

STATE OF MAINE  
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS  
DOCKET NO. BTA-2017-15

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer (the “Taxpayer”)] appeals from an estimated assessment of Maine income tax, interest, and penalties for tax year [year] on the ground that the assessment is overstated. We reduce the assessment and uphold it as thus adjusted.

#### I. Background

At all relevant times, [the Taxpayer] was a resident individual of the State of Maine. He did not file a Maine income tax return for tax year [year], prompting MRS to send him a request, and later a demand, to file that return. When he did not respond to MRS’s filing demand, MRS issued an estimated assessment for Maine income tax of \$[amount], interest of \$[amount], and a penalty of \$[amount], for a total of \$[amount]. In computing the assessment, MRS included as income the amount of a grant that [the Taxpayer] received from the United States Department of Agriculture (\$[amount]) and an estimated amount of gain from [the Taxpayer’s] sale of real estate (\$[amount]) in the year at issue. [The Taxpayer] requested that MRS reconsider the assessment, whereupon MRS cancelled the penalty portion but upheld the assessment otherwise. This appeal followed.

On appeal, [the Taxpayer] argues that the assessment is overstated because he derived no income from the grant he received from the United States Department of Agriculture and did not have any gain on his sale of real estate in [year]. It is [the Taxpayer's] burden on appeal to show that it is more likely than not that MRS erred in issuing the assessment. 36 M.R.S. § 151-D(10)(F).

## II. Discussion

Annually, Maine income tax is imposed “on the Maine taxable income of every resident individual of this State.” 36 M.R.S. § 5111. If an individual has a Maine income tax liability in a taxable year, the individual is required to make and file a Maine income tax return for that year. *Id.* § 5220(1). If the individual does not file the required return, MRS may assess an estimated tax liability based upon the best information otherwise available, and such an assessment is prima facie evidence of the tax liability for the period in question. *Id.* § 141(2)(C).

### A. United States Department of Agriculture Grant

[The Taxpayer] does not dispute that he received a grant from the United States Department of Agriculture during the tax year at issue. Rather, he argues that he did not receive any income from the grant. [The Taxpayer] explained that all of the grant funds were paid directly to a third party that performed work improving his real property during [year]. [The Taxpayer] has not provided any evidence, however, from which the Board may find that the amount of the grant should not be included in his [year] Maine taxable income. Consequently, no adjustment to the assessment is warranted on this basis.

### B. Gain from the sale of real property

[The Taxpayer] argues on appeal that he did not receive income from his sale of real property in [year] because all proceeds of the sale were paid to the mortgage holder.

At the specific request of the Appeals Officer, MRS submitted documentation relating to [the Taxpayer's] purchase and sale of the real property.<sup>[1]</sup> That documentation showed that [the Taxpayer] purchased the property on [date] for \$[amount] and sold it on [date] for \$[amount], for a gain of \$[amount]. Based on the documentation submitted, MRS recomputed [the Taxpayer's] [year] Maine income tax liability, reducing it from \$[amount] to \$[amount]. We agree with this recomputation and adjust the assessment accordingly. No further adjustment to the assessment is warranted.

### III. Decision

Based on the evidence presented and the applicable law, we find that the Maine income tax assessment against [the Taxpayer] for tax year [year] is overstated. We reduce the amount of tax contained in the assessment to \$[amount], with a commensurate adjustment to the assessed amount of applicable interest.

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,

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<sup>1</sup> [Title 36 M.R.S. § 4641-D provides that the register of deeds of the County wherein real property is situated shall, within 40 days of the date of recording, transmit to MRS a declaration of the value of property transferred.]

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: May 21, 2018