

STATE OF MAINE
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS
DOCKET NO. BTA-2019-7

[CORPORATE TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Corporate Taxpayer] (the “Company”), appeals from Maine Revenue Services’ (“MRS’s”) determination that it had missed the deadline for filing an application for reimbursement under the Business Equipment Tax Reimbursement (“BETR”) program regarding personal property taxes that it paid during calendar year [year 7]. Based upon the evidence presented and the applicable law, we dismiss the Company’s appeal.

I. Background

At all relevant times, the Company was a [state other than Maine] corporation doing business in Maine. On June 12, [year 9], the Company filed an appeal with the Maine Board of Tax Appeals (the “Board”), stating that MRS had wrongfully determined that the Company had missed the deadline for filing its BETR application regarding property tax payments made in [year 7] and that MRS would not reconsider its lateness determination. Following the filing of the appeal, on August 7, [year 9], MRS advised the Board’s Appeals Officer that it had no record of having received a BETR application from the Company for the period complained of, and the Company subsequently conceded that it had not filed the subject BETR application with MRS. On this basis, MRS requested that the Board dismiss the Company’s appeal.

It is the Company's burden to show that, more likely than not, its appeal should be sustained. 36 M.R.S. § 151-D(10)(F).

II. Discussion

The jurisdiction of the Board is narrowly defined under 36 M.R.S. §§ 151, 151-D, as deciding differences between MRS and persons aggrieved by an action or inaction of that agency. Stated differently, the purpose of the Board is "to provide taxpayers with a fair system of resolving controversies with [MRS] and to ensure due process." *Id.* § 151-(1).

As a matter of judicial discretion, Maine courts will not entertain an appeal where the issue is "unripe" for consideration. Maine's Law Court has described "ripeness" as where there is "a genuine controversy and a concrete, certain, and immediate legal problem." *Clark v. Hancock Cty. Comm'rs*, 2014 ME 33, ¶ 19, 87 A.3d 712 (quotation marks and citation omitted).

The principle underlying the doctrine of ripeness is to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties.

Me. AFL-CIO v Superintendent of Ins., 1998 ME 257, ¶7, 721 A.2d 633 (quotation marks and citations omitted).

When considering an appeal from an administrative agency of the State, such as in the present case, the Law Court has taken a less-discretionary view:

As a general rule, the Superior Court may not entertain a petition for review of agency action unless the disputed action is final. This long-standing principle, which avoids piecemeal judicial review, fosters judicial economy, and provides an adjudicating body every reasonable opportunity to resolve a matter within its special area of expertise, is necessary to ensure that the courts refrain from resolving issues not yet "ripe" for review. . . . This rule has been embodied in the Administrative Procedure Act (APA), 5 M.R.S.A. § 8001 et seq. (1979), which provides that except in limited circumstances, only those persons aggrieved by 'final agency action' are entitled to judicial review in the Superior Court. 5 M.R.S.A. § 11001(1) (Supp. 1983-1984) (emphasis supplied). 'Final agency

action' is defined as a 'decision by an agency which affects the legal rights, duties or privileges of specific persons, which is dispositive of all issues, legal and factual, and for which no further recourse, appeal or review is provided within the agency.' 5 M.R.S.A. § 8002(4).

Wheeler v. Maine Unemployment Ins. Comm'n, 477 A.2d 1141, 1145 (Me. 1984).

In the present case, because the Company has not yet filed its BETR application with MRS, the issues of whether MRS wrongfully rejected the application or denied the request for BETR reimbursement are not ripe. We also find that as to the Board, ripeness is a matter of jurisdiction rather than a matter of discretion. 36 M.R.S. §§ 151, 151-D. Accordingly, we dismiss the Company's appeal. No other action on our part is warranted.

III. Decision

For the reasons set forth above, we dismiss the Company's appeal in this case as unripe for consideration.

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.

BY ORDER OF THE BOARD

Date: _____, Chair/Member