

Cite as 1 WTD 41 (1986)

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

In the Matter of the Petition) S U P P L E M E N T A L
For Correction of Assessment of) D E T E R M I N A T I O N
)
) No. 85-216A
)
)
. . .) Registration No. . . .
) Tax Assessment No. . . .
)

TAXPAYER REPRESENTED BY: . . .

RULE 228 - INTEREST - WAIVER - EXTENSION OF DUE DATE FOR SOLE CONVENIENCE OF THE DEPARTMENT. Where Department did not issue Determination until four months after the telephone conference and did not issue an amended assessment until nine months after the Determination, interest was waived for the entire period starting three months after the conference.

These 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.

NATURE OF ACTION:

The taxpayer seeks an adjustment to the amount of interest assessed in connection with Tax Assessment No. . . .

FACTS AND ISSUES:

Gregory I. Potegal, Administrative Law Judge--As the result of an audit Tax Assessment No. . . . was issued against the taxpayer. The assessment was originally issued November 15, 1984. The taxpayer timely appealed that assessment and paid the unprotested amounts on December 10, 1984. An amended assessment was issued February 21, 1985. Pursuant to the taxpayer's appeal a telephone conference was conducted on May 23, 1985. Determination No. 85-216 was issued September 18, 1985. It granted some of the taxpayer's objections and denied others. It called for another amended assessment to be issued. The Determination was silent on the question of interest. The amended assessment was issued on June 3, 1986. Interest was assessed for the entire time the appeal was pending up to the date of the amended assessment.

The taxpayer believes it unfair to assess interest for that total period of time.

DISCUSSION

WAC 458-20-228 is the Department of Revenue's duly adopted rule concerning, among other things, the waiver of interest. It states in part:

The department will waive or cancel the penalties imposed under RCW 82.32.090 and interest imposed under RCW 82.32.050 upon finding that the failure of a taxpayer to pay any tax by the due date was due to circumstances beyond the control of the taxpayer. The department has no authority to cancel penalties or interest for any other reason.

. . .

The following situations will constitute circumstances under which a waiver or cancellation of interest upon assessments pursuant to RCW 82.32.050 will be considered by the department:

1. The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department.
2. Extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department.

In this case the delay in issuing the assessment more than three months after the date of the telephone conference was for the sole convenience of the Department. Therefore, interest attributable to that time will be waived.

DECISION AND DISPOSITION:

The taxpayer's petition is granted. Interest for the period from August 23, 1985 through a new due date which the taxpayer will be advised of in writing will be deleted from Tax Assessment No. . . .

DATED this 23rd day of July 1986.