

STATE OF MAINE  
KENNEBEC, ss.

MAINE BOARD OF TAX APPEALS  
DOCKET NO. BTA-2020-8

[INDIVIDUAL TAXPAYER],

Petitioners

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer] (the “Taxpayer”) appeals from an assessment of Maine income tax, interest, and penalties, made by Maine Revenue Services (“MRS”) for tax year [year]. The Taxpayer contends that the assessment is erroneous and must be cancelled. Based on the law and evidence presented, we uphold the assessment in full.

#### I. Background

At all relevant times, the Taxpayer was a Maine resident individual. In the year at issue, the Taxpayer withdrew sums from her savings account and made regular trips to a Maine casino (the “Casino”) where she engaged in games of chance. At the end of the year, the Casino provided the Taxpayer with an annual Gaming Activity report (the “Gaming Report”) showing that, for the year, she had gambling winnings of \$150,000 and gambling losses of \$200,000, a net gambling loss of \$50,000.

In preparing her [year] Maine income tax return, the Taxpayer determined that she was not required to file a return because her net gambling loss more than offset her other income for the year. MRS subsequently issued an assessment against the Taxpayer for tax, interest, and penalties in the total of \$[amount]. In computing the assessment, MRS included the Taxpayer’s

non-gambling income and her gambling income but did not make any offset for her gambling losses. This appeal followed.

On appeal, the Taxpayer argues that the assessment must be cancelled because her gambling losses fully offset her gambling winnings and other income and she had no Maine income tax liability for the subject year. In support of her position, the Taxpayer maintains that the Casino did not post or advise her that she was not entitled to a tax offset for her gambling losses against her income, and that imposing tax on her gambling winnings without allowing an offsetting deduction for her gambling losses is unfair. It is the Taxpayer's burden to show that she is entitled to the relief she seeks. 36 M.R.S. § 151-D(10)(F). We consider the matter de novo as to facts and 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. “Maine taxable income” is defined as “an individual's federal adjusted gross income,” with certain modifications provided by Maine law not applicable to this case. *Id.* § 5121.

In computing federal adjusted gross income, gambling winnings and losses are considered on a per transaction basis and a taxpayer will have both gambling winnings and losses in a single year. *See, e.g., Shollenberger v. Commissioner*, T.C.M. 2009-306. Gambling winnings are included in federal adjusted gross income upon which Maine income tax is computed. I.R.C. §§ 61(a), 62(a). Gambling losses are allowed as an itemized deduction against income. I.R.C. §§ 63(a), (d), 165(d).<sup>1</sup>

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<sup>1</sup> An exception to this tax treatment is provided under I.R.C. § 62(a)(1) for gambling losses incurred in the trade or business of gambling. However, the Taxpayer has neither argued nor presented any evidence to suggest that she was engaged in gambling as a profession during the period at issue.

For the tax year at issue, Maine allowed individuals to claim their federal itemized deductions as Maine itemized deductions but limited the allowable amount of those deductions to \$28,350, progressively phasing them out altogether for individuals with Maine adjusted gross income in excess of \$145,000. 36 M.R.S. § 5125(1), (4), (6)(A); *see also id.* § 5403(3). Because the Taxpayer's Maine adjusted gross income, inclusive of her gambling winnings, exceeded \$145,000, she was not entitled to any itemized deductions in computing her Maine tax liability for the year. The Taxpayer has not shown that MRS erred in computing her Maine tax liability as provided by Maine and federal law. No adjustment to the assessment on this basis is warranted.

The Taxpayer next argues that the assessment should be canceled because the Casino failed to post a copy of the relevant tax laws on its premises. However, the Taxpayer cites no authority that would relieve her of the assessed liability on this ground. Additionally, The Taxpayer contends that it is unfair to tax her gambling winnings without allowing her a deduction for her gambling losses. Again, however, the Taxpayer points to no constitutional or other defect in the law, and we are aware of none. No adjustment to the assessment on these bases is warranted. We therefore uphold the assessment in full.

### III. Decision

The Taxpayer has not shown that the subject assessment was incorrectly made against her for the tax year at issue or that it should be adjusted or canceled. We therefore uphold the assessment 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: March 26, 2021