



BEFORE THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA

MAR 04 2024


Clara Davis, Tax Tribunal Administrator

PAUL ANDREW SHAW,

Petitioner,

v.

FRANK M. O'CONNELL, in his
Official Capacity as Commissioner of
the GEORGIA DEPARTMENT OF
REVENUE,

Respondent.

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DOCKET No.: 2401255 & 2401256

DECISION – 2024-3 Ga. Tax Tribunal, March 4, 2024

I. Introduction

This case is an appeal brought by Petitioner Paul Andrew Shaw (“Petitioner”) challenging Official Assessments and Demands for Payment, Letter No. L0127040944 and Letter No. L1200782768, issued by Respondent, Frank M. O’Connell, in his Official Capacity as Commissioner of the Georgia Department of Revenue (“Respondent” or “the Department”). A hearing was held before the Georgia Tax Tribunal on February 6, 2024. Mitchell Watkins, Esq. appeared on behalf of the Department, and Petitioner represented himself *pro se*. For the reasons stated herein, Respondent’s Assessments, Letter No. L0127040944 and Letter No. L1200782768, are **AFFIRMED**.

II. Conclusions of Law

A tax assessment by the Department of Revenue is deemed *prima facie* correct, and the burden of persuasion in an appeal thereof is put on the taxpayer to show errors or unreasonableness in the assessment. See Blackmon v. Ross, 123 Ga. App. 89 (1970); Hawes v. LeCraw, 121 Ga. App. 532 (1970). As explained by the Georgia Court of Appeals:

[T]he burden of proof is on the taxpayer from the beginning . . . and that burden remains on him to . . . show clear and specific error or unreasonableness in the Commissioner's deficiency assessment. This placing of the burden is justified by the fact that the taxpayer is the moving party in contesting the validity of the assessment and has in his possession the information necessary for such contest.

Undercofler v. White, 113 Ga. App. 853, 855 (1966). To prevail, Petitioner must demonstrate by a preponderance of the evidence that the assessed taxes in dispute are in error or unreasonable.

Pursuant to the United States Internal Revenue Code ("IRC"), gross income includes "all income from whatever source derived, including (but not limited to) ... compensation for services." 26 U.S.C. § 61; see also Commissioner v. Glenshaw Glass Co. 348 U.S. 426, 431 (1955) (finding that "instances of undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion" constitute gross income). "Georgia taxable income of an individual shall be the taxpayer's federal adjusted gross income, as defined by the [IRC]" O.C.G.A. § 48-7-27. The IRC specifically lists compensation for services as an item included in gross income. 26 U.S.C. § 61(a)(1). Further, the Georgia Court of Appeals has clearly defined what is included as income by holding, "as a subject of taxation, income is the gain derived from capital or labor, or both combined[.]" Brandon v. State Revenue Com., 54 Ga. App. 62, 65 (1936).

At the hearing, Petitioner argued that a man is not required by law to pay an income tax or file a tax return. This argument is frivolous and has been rejected by courts at all levels of the judiciary. See United States v. Karlin, 785 F.2d 90, 91 (3d Cir. 1986) (rejecting the taxpayer's contention that he was "not a 'person' within meaning of 26 U.S.C. § 7203" as "frivolous and requir[ing] no discussion."); United States v. Studley, 783 F.2d 934, 937 n.3 (9th Cir. 1986) (rejecting the taxpayer's contention that she was not subject to federal tax laws because she was "an absolute, freeborn, and natural individual," the court further noted that "this argument has been consistently and thoroughly rejected by every branch of the government for decades."); Biermann v.

Commissioner, 769 F.2d 707, 708 (11th Cir. 1985) (finding that the taxpayer’s claim that he was not “a person liable for taxes” was “patently frivolous”); Fair v. Commissioner, 1994 Tax Ct. Memo LEXIS 276, *3-4 (finding the petitioner’s argument that he does not hold the status of a “taxpayer” to be frivolous and further stating that “tax protester cases should be dealt with ‘summarily and decisively . . . without engaging in scholarly discussion of the issues or attempting to soothe the feelings of the petitioners” (quoting McCoy v. Commissioner, 76 T.C. 1027, 1029-1030 (1981), affd. 696 F.2d 1234 (9th Cir. 1983))). Further discussion on this issue is not warranted.

Petitioner did not dispute that he worked during the tax year in question and that he earned the income that became the basis of the assessment issued by the Department. Further, Petitioner did not present any other evidence showing that the Department’s assessment contains any errors or that it is unreasonable. Thus, Petitioner has failed to meet his burden of persuasion in this case. Respondent’s Assessments, Letter No. L0127040944 and Letter No. L1200782768, are **AFFIRMED**.

SO ORDERED, this 4th day of March 2024.



LAWRENCE E. O’NEAL, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL