

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[The Taxpayer] (the “Taxpayer”) appeals from Maine Revenue Services’ (“MRS’s”) partial denial of his request for a refund of Maine income tax that he overpaid for tax year [year 3]. Because the relief requested by the Taxpayer is barred by statute, we uphold MRS’s partial denial.

I. Background

The refund denial at issue in this appeal is for tax year [year 3]. However, the related filing and payment history spans eight calendar years and three tax years.

- At all relevant times, the Taxpayer was a resident individual of the State of Maine.
- On [date], [year 3], the Taxpayer made an estimated payment of \$[amount] against his Maine income tax liability for [year 2]—which is the tax year prior to the year at issue—but did not file his [year 2] Maine return at that time.
- On [date], [year 3], the Taxpayer made an additional payment of \$[amount] against his [year 2] liability, but still did not file a [year 2] return.
- On or about [date], [year 3], the Taxpayer filed a Maine income tax return for tax year [year 1], resulting in an overpayment credit of \$[amount], which he requested that MRS apply against his liability for [year 2].

- As of [date], [year 3], the Taxpayer had still not filed his [year 2] return. However, his two estimated payments, his overpayment credit from [year 1], and an additional \$[amount] which had been withheld by his employers totaled \$[amount] for that tax year.
- On or about [date], [year 4], the Taxpayer requested in writing that MRS reapply his [date], [year 3], payment of \$[amount] from tax year [year 2] to [year 3]—the year at issue on appeal. MRS complied with that request, resulting in a credit balance of \$[amount] for [year 2] and a credit balance of \$[amount] for [year 3]. As of [date], [year 4], the Taxpayer had not yet filed Maine returns for either tax year [year 2] or tax year [year 3].
- On [date], [year 6], the Taxpayer filed his [year 2] return, reporting a Maine income tax liability of \$[amount] and a net Maine tax overpayment of \$[amount]. Pursuant to the Taxpayer’s direction on that return, MRS applied the overpayment as a credit against his [year 3] Maine income tax liability.
- As of [date], [year 6], as a result of the \$[amount] overpayment credit from [year 2], the \$[amount] payment the Taxpayer made on [date], [year 3] (reapplied by MRS on [date], [year 4]), and the sum of \$[amount] which was withheld by the Taxpayer’s employers in [year 3], the Taxpayer had a total balance of \$[amount] against his [year 3] Maine income tax liability.
- Almost two years later, on [date], [year 8], the Taxpayer filed his [year 3] Maine income tax return, reporting a Maine tax liability of \$[amount] and a net overpayment of \$[amount] which the Taxpayer requested to be refunded to him. MRS initially denied the Taxpayer’s refund request in full, but later, on [date], [year 8], granted him a partial

refund of \$[amount]. Consequently, the unrefunded overpayment balance amount at issue is \$[amount].

On appeal, the Taxpayer argues that MRS should allow him the full amount of his requested refund “for reasonable cause.” The Taxpayer explained that he was unable to timely file his Maine returns because of personal reasons. However, he wanted to make sure that his Maine income tax liability was timely paid and wanted to make sure that he would not accrue any unnecessary penalties. To this end, prior to [date], [year 7], the Taxpayer researched MRS’s website and contacted MRS by telephone to verify that his payments had been received and were correctly applied, and to confirm that no penalties would be imposed due to his anticipated late filing. On appeal, the Taxpayer submitted computer screen printouts showing that, prior to his [date], [year 8], refund request, MRS’s website did not include any information regarding a time limit for overpayment refunds.¹ The Taxpayer argues that MRS may not now deny any portion of his refund request because MRS did not provide him with advance notice that a refund of his overpayment of tax might be limited by law. It is the Taxpayer’s burden to show that, more likely than not, MRS’s denial of his refund request was incorrect. 36 M.R.S. § 151-D(10)(F).

II. Discussion

Under Maine income tax law,

[a] claim for credit² or refund of an overpayment of [tax] must be filed by the taxpayer within 3 years from the date the return was filed, whether or not the return was timely filed, or 3 years from the date the tax was paid, whichever period expires later.

¹ MRS’s website now provides that “[i]f you are due a refund, you generally must file a claim for a refund within 3 years of the original due date (including any automatic extensions to file) or within 3 years of the time the tax was paid, whichever is later; otherwise, you risk losing the refund.” http://www.maine.gov/revenue/faq/income_faq.html#faq1040_21 (MRS website FAQ page, Individual Income Tax section) (last visited March 21, 2017).

² As used in section 5278, an overpayment “credit” refers to an amount that is eligible for application against a different tax period or tax type. A “refund” refers to a return of an overpayment to the taxpayer.

