

[INDIVIDUAL TAXPAYER],

Petitioner

v.

DECISION

MAINE REVENUE SERVICES,

Respondent

[Individual Taxpayer] (the “Taxpayer”) appeals from a decision issued by Maine Revenue Services (“MRS”) denying [the Taxpayer’s] request for a refund of Maine income tax for tax years [year 3, year 4, year 5 and year 6], as untimely filed. Based on the evidence submitted and the applicable law, we uphold in full the refund denials for each tax year.

I. Background

In [year 3], the Taxpayer and the taxpayer’s spouse, moved from [State other than Maine] to Maine to be closer to family in order to assist [the Taxpayer] with caring for [the Taxpayer’s spouse]. Soon thereafter, [the Taxpayer and the Taxpayer’s spouse] became Maine resident individuals. The [Taxpayer and the taxpayer’s spouse] timely filed their original [year 3, year 4, year 5 and year 6] Maine joint income tax returns and paid any taxes due on February 12, [year 4], February 5, [year 5], February 1, [year 6], and February 10, [year 7] respectively. However, unaware of differing tax treatment of Social Security payments between [state other than Maine] and Maine, they reported Maine taxable income in excess of the correct amount in each year at issue.

On April 9, [year 11], the Taxpayer filed amended individual income tax returns for tax years [year 4, year 5, and year 6] claiming refunds of \$[amount], \$[amount], and \$[amount]. On

June 16, [year 11] MRS denied the Taxpayer's requests for refunds as untimely. On July 8, [year 11], the Taxpayer petitioned MRS for reconsideration of the refund denials for [year 4, year 5, and year 6] and filed an amended individual income tax return for tax year [year 3]. The Taxpayer's amended [year 3] return requested a refund in the amount of \$[amount]. In anticipation of MRS's decision regarding [the Taxpayer's] [year 3] amended return, the Taxpayer also filed a request for reconsideration as to [year 3] at that time. In response, on September 9, [year 11], MRS issued a decision on reconsideration upholding the denial of the Taxpayer's refund claims for all tax years at issue. This appeal followed.

On appeal, the Taxpayer argues that [the Taxpayer's] requests for refunds should be allowed because of the extenuating circumstances of the Taxpayer's spouse's illnesses and eventual passing.¹ It is the Taxpayer's burden to show that [the Taxpayer] is entitled to relief.

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

Under Maine law,

A claim for credit or refund of an overpayment of any tax . . . must be filed by the taxpayer within 3 years from the date the return was filed, whether or not the return was timely filed, or 3 years from the date the tax was paid, whichever period expires later. A credit or refund may not be allowed after the expiration of the period prescribed in this subsection unless a claim for credit or refund is filed by the taxpayer within that period. For purposes of this subsection, a return filed before the last day prescribed for the filing of a return is deemed to be filed on that last day, determined without regard to any extension of time granted the taxpayer.

36 M.R.S.A. § 5278(1) (emphasis supplied). Further, we note that, Maine tax law limits the amount of a credit or refund to “the portion of the tax that was paid within the 3 years

¹ The Taxpayer's spouse died on [date in year 9].

immediately preceding the filing of the claim plus the period of any extension of time for filing the return.” *Id.* § 5278(2).

Individual returns are typically due on April 15 of the year following the subject tax year. *Id.* § 5227; 26 U.S.C. § 6072. However, the due date may be extended where it falls on a weekend or holiday. *See* 36 M.R.S.A. § 153(2). Accordingly, the Taxpayer’s returns for the tax years at issue were due on April 15, [year 4], April 15, [year 5], April 19, [year 6], and April 18, [year 7]. Because, for each tax year at issue, the Taxpayers filed their returns in advance of those dates, we treat their returns as having been filed and on those April dates.² Therefore, under section 5278(1), the last days upon which the Taxpayer may have timely requested refunds for the tax years at issue are April 18 of [year 7], April 17, [of year 8], April 19, [of year 9], and April 20, [of year 10]. As the Taxpayer made all [the Taxpayer’s] requests for refunds in [year 11], [the Taxpayer’s] requests for refunds at issue here were untimely.

Even so, [the Taxpayer] argues that, because of the sickness and eventual death of [the Taxpayer’s spouse] and general considerations of fairness, [the Taxpayer’s] requests for refunds should be granted. While we are sympathetic to [the Taxpayer’s] position, none of the exceptions to the section 5278’s refund limitations provided by the Legislature apply to the circumstances complained of. The Maine Supreme Judicial Court has consistently recognized that “[s]tatutes of limitation are strictly construed.” *Dowling v. Salewski*, 2007 ME 78 ¶ 11, 926 A.2d 193; *see also Stromberg-Carlson Corp. v. State Tax Assessor*, 2001 ME 11 ¶ 13, 765 A.2d 566 (limitation on tax assessment). Further, section 5278’s detail, technical language, and explicit listing of exceptions, taken together, indicate that the Legislature did not intend for the Board to read into section 5278 exceptions not specifically delineated. *See United States v.*

² Because the Taxpayers paid any taxes due throughout the year and in advance of those April dates, we need not discuss the dates upon which the Taxpayers paid their taxes.

Brockamp, 519 U.S. 347, 352 (1997) (interpreting the similar language of I.R.C. § 6511).

Accordingly, we are unable to make any adjustments to the refund denials at issue.

III. Decision

Based on the law and evidence presented, we uphold MRS's denial of refund for tax years [3, 4, 5, and 6].

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