

Cite as Det. No. 07-0115, 26 WTD 241 (2007)

BEFORE THE APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition For Correction of)	<u>D E T E R M I N A T I O N</u>
Assessment of)	
)	No. 07-0115
)	
...)	Registration No. . . .
)	Document . . ./Audit No. . . .
)	Docket No. . . .
)	

RULE 24003; RCW 82.32.600(1): HIGH TECHNOLOGY B&O TAX CREDIT – PROCEDURAL REQUIREMENTS – FILING OF ANNUAL SURVEY AND TAX RETURNS ELECTRONICALLY. Entitlement to the High Technology B&O tax credit requires taxpayers to file annual surveys and tax returns electronically. The Department correctly disallowed the credit when a taxpayer failed to meet that procedural requirement. The fact that the taxpayer may not have received a courtesy call from the Department reminding it of the requirement does not relieve the taxpayer from that requirement.

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.

Lewis, A.L.J -- Taxpayer appeals the Department of Revenue’s (“Department’s”) denial of its High Technology Credit based on the fact it failed to electronically file its annual survey and tax returns. RCW 82.04.4452 provides that qualification for the credit requires filing surveys and tax returns electronically. Taxpayer failed to file its annual survey and tax returns electronically. Accordingly, we conclude the Department correctly denied the credit.¹

ISSUE:

Is Taxpayer’s failure to receive the Department’s courtesy telephone [call,] placed to remind Taxpayer of the requirements of the credit[,] grounds to allow the credit?

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

FINDING OF FACTS:

On March 1, 2007, the Department's Taxpayer Account Administration Division issued a \$. . . assessment.² The assessment resulted from TAA's denial and disallowance of Taxpayer's 2006 High Technology Credit. TAA disallowed the credit because Taxpayer had failed to electronically file its annual survey and tax returns. On . . . , 2007, Taxpayer filed a petition requesting Correction of Assessment. Taxpayer maintained that the disallowance of the High Technology Credit was overly harsh in light of the fact that it never received a May 2006 telephone message from TAA explaining that qualification for the credit required electronic filing of the annual survey and tax returns.³ Taxpayer maintained that it would have filed the survey and tax returns electronically and thus avoided the denial of the credit, had it received the telephone call.

TAA maintains that the Taxpayer's not receiving the courtesy telephone call is not grounds for waiving the statutorily mandated requirements of the credit. TAA explained that the telephone [call] was only a courtesy and that substantial efforts had already been made to inform taxpayers of the change in the law. Specifically, on June 21, 2005, the Department sent to affected businesses a Special Notice entitled "High Technology Business and Occupation Tax Credit Changes." Included in the Special Notice was a section that explained the electronic filing requirement for those businesses seeking the High Technology B&O tax credit. The Special Notice stated:

Electronic Filing Required

Virtually all persons receiving tax benefits for the High Technology B&O tax credit provided by RCW 82.04.4452 **must file all returns, surveys, reports, and any other required forms or information in an electronic format** as provided or approved by the Department **effective January 1, 2006.**

(Emphasis added.)

ANALYSIS:

RCW 82.04.4452 and WAC 458-20-24003 (Rule 24003) allow a High Technology B&O tax credit for businesses that perform qualified research and development within Washington. Entitlement to the credit not only requires Taxpayer to perform qualifying research and development, but also to comply with certain procedural requirements. Specifically, RCW 82.32.600(1) requires that, effective January 1, 2006:

² The assessment consisted of \$. . . tax and \$. . . interest.

³ Taxpayer maintained that a named individual was not and never had been an employee. Taxpayer first learned that a May 2006 telephone call had been made in a February 7, 2007, letter explaining that the 2006 High Technology credit would be disallowed.

Persons required to file surveys under RCW 82.04.4452 must electronically file with the department all surveys, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department

Taxpayer failed to file its survey and tax returns electronically. It is regrettable that Taxpayer did not receive TAA's May 2006 courtesy telephone message. The fact that Taxpayer did not receive the message, however, is not a basis for granting the relief that Taxpayer requests.

Washington's tax system relies on taxpayers' voluntary compliance. The Department makes every effort to provide taxpayers with current tax reporting information. In this case, the Department sent out during June 2005 a Special Notice to taxpayers taking the High Technology B&O credit. In some cases, the Department makes extra-special efforts, such as when it made the personal telephone call to affected taxpayers. However, the Department is not required by law to individually notify taxpayers of their tax reporting obligations.

RCW 82.32A.030(2) charges taxpayers with:

Know[ing] their tax reporting obligations, and when they are uncertain about their obligations, seek[ing] instructions from the department of revenue

Here, entitlement to the High Technology B&O tax credit required filing tax returns and forms electronically. Taxpayer failed to file its survey and tax returns electronically. TAA correctly disallowed the High Technology credit. The fact that Taxpayer failed to receive a courtesy telephone call from TAA informing Taxpayer of the need to file its tax returns electronically is not grounds to grant the relief Taxpayer requests.⁴ Accordingly, Taxpayer's petition is denied.

DECISION AND DISPOSITION

Taxpayer's petition is denied.

Dated this 3rd day of May 2007.

STATE OF WASHINGTON DEPARTMENT OF REVENUE

⁴ RCW 82.32.590 allows the Department to extend the due date for electronically filing the survey if the Department finds the failure to file an annual survey by the due date was the result of circumstances beyond the control of the taxpayer. Unfortunately, RCW 82.32.590 neither makes an allowance for failing to file [surveys] electronically or for a lack of knowledge of filing requirements. [See RCW 82.32.600, which provides that any survey required to be filed electronically is not filed until received by the department in an electronic format.]