

TAX APPEAL BOARD OF THE STATE OF DELAWARE

RONALD L. WIANT,)	
)	
Petitioner,)	
)	
v.)	Docket No. 816
)	
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

Ronald L. Wiant, 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 is whether Petitioner filed a valid petition to comply with Rule 6 of the Rules of the Tax Appeal Board.

The facts are as follows:

1. Petitioner is an individual residing in Newark, Delaware.
2. Taxes in controversy are income taxes for the years 1980, 1981, and 1982.
3. Petition filed by Petitioner was received January 18, 1984, within the time frame allotted and is not in dispute.
4. No Notice of Assessment was attached to the petition although Petitioner alleged that it was attached.

5. On February 3, 1984, Petitioner filed copies of Notice of Assessment previously omitted.

6. Respondent filed an Answer on January 23, 1984 which contained an Affirmative Defense alleging that the petition did not comply with Rule 6 of the Rules of the Tax Appeal Board in that it did not contain copies of Notices of Assessment as averred and did not contain a clear and concise statement of facts upon which Petitioner relies.

7. On March 9, 1984, Respondent filed a Motion to Dismiss.

8. Petitioner's Answer to Motion to Dismiss was filed on July 2, 1984.

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

After a review of the findings from the hearing and a careful review of the facts as presented by both the Petitioner and the Respondent, the Board rules in favor of the Respondent for the following reasons:

1. Rule 6 of the Rules of the Tax Appeal Board, Initiation of a Proceeding - Pleading, outline in paragraph form the steps necessary to begin an appeal process. Paragraph 6b states that, "Failure of a petitioner to comply with this rule or with Rule III shall be grounds for dismissal of the proceeding for failure properly to prosecute."

In relating our decision to Rule 6, the Board finds two omissions relative to the Petitioner's non-compliance.

1. Petitioner did not have a copy of the Notice of Assessment from the Director of Revenue attached to his petition.

2. There are no clear and concise Statement of Facts upon which Petitioner relies.

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

The Board previously announced in the case of Ken Houser v. Director of Revenue, Docket No. 780, that strict compliance with Rule 6 is required. The Board feels that the taxpayer either knew, or should have known about this decision and request.

IT IS SO ORDERED.

Jay S. Juch, Chairman
Jay S. Juch
Harry B. Kabeatig

DATE: October 12, 1984