

2019 WL 7424715 (La.Bd.Tax.App.)

Board of Tax Appeals

State of Louisiana

LARY HESDORFFER, PETITIONER

v.

SECRETARY, DEPARTMENT OF REVENUE, STATE OF LOUISIANA, RESPONDENT

Docket No. 11260A

November 7, 2019

JUDGMENT

*1 This case came before the Board for hearing on September 11, 2019 on the merits of the Petition of Lary Hesdorffer (the “Taxpayer”) with Judge Tony Graphia (Ret.), presiding and Board Members Cade R. Cole and Jay Lobrano present. Participating in the hearing were Lary Hesdorffer, appearing *pro se*, and Adrienne Quillen, attorney for the Secretary, Department of Revenue, State of Louisiana (the “Department”). The Board now renders Judgment unanimously in accordance with the written reasons attached herewith.

IT IS ORDERED, ADJUDGED AND DECREED that the Taxpayer's prayer for relief BE AND IS HEREBY DENIED and that Judgment be rendered in favor of the Department and against the Taxpayer.

Judgment Rendered and Signed at Baton Rouge, Louisiana this November 7, 2019 day of November, 2019.

WRITTEN REASONS FOR JUDGMENT

This case came before the Board for hearing on September 11, 2019 on the merits of the Petition of Lary Hesdorffer (the “Taxpayer”) with Judge Tony Graphia (Ret.), presiding and Board Members Cade R. Cole and Jay Lobrano present. Participating in the hearing were Lary Hesdorffer, appearing *pro se*, and Adrienne Quillen, attorney for the Secretary, Department of Revenue, State of Louisiana (the “Department”). The Board now renders the attached Judgment unanimously in accordance with the following written reasons.

The Taxpayer appeals from a *Notice of Adjustment to Your Tax Return* dated February 12, 2018 denying a Wind and Solar Credit in the amount of \$12,500.00 for the 2014 individual income tax year (the “Refund Denial”). The Refund Denial states that the Taxpayer failed to file his claim electronically by November 1, 2017, as required by Act 413 of the 2017 Regular Session.

At the hearing, the Taxpayer testified that he paid a tax preparer to file his refund claim on August 30, 2017. In support of this contention, the Taxpayer produced a credit card statement that shows a payment to one “DEBORAH ROLLO CPA COVINGTON LA.” The Taxpayer also claimed that another payment entry on the same statement, described as “USPS PO 2160510002 METAIRIE LA,” shows that he paid the postage necessary to file his return on August 30, 2017.

At the hearing, the Department called as a witness Kenyatta Richard, a Revenue Tax Specialist Supervisor with the Department. Ms. Richard testified that the Department received the Taxpayer's return in September 2017. However, according to Ms. Richard, the return did not include all required supporting documentation, nor was such documentation submitted electronically by November 1, 2017. The Department further introduced the Taxpayer's 2014 individual income tax return into evidence, which is signed by the Taxpayer and by “Deborah Rollo, CPA.”

*2 At the hearing, counsel for the Department stated that the Taxpayer would have been entitled to the credit but for his failure to file his entire application electronically before November 1, 2017. This failure appears to be due at least in part to the actions of the paid return preparer. The Taxpayer stated at the hearing that he would have complied with the electronic filing requirement if he had known about it. However, by the time the Taxpayer received the Refund Denial, it was too late to salvage his claim.

The Taxpayer does not take issue with the Department's interpretation of [La. R.S. 47:6030](#) and its legislative history. Act 131 of the 2015 regular session enacted [La. R.S. 47:6030\(B\)\(1\)\(c\)\(iv\)](#), which provides: "Beginning in Fiscal Year 2015-2016 any claim or request for an allocation of credits under this Section shall be filed electronically." Further, 2017 Act 413 enacted [La. R.S. 47:6030\(B\)\(1\)\(c\)\(v\)\(aa\)](#), to provide relief for taxpayers "whose claim for a credit was denied or would have been denied for any portion of the original claim for a credit pursuant to the provisions of Items (i) through (iv) of this Subparagraph." However, Act 413 requires that "all supporting documentation necessary to constitute a complete and eligible claim" be submitted to the Department "no later than November 1, 2017."

Unfortunately, 2015 Act 131 and 2017 Act 413 imported a mess of technical requirements into [La. R.S. 47:6030](#) that continue to ensnare unsuspecting taxpayers. Even a professional hired by the Taxpayer found herself entangled in the web. Nevertheless, under the law the Taxpayer was required to file his claim with all supporting documentation electronically by November 1, 2017. The Taxpayer did not fulfill this requirement. The Board is compelled to follow the law given to us by the legislature. Accordingly, the Department correctly denied the Taxpayer's claim.

Baton Rouge, Louisiana this November 7, 2019 day of November, 2019.

For the Board:

Judge Tony Graphia (Ret.)
Chairman

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