

October 22, 2007

IN RE: **DENNIS F. MAHONEY**
DOCKET NO: **36WMREFZZ9786**

STATEMENT OF RECORD:

1. Dennis F. Mahoney (hereafter "Petitioner") filed a petition for refund with the Tax Review Board on April 3, 2006 requesting a refund of Philadelphia Wage Tax for the years 2000 and 2001.
2. A public hearing was scheduled for September 6, 2006 before a Tax Review Board Master. The decision of the Master, as ratified by the Tax review Board, was to deny the petition as filed beyond the statute of limitations.
3. Petitioner requested and was granted a rehearing before the full Tax Review Board.
4. A public hearing was scheduled for March 13, 2007. This hearing was continued at Petitioner's request.
5. A public hearing was scheduled for June 26, 2007. At the hearing before the Tax Review Board only 2 Board members were present. Petitioner stated he had no objection to proceeding without a quorum present. At the conclusion of the public hearing, the Tax Review Board announced its decision to grant the refund request for the year 2001 and deny the refund request for the year 2000.
6. Petitioner has appealed the decision as to the year 2000 refund request to the Court of Common Pleas.

STATEMENT OF FACTS:

1. During the years 2000 and 2001, Petitioner's employer withheld Philadelphia Wage Tax from his paychecks.
2. Petitioner worked outside of the City of Philadelphia for some or all of those tax years.
3. In 2005, Petitioner requested a refund from the Department of Revenue of the withheld Wage Tax from those years. He requested a refund of \$2,184.87 for the year 2000 and \$2,825.02 for the year 2001.
4. The refund requests were denied by the Department of Revenue by letters dated January 18, 2006 for being beyond the statute of limitations for such requests.
5. Petitioner requested consideration from the Board based on the financial hardship of raising a young family.
6. The City representative stated that the City could not agree to any settlement beforehand because of the Statute of Limitations and that they had no recommendation but would leave it to the Board.

CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 19-1703(d) requires that a refund request be filed with the Department of Revenue "within 3 years from the date of payment to the City or the School District of Philadelphia or the due date; whichever is later."

Petitioner is appealing the denial of a refund request for the tax year 2000. In this case for the 2000 tax year, the Wage Tax was withheld from Petitioner's salary in 2000. He did not request a refund until sometime in 2005.

A statute of limitations is a legislatively determined grace period to protect parties from indefinite uncertainty with regard to disputed matters or claims. In this situation, 5 years had elapsed from the time of the tax payment and 2 years from the running of the statute of limitations. The deadlines set for refunds are "absolute conditions to the right to obtain relief and are necessary to avoid great uncertainty in the budgetary planning and fiscal affairs" of taxing authorities. Cooper v. Commonwealth, 700 A.2d 553, 554 (pa. Cmwlt. 1997).

The decision of the Tax Review Board members was to deny the refund request for the tax year 2000.

Concurred:
Derrick Johnson
Joseph Ferla