

Cite as 10 WTD 171

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. 90-375
)	
. . .)	Registration No. . . .
)	. . ./Audit No. . . .
)	
)	

[1] RULE 228: INTEREST -- WAIVER -- AUDIT -- DUTY OF DEPARTMENT. The Department is under no duty to audit a taxpayer's records. Interest will not be waived because the Department did not conduct an audit sooner.

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: . . .

DATE OF HEARING: September 11, 1990

NATURE OF ACTION:

Protest of interest included in a tax assessment.

FACTS AND ISSUES:

Dressel, A.L.J. -- . . . (taxpayer) manufactures electronic and computer goods. Its books and records were examined by the Department of Revenue (Department) for the period . . . through . . . As a result a tax assessment, identified by the above-captioned numbers, was issued for \$. . . including interest. The taxpayer appeals the interest portion of the assessment in this action.

The basis for the taxpayer's appeal is somewhat ingenuous, that had the Department conducted its audit at an earlier date, the interest would not have been owed. Apparently, the taxpayer's theory is that had the audit occurred sooner, the error of the taxpayer's method of reporting its taxes would have been discovered by the

Department and, thereafter, it would have reported and paid correctly and interest on delinquent taxes would not have arisen. Whether interest on a tax assessment may be waived because the Department did not audit the taxpayer at an earlier date is the issue.

DISCUSSION:

[1] The Department of Revenue is not required to audit anybody. It may audit taxpayers under the authority of RCW 82.32.070 when it chooses to do so. Neither that authority nor any other, however, imposes an affirmative duty on the Department's Audit Division to examine the books and records of every taxpayer or to examine the books of some taxpayers at certain intervals. From the point of view of practicality, the Department does not have the personnel to do so and such practices would be economically inefficient in terms of tax dollars uncovered. Consequently, the Department audits on a random basis which is a perfectly legitimate approach in terms of Title 82 RCW, Chapter 458-20 WAC, and applicable case law.

The imposition of interest is mandated in RCW 82.32.050 which reads in part:

If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until date of payment. (Emphasis added.)

Waiver of interest is authorized in RCW 82.32.105 where the failure to pay tax is due to circumstances beyond the control of the taxpayer. Lack of knowledge of one's correct tax liability is not such a circumstance. Determination 86-226, 1 WTD 67 (1986). The burden of informing oneself of his or her state excise tax obligation is placed on the taxpayer. The Department freely gives such information, if asked. ETB 310.32.101.230.

DECISION AND DISPOSITION:

The taxpayer's petition is denied.

DATED this 31st day of October, 1990.