

TAX APPEAL BOARD OF THE STATE OF DELAWARE

Peter J. Brownstein)
 Petitioner) Docket No. 960
 v)
Director of Revenue)
 Respondent)

Before: John H. Cordrey, Esquire, Vice Chairman; Harry B. Roberts, David C. Eppes and Regina C. Dudziec, Member.

Petitioners: Self Represented

Respondent: Jos. Patrick Hurley, Jr., Esq., Deputy Atty. Gen.

Regina C. Dudziec, Member

This case involves the assessment of a late filing charge for AFSCME taxes against the Petitioner for the year 1986.

Petitioner contends that reasonable cause existed for the late filing of taxes because he requested that his accountant in Maryland file for extensions and that while that was done for the State of Maryland and for federal taxes, it was not done for the State of Delaware and, therefore, penalties should be waived.

Respondent denies the contention.

FACTS IN THE CASE

Petitioner's accountant, Scott Smith of Bookeeping and Tax Service in Ocean City, Maryland, notified him by phone that he would be unable to complete the tax return by April 15 and that he would file for extensions. Mr. Smith did, in fact, file for extensions in the State of Maryland and on the federal return, but failed to do so in Delaware.

Petitioner indicated he thought he filed his Delaware tax return about August 15, 1987; however, Respondent presented an extension

form #4868 signed by Petitioner and dated September 15, 1987. Petitioner had no explanation for the date differences.

Petitioner indicated he was unable to confer with his accountant because he is alleged to be incarcerated.

Petitioner presented no substantive material to uphold his contention.

DISCUSSION

The issue before this Board is whether reasonable cause existed for the failure to make filings and pay appropriate taxes on a timely basis. In deciding whether reasonable cause existed, the Board has considered all the relevant facts, evidence and testimony.

The Petitioner has the burden of proof to show reasonable cause existed for his failure to file and pay his taxes in a timely fashion. At the hearing Petitioner was confused about his personal addresses during the period in question; confused about filing dates; uncertain as to other years when he may have filed Delaware taxes; and when asked if he took the time to look through his tax records before appearing at the hearing, he indicated he had not.

With no substantiation of any kind, Petitioner has failed to carry his burden of proof. This Board finds no reasonable cause demonstrated by Petitioner for his failure to timely file and pay taxes.

DECISION AND ORDER

For the reasons cited above, the Board finds for the Respondent.

IT IS SO ORDERED this 13th day of July, 1990.

Regina C. Audy

Carol K.

John H. Cordrey