36 M.R.S. § 5278(1). Even if a claim is filed timely, however, the amount of a credit or refund is limited to “the portion of the tax that was paid within the 3 years immediately preceding the filing of the claim plus the period of any extension of time for filing the return.” 36 M.R.S. § 5278(2). Maine income tax returns are typically due on April 15th of each year. See 36 M.R.S. § 5227. A six-month extension for filing a Maine income tax return is also available under the provisions of 36 M.R.S. § 5231. Thus, the period of limitation under section 5278(2) provides for a credit or refund of Maine income tax if the claim is filed within three years and six months of the date of payment. Typically, a claim for credit or refund is made on an income tax return at the time the return is filed.

A. Eligibility for Credit or Refund

On [date], [year 8], the Taxpayer filed his [year 3] Maine return and reported a Maine income tax liability of \$[amount]; payments and other credits totaling \$[amount]; and a tax overpayment of \$[amount], which the Taxpayer requested to be refunded to him. The payments and credits shown on the Taxpayer’s return consisted of the following three items:

1. Withholding of \$[amount]

The Taxpayer’s employers withheld a total of \$[amount] from his income in calendar year [year 3].³ Because 100% of the amount withheld was applied to the Taxpayer’s \$[amount] liability (leaving a liability balance of \$[amount]), there was no surplus amount of withholding available for credit or refund. We note, however, that because more than three years and six months passed between the [year 3] date of withholding and the [date], [year 8], filing of the

³ Although withholding is collected and paid during the calendar year, it “is deemed to have been paid on the last day prescribed for its payment” for the purpose of paying interest on overpayment refunds. 36 M.R.S. § 5279 (2)(B). For tax year [year 3], payment was due on [date], [year 4]. Even assuming that the withholding amount were paid on [date], [year 4], however, that date is still more than three years and six months prior to the [date], [year 8], filing of the Taxpayer’s [year 3] Maine return.

Taxpayer's [year 3] Maine return, any amount beyond that applied to Maine income tax for [year 3] would have been ineligible for credit or refund under 36 M.R.S. § 5278(2).

2. Overpayment Credit of \$[amount] from tax year [year 2]

The Taxpayer filed his [year 2] Maine return on [date], [year 6], reporting an overpayment of \$[amount]. The overpayment consisted of two items: an estimated payment in the amount of \$[amount], which the Taxpayer paid on [date], [year 3]; and an overpayment credit of \$[amount] from tax year [year 1], which accrued when the Taxpayer filed his [year 1] return on or about [date], [year 3]. Because both the [date], [year 3], payment and the [date], [year 3], credit occurred within three years and six months of the Taxpayer's filing his [date], [year 6], request for overpayment credit contained in his [year 2] return, both the payment and the credit were eligible for credit or refund under 36 M.R.S. § 5278(2). Accordingly, MRS correctly applied the \$[amount] overpayment as a credit to tax year [year 3] effective [date], [year 6], as requested by the Taxpayer on his [year 2] return.

When the Taxpayer filed his [year 3] return on [date], [year 8], he requested that any overpayment for [year 3] be refunded to him. Because the [year 2] overpayment of [date], [year 6], accrued within three years and six months of the date of his request, that amount was eligible for refund under 36 M.R.S. § 5278(2) and was correctly refunded to him by MRS.⁴

3. Payment of \$[amount] made on [date], [year 3]

On [date], [year 3], the Taxpayer made an estimated payment of \$[amount] against his [year 2] Maine income tax liability. On or about [date], [year 4], at his written request, MRS

⁴ Because MRS did not refund the sum of \$[amount] to the Taxpayer until on [date], [year 8], more than 60 days after his claim, MRS paid the Taxpayer interest from the date of his claim until the date of refund. 36 M.R.S. § 5279.

reapplied the payment from tax year [year 2] to [year 3].⁵ After applying the amount withheld by his employers for [year 3], the balance of the Taxpayer's [year 3] Maine income tax liability was \$[amount]. Following application of the Taxpayer's \$[amount] payment of [date], [year 3], against this balance, the result is an overpayment of \$[amount]. However, because more than three years and six months passed between the date of the Taxpayer's [date], [year 3], payment and the filing of his [date], [year 8], return/claim of refund, any portion of the payment in excess of that applied to the Taxpayer's [year 3] Maine income tax is ineligible for credit to another period or for refund to him under 36 M.R.S. § 5278(2). Based upon the applicable provision of Maine income tax law, MRS properly denied the Taxpayer's request for refund in the amount of \$[amount].

