

STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 DELAWARE AVENUE
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 72-43

May 5, 1972

TAX APPEAL BOARD DECISION

PERSONAL INCOME TAX

- Collection of tax (statute of limitations)

QUESTION #1 Did the Petitioners file a timely income tax return for 1958?

QUESTION #2 Did Respondent make a timely assessment and properly notify Petitioners of it?

The Tax Appeal Board raised the jurisdictional issue as to whether the petition was timely filed and dismissed the case without prejudice to party for settlement.

EDITOR'S NOTE: The Taxpayer claimed to have filed timely a 1958 return but no record of filing was found by the Division of Revenue. As a result of the audit by the Internal Revenue Service of the 1958 return the taxable income was increased by the State and Respondent notified taxpayer in December, 1961 that a return had not been filed and that tax, penalties and interest were due. Taxpayer did not respond and received a final notice in December, 1971. The Tax Appeal Board held that Petitioners were notified of the assessment of the Delaware income tax well within the three-year limitation period. The Tax Appeal Board was convinced that Respondent did mail the notification.

DECISION: As to Question #1 - For the Petitioners
As to Question #2 - For the Respondent
Date: 5/1/72
Docket No. 498



J. H. Kennedy
Director of Revenue

jvm

DISTRIBUTION: B and C