

STATE OF MAINE
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS
DOCKET NO. BTA-2017-14

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer (the “Taxpayer”)] appeals from an assessment of Maine income tax and interest for tax year [year] on the ground that the assessment is overstated. Based on the evidence presented and the applicable law, we uphold the assessment as adjusted by Maine Revenue Services.

I. Background

For the first part of [year], [the Taxpayer] was a Maine resident individual, living and working in Maine. On [date], [year], [the Taxpayer] moved to [non-Maine state], and lived and worked in that state as a [non-Maine state] resident for the remainder of the year. According to information provided by [the Taxpayer] on appeal, he earned \$[amount] [(54.5%)] from his Maine employment while a resident of Maine and \$[amount] [(45.5%)] from his [non-Maine state] employment while a resident of [non-Maine state]. He had no Maine-sourced income while a resident of [non-Maine state]. He also had Social Security income and income from unemployment compensation, which brought his federal adjusted gross income for [year] to just over \$[amount].

[The Taxpayer] timely filed a [year] Maine income tax return. Rather than computing his Maine liability beginning with his entire federal adjusted gross income, however, he prepared his return using only his Maine-sourced income. As prepared by [the Taxpayer], his return showed an overpayment of Maine tax in the amount of \$[amount], which Maine Revenue Services (“MRS”) refunded to him.

At the time MRS issued [the Taxpayer] his claimed refund, MRS was unaware that he had tried to report and pay his Maine tax liability as a part-year resident. Thus, when MRS subsequently examined [the Taxpayer]’s return, it appeared to MRS that [the Taxpayer] had simply understated his federal adjusted gross income on his return as a Maine full-year resident. MRS recomputed [the Taxpayer]’s Maine income tax liability using his full federal adjusted gross income, treating all of his income as Maine-source income. As figured by MRS, [the Taxpayer] was not due a refund but instead owed Maine tax of \$[amount]. Consequently, MRS issued an assessment against [the Taxpayer] in the amount of \$[amount] for tax, interest, and recoupment of the previously issued refund.

[The Taxpayer] requested that MRS reconsider the assessment, arguing that he had correctly prepared his Maine return as a part-year Maine resident for [year]. [The Taxpayer] also provided MRS with information regarding his Maine and non-Maine income and dates of residency. Upon [the Taxpayer]’s request, MRS recomputed his Maine tax liability and notified him, summarily, that it had reduced his liability to \$[amount]. Although not explained in its Decision on Reconsideration, MRS’s reduction represented its recoupment of the \$[amount] erroneous refund with interest, offset by a small overpayment refund (\$[amount]) that it determined [the Taxpayer] was due.

[The Taxpayer] argues on appeal that the assessment, even as adjusted, imposes Maine tax on his [non-Maine state] income and must therefore be cancelled. It is [the Taxpayer]'s burden to show that the determination made by MRS is incorrect. 36 M.R.S. § 151-D(10)(F).

II. Discussion

Annually, Maine imposes a tax “on the Maine taxable income of every resident individual of this State.” 36 M.R.S. § 5111. The procedure for determining the tax liability for a part-year Maine resident are set forth in 36 M.R.S. § 5224-A. In summary, section 5224-A requires that the part-year resident first determine the total tax for a full-year Maine resident based on

the individual's federal adjusted gross income as defined by the Code with the modifications and less the deductions and personal exemptions provided in [chapter 805 of Title 36].

36 M.R.S. §§ 5224-A, 5111(4), 5121. Next, the part-year resident must determine the portion of the total tax that is attributable to Maine by multiplying the tax by a fraction, the numerator of which is the individual's federal adjusted gross income, as modified by 36 M.R.S. § 5122, for the part of the taxable year during which the individual was a Maine resident,¹ and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122. 36 M.R.S. §§ 5224-A, 5102(1-C)(A), (B), 5111(4). As a result, the tax imposed on the part-year Maine resident is based only on the individual's Maine-source income.

In practice, rather than directly determining a part-year resident's Maine tax liability, MRS first determines the total tax and then provides an offsetting credit against the tax for the non-Maine portion. In the present case, MRS submitted information showing that 53.21% of [the Taxpayer]'s [year] income, as modified under 36 M.R.S. § 5122, was Maine-source and

¹ The numerator of the fraction also includes that part of the individual's federal adjusted gross income derived from sources within Maine while the individual was a nonresident. In this case, that amount was zero.

46.79% of his income was non-Maine source. MRS also submitted a worksheet showing [the Taxpayer]'s Maine income tax liability for the year as exactly 53.21% of the total tax, computed using his federal adjusted gross income as required under section 5224-A. Thus, the evidence shows that MRS did not imposed Maine tax on non-Maine income. On the evidence presented, we find no error in the method MRS used to determine [the Taxpayer]'s Maine income tax liability.

Applying the computation method described above, and based on additional information submitted by [the Taxpayer] in the course of this appeal, MRS has now determined that the amount of [the Taxpayer]'s Maine income tax withholding for [year] exceeded his Maine tax liability for that year by \$[amount], constituting a tax overpayment in that amount. When set off against the amount initially refunded to him, [the Taxpayer]'s correct Maine tax liability for [year] is \$[amount], plus an unspecified amount of interest. Having already found that MRS's tax computation method in this case was correct, and considering the new evidence presented by [the Taxpayer] on appeal, we uphold the assessment as now adjusted by MRS. No further adjustments are warranted.

III. Decision

Having considered the law and evidence presented in this case, we uphold the assessment of Maine income tax for tax year [year] in the amount of \$[amount], as now computed by MRS, plus applicable interest. No further relief is warranted.

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. During the 60-day period in which an appeal may be filed with the Superior Court, [the Taxpayer] may contact Maine Revenue Services at 207-624-9725 for the amount of tax that is currently due, together with any interest or penalties owed. After that 60-day period has expired, Maine Revenue Services will contact [the Taxpayer] with an updated amount of tax and any interest or penalties due at that time.

Issued by the Board: March 29, 2018