

TAX APPEAL BOARD OF THE STATE OF DELAWARE

CONSTANCE M. PLUNKETT
Petitioner)
)
v.) Docket No. 986
)
DIRECTOR OF REVENUE,)
Respondent.)

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

Petitioner: Pro Se

Respondent: Joseph Patrick Hurley, Esquire, Deputy Attorney General.

The matter before the Board in this case is the Petitioner's claim for refund regarding her 1983 Delaware Income Tax Return. Petitioner was a resident of Pennsylvania during the year in question, but was employed in Delaware. Petitioner had received a Voluntary Termination Incentive (VTI) payment from her employer in 1983 and had treated the entire amount of the distribution as taxable income on her Delaware Non-Resident Income Tax Return. Subsequently, Petitioner learned of the Delaware Supreme Court decision in Gow V. Director of Revenue, which concluded that non-resident taxpayers did not have to pay Delaware income tax on VTI payments. On May 12, 1989, Petitioner filed an amended return claiming a refund for taxes paid on the VTI payment. In its Notice of Determination, dated June 20, 1989, Respondent stated that the Statute of Limitation barred any recovery from the 1983 tax year and denied the claim for refund.

PETITIONER'S ARGUMENTS

Petitioner's arguments revolve around the perceived inequity in her being denied a refund, when other similarly situated taxpayers had received refunds.

RESPONDENT'S ARGUMENTS

Respondent argues that many other taxpayers took the necessary steps to protect their potential refund claims. The fact that Petitioner did not take the necessary steps is beyond the control of the Division. The Division has no affirmative duty to notify taxpayer's of potential refund claims. Clearly, the Statute of Limitations has tolled on this refund claim, therefore, no refund can be awarded.

DISCUSSION


The purpose of time limitation statutes is to allow for the orderly administration of laws. Without such statutes, it is conceivable that our judicial system could come to a grinding halt as claims are argued from years gone by. Limitation statutes operate to the benefit of both citizens and those charged with upholding the law. By the very nature of these laws, they have nothing to do with fairness or equity; rather they serve to draw a line in the sand and say, beyond this point, we shall not litigate.

We understand Petitioners feelings of being treated unfairly since others were able to get refunds. However, all the options that were available to those other taxpayers were also available to Petitioner, and she did not avail herself of these options. For this Board to grant her claim, we would be required to come to the conclusion that the Statute of Limitations is invalid. That is a conclusion we cannot reach.

DECISION AND ORDER

Accordingly, it is the decision of this Board that Petitioners claim for refund was filed after the end of the statutory period for filing such claims. The Director's determination is affirmed.

IT IS SO ORDERED THIS 12th day of April, 1991.



Regina C. Dudgeon

John H. Cordrey

Joseph S. Yucht
