

Cite as 10 WTD 410 (1990).

BEFORE THE INTERPRETATION AND
APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition)	<u>D E T E R M I N A T I O N</u>
For Correction of Assessment of)	
)	No. 91-053
)	
. . .)	Registration No. . . .
)	. . ./Audit No. . . .
)	. . ./Audit No. . . .

[1] **RCW 82.32.100, RULE 230(1) AND RPM 89-4:** B & O TAX --UBI -- UNREGISTERED TAXPAYER -- PERIOD OF LIMITATION. Taxpayer voluntarily registered with some state agencies before the new Uniform Business Identifier program was implemented. However, the taxpayer was not registered with Department of Revenue and did not voluntarily file for an identification number under the new UBI program. DOR discovered taxpayer's status through the UBI system and assigned him a registration number. Because DOR discovered the taxpayer was doing business in this state and was unregistered, he is subject to a seven year period for tax assessments rather than four years.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

TAXPAYER REPRESENTED BY: . . .

NATURE OF ACTION:

Audit Division assessed an unregistered taxpayer Service Business and Occupation (B & O) taxes for seven years. The taxpayer contests the first three of those years.

FACTS

De Luca, A.L.J. -- There are two assessments covering the audit periods January 1, 1983 through December 31, 1985 and January 1, 1986 through December 31, 1989, respectively. The audit report was issued [in June 1990]. The assessment for the earlier period was \$. . . in Service B & O taxes, \$. . . in interest and \$. . . in penalties, totalling \$ The assessment for the latter period amounted to \$. . . in B & O taxes, interest and penalties. The taxpayer paid the latter assessment and contests only the earlier one, which remains unpaid.

The taxpayer is a medical doctor who has practiced in Washington since at least 1983. The taxpayer had long been registered with the Departments of Labor and Industries and Employment Security. However, the taxpayer was not registered with the Department of Revenue (DOR) until after the state's Uniform Business Identifier (UBI) program was implemented. DOR discovered the non- registration through the UBI system [in November of 1988] and assigned him a registration number.

DOR adopted Revenue Policy Memorandum (RPM) 89-4, effective October 9, 1989. . . . Persons who voluntarily register with DOR or who file for an identification number under the UBI system, whether or not for the purpose of registering with DOR, shall not be assessed taxes and interest beyond four years plus the current year. Penalties shall not be assessed as long as there was no intent to evade.

RPM 89-4 also provides that in cases where DOR discovers any unregistered taxpayer doing business in this state, it shall assess taxes plus interest and penalties for a period not to exceed seven years plus the current year. However, if DOR finds a willful intent to evade tax, it will assess all back taxes, interest and all applicable penalties found to be due for the period beginning when the taxpayer first conducted business or otherwise incurred tax liability in the state. The audit report did not find any willful intent to evade the taxes.

ISSUE

Is DOR prevented by RPM 89-4 from assessing the taxpayer for seven years rather than four years because the taxpayer was registered with other agencies prior to the UBI program?

TAXPAYER'S EXCEPTIONS

The taxpayer argues because he was registered with other agencies and subsequently assigned a UBI identification number he was registered for DOR purposes as well. Therefore, he urges that DOR is barred from assessing him for the three years prior to 1986.

DISCUSSION:

Normally, DOR cannot assess a taxpayer who failed to file tax returns more than four years after the close of the tax year. However, a few exceptions exist. For instance, the four year limit does not apply when a person has not registered with DOR. See RCW 82.32.100 and WAC 458-20-230(1). . . . As shown in RPM 89-4, DOR applies a seven year plus the current year limit for unregistered persons without willful intent to evade whom it discovers doing business in Washington and who have not voluntarily registered.

RPM 89-4 recognizes that voluntary registration with the new UBI system is considered registration for DOR purposes. However, the taxpayer did not voluntarily file for an identification number with UBI or register with DOR. In fact, he was discovered through the UBI system as unregistered with DOR and then assigned a registration number. Therefore, this matter is governed by paragraph A) 2. of the RPM - Discovery by the Department:

[i]n cases where the Department discovers any unregistered taxpayer doing business in this state, the Department will assess any taxes plus applicable interest and penalties for a period not to exceed seven years plus the current year in which the discovery is made.

The taxpayer cannot benefit from the four year limitation and waiver of penalties provisions of RPM 89-4. Instead, the full seven years assessment period applies according to RCW 82.32.100, Rule 230(1) and RPM 89-4.

DECISION AND DISPOSITION:

Taxpayer's petition is denied.

DATED this 26th day of February, 1991.