14-18

9/12/14

In Re: Jesse Biddle
Docket No: 36WMREFZZ9598

Statement of Record:

1. Jesse Biddle (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on December 17, 2012 requesting review of the Philadelphia Revenue Department's (Revenue's) denial of a Philadelphia Wage Tax refund request.
2. A public hearing before a TRB Master was scheduled for July 3, 2013. The decision of the Master, as ratified by the TRB, was to grant the petition and approve the refund request.
3. Revenue requested and was granted a rehearing before the full TRB.
4. A public hearing before the TRB was scheduled for July 17, 2014. At the conclusion of the hearing, the TRB announced its decision to grant the petition for a refund of
5. The City of Philadelphia filed an appeal to the Court of Common Pleas.

Findings of Fact:

1. Petitioner requested from Revenue a refund of Philadelphia Wage Tax paid in 2011. The amount of refund requested was ,Revenue approved and remitted a refund in the amount of ,Therefore the amount under appeal for review by the TRB was
2. In 2011, Petitioner resided in the City of Philadelphia.
3. Petitioner is a professional baseball player.
4. The Wage Tax refund requested by Petitioner was for tax paid on the costs of certain unreimbursed employee expenses.
5. Certain of these deductions for employee expenses were accepted and some were denied by Revenue. The auditor explained that he made determinations as to whether an expense was "necessary for the athlete's performance".
   By way of example, equipment costs were accepted as a valid deduction by the City's auditor "because the athlete must purchase equipment in order to perform." See Notes of Testimony, 7-17-14, Page 9. The same rationale was used for analyzing and accepting training expenses. Club house dues were originally denied but later accepted when the auditor learned that players, including Petitioner, cannot enter the clubhouse to play if these dues are not paid.
6. At the TRB hearing, the remaining expenses still in dispute as to deductibility for Wage Tax purposes were agent's fees and management fees. It was the auditor's findings that these fees while ordinary and reasonable, in his determination, were not considered to be necessary for the athlete's actual performance.
7. Petitioner's representatives testified as to the role of the agent for a professional athlete. Jacob Vone, testified that specifically for a beginning professional athlete, such as the petitioner in this appeal, an agent plays many roles and responsibilities. These may range from complex contract and compensation negotiations to day to day decisions about the proper training routines, how

to handle their playing schedule, and the best ways to address specific injuries. Most professional athletes have an agent who guides them through various career decisions specific to their performance on the field.

8. It is not mandatory for a professional athlete to engage an agent.
9. In 2011, Petitioner had just graduated high school. Neither he nor his parents had experience with major league baseball or the process for evaluating his value to a major league baseball team. The role of his agent was to assess his talent and value in the marketplace, to guide him through the draft process to maximize his chance of being drafted, and then oversee the contract negotiation process so Petitioner, again, could maximize his opportunity and compensation .

Conclusions of Law:

The City of Philadelphia Income Tax Regulation Section 204 provides that employees who pay "expenses directly connected with and incurred in the actual performance of their duties or services may deduct such expenses...". While there is a description of the generally allowable expense deductions, there is also a catchall clause, §204(4)(3, that the city auditor used to evaluate whether Petitioner's agent and management fees were deductible.

It was the finding of the Tax Review Board that the expenses claimed by Petitioner for agent and management fees were "ordinary, necessary and reasonable" and as such an allowable deductible expense pursuant to the City of Philadelphia Income Tax Regulations §204(4)(3).

While the services of an agent may not be a requirement of Major League Baseball for a player entering the draft process and subsequent contract negotiations, representation in this matter is an accepted and expected part of the sports industry by all parties. Agents today do far more than merely negotiate salary and compensation packages. They work closely, day to day, with the athletes they represent and participate in decisions that clearly are pertinent to the athlete's actual performance on the playing field.

In this case, Petitioner's agent was an integral part of all decisions culminating in Petitioner's opportunity to play major league baseball. And as per the testimony provided to the TRB, such agents continue to be an integral part of a professional athlete's decision making team for training, health care and contract negotiation throughout his career.

That such participation by an agent is not mandatory does not mean it is not necessary to the career and performance of an athlete.

Concurred:

Nancy Kammerdeiner, Chair
Joseph Ferla
Christian DiCicco, Esq.
George Mathew, CPA