B. Relief from Limitation

The Taxpayer argues that his requested refund should be allowed in full, on the ground that MRS failed to inform him of the time-bar provision of section 5278(2). The Taxpayer explained on appeal that he was unaware of the refund bar until [date], [year 8], when MRS denied his refund claim. The Taxpayer contends that he had searched MRS's website prior to [date], [year 7]—the deadline for him to claim a refund of any portion of his [date], [year 3], payment—and discovered no information regarding the time-bar despite his search. He also contends that he was not informed of the bar by MRS employees when he contacted them prior

⁵ The fact that MRS transferred the Taxpayer's \$[amount] payment from tax year [year 2] to [year 3] on [date], [year 4], does not change the [date], [year 3], date of payment for purposes of the credit or refund limitation under section 5278(2). An overpayment that is subject to credit or refund is only determinable upon an assessment made by MRS or upon a return filed by a taxpayer (self-assessment). 36 M.R.S. § 141. In any event, [date], [year 4], is also more than three years and six months prior to the [date], [year 8], date that the Taxpayer filed his [year 3] Maine return.

to [date], [year 7]. According to the reconsideration request that he submitted to MRS on [date], [year 8],

[The Taxpayer] called Maine Revenue Services specifically to verify the overpayment amount for [year 3] and the agent ([name]) never informed [him] that the amount was at risk if [his] return was not filed on October 15th. [He also] called MRS earlier to ask if there was any further penalty for a late return in the case of overpayment and agent ([name]) said no.

The Taxpayer also wrote to MRS on [date], [year 8], stating that he had subsequently spoken with an MRS employee on [date], [year 7], regarding his [year 3] return Schedules 1 and 2 (income modifications and itemized deductions), and that the MRS employee did not inform him at that time that he had missed the deadline for requesting a refund of his [date], [year 3], overpayment.

In considering the Taxpayer's argument, we first note that MRS is required to provide, at the time of issuance, to one or more entities that publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, notices of rulemaking, any other taxpayer information issued by [MRS], and all substantive amendments or modifications of the same, for publication by that entity or entities. [Furthermore, w]hen a significant change has occurred in bureau policy or practice or in the interpretation by the bureau of any law, rule or instruction bulletin, [MRS] shall, within 60 days of the change, provide to the same publishing entity or entities written notice, suitable for publication, of the change.

.....

[Also, MRS] shall prepare a statement describing in simple and nontechnical terms the rights of a taxpayer and the obligations of [MRS] during an audit. The statement must also explain the procedures by which a taxpayer may appeal any adverse decision of [MRS], including reconsideration under section 151, appeals to the Maine Board of Tax Appeals and judicial appeals. This statement must be distributed by [MRS] to any taxpayer contacted with respect to the determination or collection of any tax, excluding the normal mailing of tax forms. . . .

36 M.R.S. § 112(1), (7-A). The Taxpayer does not dispute that MRS provided on its website links to Maine's tax laws, rules, and tax instructional booklets during the period at issue. We

further note that, as of the time he spoke with MRS's employees, the Taxpayer had not yet filed his [year 3] Maine return showing a tax overpayment. The Taxpayer provides no authority that requires MRS to notify a taxpayer of the possibility of a time-bar regarding a hypothetical or suspected overpayment refund, and we are not aware of any such authority.

In enacting the refund provisions of Maine tax law, the Legislature provided no exception to the refund limitation under section 5278(2). "Statutes of limitation are strictly construed. Their purpose is to provide eventual repose for potential defendants and to avoid the necessity of defending stale claims." *Dowling v. Salewski*, 207 ME 78 ¶ 11, 926 A.2d 193 (citations and internal quotation marks omitted); accord *United States v. Dalm*, 492 U.S. 596, 610 n.7 (1990) ("The very purpose of statutes of limitations in the tax context is to bar the assertion of a refund claim after a certain period of time has passed, without regard to whether the claim would otherwise be meritorious."). Although unfortunate, we are unable to create an exception to the refund limitation under section 5278(2) that the Legislature did not provide. No adjustment to the refund denial is warranted.

III. DECISION

Based upon the law and the evidence presented, the Taxpayer has not shown that he is entitled to a refund on his claim for income tax year [year 3] in the amount of \$[amount]. The denial of that claim is hereby upheld in full.

The Board may, in limited circumstances, reconsider its decision on any appeal. If either party wishes to request reconsideration, that party must file a written request with the Board within 20 days of receiving this decision. Contact the Appeals Office at 207-287-2864 or see the Board's rules, available at <http://www.maine.gov/boardoftaxappeals/lawsrules/>, for more information on when the Board may grant reconsideration. If no request for reconsideration is

filed within 20 days of the date of this proposed decision, it will become the Board's final administrative action. If either party wishes to appeal the Board's decision in this matter to the Maine Superior Court, that party must do so within 60 days of receiving this decision.

Issued by the Board: May 22, 2017