

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

TAX NEWSGRAM 73-2

January 5, 1973

TAX APPEAL BOARD DECISIONS

Personal Income Taxes

Alimony

Facts: Taxpayer, a Delaware resident, paid alimony to his ex-wife who is a resident of New York State and paid taxes to New York State on the alimony. She has no standing in Delaware and pays no taxes to Delaware.

Issue: Whether taxpayer was to be granted a deduction from his income for support or alimony paid to his ex-wife.

Decision: For respondent. Judge Quillen in the case of Spruance v. Director of Revenue, 277 Atl. (2) 695 held the relief sought could not be granted.

Note: Applies only to tax years prior to 1/1/71.  
Docket No. 504  
Dated 12/4/72

Medical Expense

Facts: The Internal Revenue Service disallowed medical expense to the extent of excessive travel costs and an increase in value of Petitioner's home attributable to the installation of a central air-conditioning system with a related electronic precipitator filter.

The Division of Revenue made the same adjustments upon receipt of a report from the Internal Revenue.

Issue: Whether the Respondent has the burden of proof as to the correctness of the above findings.

Decision: For Respondent. The Tax Appeal Board held that when the Director of Revenue adopted the findings of the Internal Revenue Service the presumption of the correctness attaches to that action. The burden of proof is on the Petitioner.  
Docket No. 510  
Dated 12/14/72

Joint return to separate return

**Facts:** Taxpayers had filed joint returns for the years 1968, 1969 and 1970. It was called to their attention by the Accountant who prepared their 1971 tax return that there would have been an advantage to him to have filed separate returns for the three years in question. Claims for revision for 1968, 1969 and 1970 were all timely filed and rejected by the Division of Revenue.

**Issue:** Were taxes erroneously collected or could the taxable change from joint to separate returns for the years in question.

**Decision:** For the Respondent. The applicable instructions for the years 1968, 1969 and 1970 for Resident Individual Income Tax Returns - Form 200 and Form 200A state that the election to file jointly or separately may not be changed after the date such return became due to be filed. The Tax Appeal Board recognized that the instructions issued by the Division of Revenue (or its predecessor) in connection with individual tax returns, carry the weight of regulations, and furthermore, that the Director of the Division of Revenue (or his predecessor) has authority to issue such regulations provided they do not contravene the statute.

Applies only to tax years prior to 1/1/71.  
Docket No. 515, 515A and 515B  
Dated 12/14/72



J. H. Kennedy  
Director of Revenue

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