal Board.

7. On February 10, 1984, Respondent filed a Motion to Dismiss.

8. Petitioner's answer to Motion to Dismiss was filed on February 22, 1984.

9. On April 13, 1984, the Board held its hearing on Respondent's Motion to Dismiss.

The Board finds that the Notices of Assessment were dated and mailed September 26, 1983 and that the Petitioner within ninety (90) days from that date could have filed a petition for review with the Tax Appeal Board. The Petitioner did file his appeal with the Board on December 28, 1983. Thus, he did not file his appeal in accordance with the provisions of 30 Del. C., § 1203 which requires appeals to be filed within ninety (90) days from the date of the mailing of the Notice. Thus, the Board does not have jurisdiction over the matter.

The Board also finds that Petitioner has not complied with Rule 6 of the Tax Appeal Board in that his petition did not have a copy of the Notice of Assessment from the Director of Revenue attached to his petition. As a result of this deficiency, no proper or valid or sufficient petition was filed.

For the foregoing reasons we hereby grant the Respondent's Motion to Dismiss and the petition is hereby dismissed.

IT IS SO ORDERED.

*Joseph S. G...
Nathaniel C. Reilly
Cyril W. Caity
Laurie B. Roberts*

DATED: July 13, 1984

SYNOPSIS

DOCKET NO. 814

TAX SEGMENT: PERSONAL INCOME TAX

ISSUE: Whether or not Petitioner filed a timely petition, and if so, does it comply with Rule 6 of the Rules of the Tax Appeal Board.

TAB DECISION: The Tax Appeal Board held that the Petitioner did not file his petition in accordance with 30 Del. C., § 1203 and that the petition filed did not meet the requirements set forth in Rule 6 of the Rules of the Tax Appeal Board.

DECISION: For Respondent

DECISION DATE: July 13, 1984