

Cite as Det. No. 15-0083, 34 WTD 380 (2015)

BEFORE THE APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

[1] RCW 82.32.100: ESTIMATED ASSESSMENT – FAILURE TO PROVIDE RECORDS. Where a taxpayer alleges that the Department based its assessment on inaccurate records but fails to provide accurate records, RCW 82.32.100 authorizes the Department to issue an assessment based on the records provided.

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.

Anderson, A.L.J. – A towing company disputes the results of an audit on the basis that its records were not correct at the time of the audit and it is in the process of reconciling income to produce correct records. Petition denied.¹

ISSUE

Under RCW 82.32.100, may an assessment be adjusted where a taxpayer has failed to provide accurate records?

FINDINGS OF FACT

[Taxpayer] provides motor vehicle towing and storage. The Washington State Department of Revenue's (the "Department's") Audit Division ("Audit") reviewed Taxpayer's books and records for the period of January 1, 2010 through June 30, 2013 (the "Audit Period"). Audit reviewed Taxpayer's Quickbooks electronic records, profit and loss statements, bank statements, Federal income tax returns, and sales invoices. On March 20, 2014, Audit issued Taxpayer an assessment in the amount of \$... comprised of \$... in tax, \$... in interest, and \$... in 5% assessment penalty.

¹ Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

On April 10, 2014, Taxpayer appealed the assessment, stating, that it told the auditor several times that its Quickbooks files were not correct and had discussed reconstructing income from actual receipts but the auditor ran out of time. Taxpayer states that it feels there is some tax owed, but not the amount of the assessment, and stated that it would be reconciling income on spreadsheets for 2011, 2012, and 2013, and would have the spreadsheets finished by May 31, 2014.

On May 19, 2014, the Appeals Division acknowledged receipt of Taxpayer's Appeal Petition and gave Taxpayer until June 18, 2014, to provide any additional evidence or supplement the Appeal Petition.

On May 30, 2014, Taxpayer wrote and asked for an extension to provide records. On June 2, 2014, the Appeals Division extended the deadline to provide records to August 18, 2014.

On July 21, 2014, Taxpayer wrote and asked for another extension to provide records. On August 13, 2014, the Appeals Division extended the deadline to provide records to October 31, 2014.

On October 20, 2014, Taxpayer wrote and asked for an extension to provide records. On December 29, 2015, the Appeals Division sent Taxpayer a notice that its appeal had been reassigned to another administrative law judge and provided Taxpayer until February 13, 2015 to provide records or supplement its petition.

As of March 31, 2015, the Taxpayer has not provided any records or supplemented its petition.

ANALYSIS

"Every person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of tax for which he or she may be liable, . . ." RCW 82.32.070(1). Should a taxpayer not keep and preserve such records, the Department may proceed to do its best to estimate tax due, based on the records provided. RCW 82.32.100(1).

Here, Audit followed RCW 82.32.100 to [assess] tax due based upon the records provided. Taxpayer appealed on the basis that the records provided were not correct and it would be providing additional records. Despite several extensions, Taxpayer has not provided any additional records. And, in the absence of additional records, we sustain the assessment.

DECISION AND DISPOSITION

Taxpayer's petition is denied.

Dated this 31st day of March, 2015.