

STATE OF MAINE  
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS  
DOCKET NO. BTA-2020-16

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer] (the “Taxpayer”) appeals from an assessment of Maine individual income tax, interest, and penalties, issued by Maine Revenue Services (“MRS”) for tax year [year 7]. [The Taxpayer] argues that the interest portion of the assessment must be canceled. Based on the evidence and the applicable law, we uphold the assessment of interest.

#### I. Background

At all relevant times, the Taxpayer was a Maine resident individual. In [year 7], [the Taxpayer] sold a parcel of real estate that [the Taxpayer] owned and incurred a gain on the sale. In anticipation of the income tax consequences of the gain, [the Taxpayer] set aside a portion of the proceeds from the sale in an account at [the Taxpayer’s] bank. [The Taxpayer] did not receive interest on the segregated funds because the account into which [the Taxpayer] deposited the funds was non-interest bearing. Subsequently, in early [year 8], [the Taxpayer] was stricken with a series of serious health conditions that were not ameliorated until the fall of [year 10]. During the period of [the Taxpayer’s] illness, [the Taxpayer] was unable to attend to any of [the

Taxpayer's] business matters, including filing and paying [the Taxpayer's] [year 7] Maine income taxes.

In the spring and summer of [year 10], MRS sent [the Taxpayer] a series of requests to file [the Taxpayer's] [year 7] Maine return, and when [the Taxpayer] did not respond, MRS issued an estimated income tax assessment for that year based on the best information available. Upon receiving the assessment, [the Taxpayer] filed [the Taxpayer's] [year 7] Maine return, which MRS accepted in the stead of the estimated assessment. After examining [the Taxpayer's return], MRS issued a new assessment for additional tax of \$[amount], penalties of \$[amount], and interest of \$[amount]. The Taxpayer did not contest the assessment of additional tax but requested that MRS reconsider the assessment of interest and penalties. On reconsideration, MRS cancelled the penalties in full but upheld the interest portion of the assessment. This appeal followed.

On appeal, [the Taxpayer] argues that the assessed interest must be cancelled or abated because [the Taxpayer] was physically unable to file and pay [the Taxpayer's] Maine taxes until the fall of [year 10]. [The Taxpayer] also argues that it was never [the Taxpayer's] intention to file and pay on other than a timely basis. In support of this position, [the Taxpayer] points to the fact that [the Taxpayer] had voluntarily segregated a portion of the proceeds from the sale of real estate to be applied against their Maine income tax liability, although [the Taxpayer] was unable to timely remit the funds against the tax due. It is [the Taxpayer's] burden to show that they are entitled to the relief they seek. 36 M.R.S. § 151-D(10)(F). We consider the matter on appeal de novo as to both the facts and the law. *Id.* § 151(2)(G).

## 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. Where the tax is not timely paid, Maine tax law subjects the individual to penalties, which are not at issue here, and interest on the unpaid tax.

Interest accrues automatically on the tax amount due, computed from the last date prescribed for payment and compounded monthly. 36 M.R.S. § 186. Interest may be waived or abated if the failure to pay the tax at issue “is explained to the satisfaction” of MRS or, on appeal, to the Board. *Id.* §§ 186, 151(2)(G), *Victor Bravo Aviation, LLC v. State Tax Assessor*, 2012 ME 32, ¶ 12-15, 39 A.3d 65.

We first note that the standard for the abatement of interest differs from the standard for abatement of penalties. 36 M.R.S. §§ 186, 187-B(7). The penalties for not timely filing and paying one’s taxes are abated upon grounds constituting “reasonable cause.” We next note that MRS may cancel or abate the tax itself “if justice requires.” *Id.* § 142.

In the present case, the purpose of interest is not punitive. The issue here is not whether the tax should be cancelled but whether the value of the time benefit of the tax should be reallocated from MRS to [the Taxpayer]. See *Victor Bravo*, 2012 ME 32, ¶ 14, 39 A.3d 65. (The standard for abatement of interest “supports the reasonable purpose of most statutory and contractual interest payment requirements to assure that the investment value of money inures to the benefit of the party that should have been paid the money when the payment obligation arose.”). We are sympathetic to [the Taxpayer’s] circumstances. However, even though [the Taxpayer’s] failure to timely pay the tax was beyond [the Taxpayer’s] control due to [the Taxpayer’s] extreme disability, on balance, MRS remains entitled to the time value on the unpaid

tax. We therefore uphold the assessment of interest in full. No adjustment to the assessment on this point is warranted.

### III. Decision

Based on the evidence presented and the applicable law, we find that [the Taxpayer] has not established grounds for canceling or abating the interest assessed by MRS for tax year [year 7]. Accordingly, we uphold the assessment of interest 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. During the 60-day period in which an appeal may be filed with the Superior Court, the taxpayer may contact Maine Revenue Services at 207-624-9595 for a statement of the amount then due. After that 60-day period has expired, Maine Revenue Services will contact the taxpayer with an updated statement of the amount or amounts due at that time.

BY ORDER OF THE BOARD

Date: \_\_\_\_\_, Chair/Member