

January 17, 2017

IN RE: Robert Taylor

Docket No: 36REINPZY7761

Statement of Record:

- 1) Robert Taylor, Jr. (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board on March 9, 2016 requesting abatement of interest and penalty accrued against Real Estate Tax for the property located at 6209 North 7th St., Philadelphia, PA.
- 2) A public hearing before a Tax Review Board (TRB) Hearing Master was scheduled for May 6, 2016 and continued to June 6, 2016. The decision of the Master at that time, as ratified by the TRB, was to abate 100% of the penalty and 50% of the interest contingent on payments arrangements for the balance being entered into within 30 days.
- 3) Petitioner requested, and was granted a rehearing before the full TRB.
- 4) A public hearing before the TRB was scheduled for September 8, 2016. At the conclusion of this hearing, the Board announced its decision to abate 100% of the penalty and 75% of the interest for the tax years 2012 and 2013 contingent on payment arrangements being entered into within 60 days.
- 5) Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) Petitioner acquired the property at 6209 N. 7th St. Philadelphia PA. through inheritance from his father. Settling the Estate did not resolve the outstanding Real Estate Taxes for 2011, 2012 and 2013.
- 2) In June 2012, Petitioner made a downpayment of \$3000 and entered a payment agreement for the balance of the taxes.
- 3) Petitioner paid the 2014 taxes in full in March 2014.
- 4) Petitioner testified that four payments he made in 2014 that were part of the payment agreement for the outstanding 2012-2013 taxes were misapplied by the City to the 2014 tax year. This resulted in the City placing the payment agreement in default status. This default status caused the reinstatement of the interest and penalty that were the subject of the TRB appeal.
- 5) As of the date of the TRB hearing all principal tax amounts had been paid. The amounts due and under appeal to the TRB were interest of \$1434.62, penalties of \$ 482.69, lien charges of \$40 and the legal fees of \$597.90, for a total of \$2,555.21.
- 6) Petitioner's account history with the Philadelphia Revenue Department (Revenue) showed Petitioner actually entered into 2 separate payment agreements during and around the appeal years.

- 7) The first agreement was made in April 2012 for the tax years 2011 and 2012. This agreement was cancelled due to errors when payments made pursuant to this agreement were misapplied to the 2013 tax year.
- 8) Petitioner entered into a second agreement with Revenue for the balance due on the first agreement minus payments made. This second agreement covered the tax years 2012 and 2013, and was for 36 months.
- 9) When making the payments in question for the second payment agreement, Petitioner did not use the agreement coupons or indicate these payments were pursuant to an agreement.
- 10) The City representative could not explain how the 4 payments in question were applied or misapplied to Petitioner's account.
- 11) After questioning the application of his payments in the Spring of 2014, Petitioner stopped making the monthly payments. At that point, Revenue declared the agreement to be in default as there was still an outstanding balance and Petitioner was no longer complying with the terms of the agreement he signed.
- 12) As a result of the breach of the payment agreement, Revenue billed interest and penalty with other charges that had been due when he entered into the second payment plan. At that point, Petitioner filed this TRB appeal.
- 13) The interest, penalties and other charges discussed as part of the payment plan default had accrued during the tax years in question and were part of the payoff amount in the payment agreement.

Conclusions of Law:

Petitioner inherited this property with delinquent Real Estate taxes, interest, penalties & other charges. He promptly acted to address the delinquencies and entered a payment agreement with Revenue.

There were 2 separate payment agreements for these delinquencies, the first in 2012 for the tax years 2011 & 2012. This was replaced by a second agreement in 2013 for tax years 2012 and 2013. In 2014, Petitioner made payments in accordance with the agreement and also paid the current year 2014 taxes.

Petitioner testified that in 2014, his payment plan payments were misapplied and he was notified that he was in breach of the agreement. At that point, he stopped making payments as he tried to remedy the situation.

The Revenue representative at the TRB hearing could not explain how or why the payments had been misapplied. She could only hypothesize that he did not use the payment coupons or possibly sent in late payments, but was unable to show these occurrences.

As a result of the breach, Petitioner still had a balance of interest, penalties, lien charges and legal fees.

At no point did Petitioner neglect his responsibilities in this matter. Even after he stopped making payments on the payment plan, he continued to try to straighten out the confusion over the payments. And at the time of the TRB hearing, all principal tax balances were paid in full.

The Philadelphia Code §19-1705(2) provides:

Upon the filing of any petition for the waiver of interest and penalties accruing upon any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or the School District of Philadelphia, the Tax Review Board may abate in whole or in part interest or penalties, or both, where in the opinion of the Board the petitioner acted in good faith, without negligence and no intent to defraud.

It was the finding of the Board that Petitioner acted in good faith and without negligence in attempting to address these delinquencies promptly and making payments. This was an inherited property that came with the tax delinquencies and not accrued under Petitioner's ownership.

Therefore, the decision of the TRB was to abate 100% of the penalties and 75% of the interest.

Legal fees are assessed pursuant to the Municipal Claims and tax Liens Act, 53 P.S. §7106, as adopted in The Philadelphia Code Chapter 19-3101. "Where attorney fees are sought to be collected in connection with the collection of a delinquent account, including municipal claims, municipal liens, taxes, tax claims and tax liens, the owner may petition the court of common pleas in the county where the property subject to the municipal claim and lien, tax claim and lien or taxes is located to adjudicate the reasonableness of attorney fees imposed." 53 P.S. §7106(a.1) The statute specifically provides that the avenue of appeal with respect to attorney fees imposed by the city for collection of delinquent taxes is to the Court of Common Pleas. The TRB jurisdiction does not encompass legal fees and the Board did not address them.

Concurred:
Nancy Kammerdeiner, Chair
Joseph Ferla