



FILED
GA. TAX TRIBUNAL

MAY 05 2014

Yvonne Bouras
Yvonne Bouras
Tax Tribunal Administrator

IN THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA

RICHARD DARWIN BROWN,

Petitioner,

v.

DOUGLAS J. MACGINNITIE,
Commissioner, Georgia Department of
Revenue,

Respondent.

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DOCKET NO.: TAX – IIT - 1410930

DECISION

2014-7 Ga. Tax Tribunal, May 5, 2014

This case turns upon the rule that a taxpayer is only allowed to claim itemized deductions on the taxpayer’s Georgia income tax return if the taxpayer has claimed itemized deductions on the taxpayer’s federal income tax return for that year. Thus, a taxpayer who does not itemize for federal income tax purposes is required to use the Georgia standard deduction in computing the taxpayer’s Georgia income tax for that year.

For the reasons discussed below, Respondent’s Motion for Summary Judgment must be **GRANTED** and judgment entered in favor of Respondent.

I. FINDINGS OF FACT

The facts in this matter are not disputed and are so found.

On March 6, 2013, Petitioner Richard Darwin Brown belatedly filed his Georgia income tax returns for tax years 2006, 2007, 2008 and 2009. In preparing his returns, Mr. Brown itemized his deductions on his 2006 return, but took the standard deduction on his 2007, 2008 and 2009 returns.

Each of the Georgia income tax returns that Petitioner filed reflected tax due, but Petitioner did not remit the amount of the liability reflected on the returns that he filed. Accordingly, on July 3, 2013, Respondent issued Official Assessments and Demands for Payment (the "Assessments") seeking the amounts shown on the Petitioner's filed returns.

On September 24, 2013, Petitioner filed his Petition in the Tax Tribunal designating his case to proceed as a Small Claims Division case. In his Petition, Petitioner disputes each of the Assessments on the "grounds that, due to my bad book keeping, I did not use any deductions that were allowed me. Because I used none of my allowed deductions, this cannot be an accurate assessment."

On March 28, 2014, Respondent filed Commissioner's Motion for Summary Judgment and supporting documentation which included copies of Petitioner's Georgia and federal income tax returns for the years in issue. The Petitioner's Georgia returns reflect use of itemized deductions on his 2006 Georgia return, but use of the standard deduction on his 2007, 2008 and 2009 returns. The Petitioner has not contested Respondent's motion or any of the supporting documentation which Respondent has submitted in support of his motion. Nor has Petitioner introduced any evidence or provided any documentation of what his itemized deductions would have been for 2007, 2008 or 2009.

II. CONCLUSIONS OF LAW

A. **Standard of Review.** The standards governing summary judgment are well established. To prevail at summary judgment under O.C.G.A. § 9-11-56, the moving party must demonstrate that there is no genuine issue of material fact as to each element of its claim and that the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant

judgment as a matter of law. O.C.G.A. § 9-11-56(c); Lau's Corp., Inc. v. Haskins, 261 Ga. 491, 491 (1991); Therese R. Basham, 2014-5 Ga. Tax Tribunal, February 20, 2014.

B. Federal/Georgia Consistency Requirement. Under our system of self-assessment of income tax, it is the taxpayer who has the duty to file a return computing the taxpayer's income tax liability for each year. See O.C.G.A. § 48-7-50; Graham v. McKesson Info. Solutions, LLC, 279 Ga. App. 364, 367 (2006). When filing a federal income tax return, an individual taxpayer may either itemize deductions or take the standard deduction. See 26 U.S.C. § 63; O.C.G.A. § 48-7-27(a)(1). Once made on the federal income tax return, this election as to itemizing deductions versus using the standard deduction is also binding for purposes of calculating the taxpayer's Georgia taxable net income. See O.C.G.A. § 48-7-27(a)(1). If the taxpayer does not make an election to itemize on the federal income tax return, then no itemized deductions will be allowed. See 26 U.S.C. § 63(e).

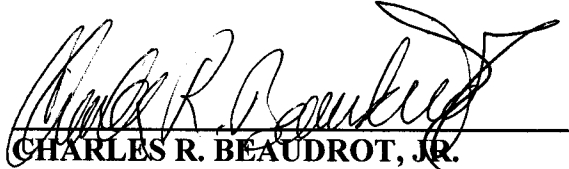
In this case, Petitioner elected to itemize his deductions for his 2006 tax year but took the standard deduction on his 2007, 2008 and 2009 tax returns. Thus, Petitioner is bound to use the Georgia standard deduction in computing his Georgia taxable income. O.C.G.A. § 48-7-27(a)(1). His 2007, 2008 and 2009 Georgia returns, as originally filed, do exactly that.

Respondent has allowed Petitioner's itemized deductions as claimed for 2006. As to 2007, 2008 and 2009, Petitioner has not provided any documentation with respect to what he now apparently contends his itemized deductions would be for 2007, 2008 and 2009. Rather, Petitioner has made a general reference to the deductions shown on his 2012 income tax return. Unfortunately for Petitioner, the burden is on the taxpayer claiming itemized deductions and it is the taxpayer who must compute and document such deductions. A generalized assertion of the existence of deductions is not sufficient.

III. CONCLUSION

Accordingly, the Department's assessments for tax years 2006, 2007, 2008 and 2009 must be sustained. Respondent's Motion for Summary Judgment is therefore **GRANTED** and judgment is entered in favor of Respondent.

SO ORDERED, this 5th day of May, 2014.


CHARLES R. BEAUDROT, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL

RICHARD DARWIN BROWN, *PRO SE*

PETITIONER

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ATTORNEYS FOR RESPONDENT, DOUGLAS J. MACGINNITIE, Commissioner, Georgia Department of Revenue.