

TAX COURT OF NEW JERSEY

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Corrected Opinion Notice

Date: March 8, 2019

David S. Neufeld and Jeremy S. Cole, Esqs.
Flaster Greenberg, PC

Ramanjit K. Chawal, DAG
Office of the Attorney General

From: Lynne E. Allsop

Re: MITCHELL MEDOFF V. DIRECTOR, DIVISION OF TAXATION
Docket number: 09867-2018

The attached corrected opinion replaces the version released on March 1, 2019
The Opinion has been corrected as noted below:

Page 7, line 8 citation corrected to read "25 N.J. Tax 555, 571 (App. Div. 2010).

Page 11, line 2 citation corrected to read "N.J.S.A. 54A:9-8(a).

NOT FOR PUBLICATION WITHOUT APPROVAL OF
THE TAX COURT COMMITTEE ON OPINIONS

Corrected 3/8/19- pgs. 7 and 11 citations

MITCHELL MEDOFF,

Plaintiff,

vs.

DIRECTOR,
DIVISION OF TAXATION,

Defendant.

TAX COURT OF NEW JERSEY
DOCKET NO: 009867-2018

Approved for Publication In the New Jersey Tax Court Reports
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Decided: March 1, 2019

David S. Neufeld and Jeremy S. Cole for plaintiff (Flaster Greenberg
P.C., attorneys).

Ramanjit K. Chawla for defendant (Gurbir S. Grewal, Attorney
General of New Jersey, attorney).

CIMINO, J.T.C.

I. INTRODUCTION

Plaintiff taxpayer, Mitchell Medoff, filed a complaint demanding a refund on his New Jersey gross income tax paid for tax years 2009 through 2012. Taxpayer claims that defendant, Director, Division of Taxation (“Director”), acted inequitably and with manifest unfairness and injustice by denying taxpayer’s request for a refund

on the basis of untimeliness. Taxpayer submitted a motion for summary judgment. The Director responded with his own cross-motion for summary judgment.

Taxpayer argues that the Director is equitably estopped from enforcing the statute of limitations because taxpayer detrimentally relied on the Director's interpretation of a 2009 amendment to N.J.S.A. 54A:6-11 imposing gross income tax on lottery winnings in excess of \$10,000, and that by enforcing the statute of limitations, the Director inflicts a manifest injustice on taxpayer. Taxpayer contends that he had no reason to know that he was not required to pay income tax on his lottery winnings for tax years 2009 through 2012 until after the statute of limitations on those years had already run, and that the Director thus creates a manifest injustice. If taxpayer succeeds and his motion is granted, the Director would have to grant taxpayer's refund claims for the years in question.

The Director argues that taxpayer did not file his refund claims in a timely manner, and that no exception applies. The Director maintains that he acted fairly and forthrightly with taxpayer, and that taxpayer's failure, whether knowingly or unknowingly, to file his refund claims in a timely manner precludes his recovery of potential refund amounts. If the Director succeeds and his cross-motion is granted, he would retain the funds paid by taxpayer for the years in question.

For the reasons set forth below, taxpayer's motion for summary judgment is denied, and the Director's cross-motion for summary judgment is granted.

II. STATEMENT OF FACTS

Taxpayer won the New Jersey lottery in 1993 in the gross amount of about \$7.5 million. At the time, New Jersey did not tax lottery winnings. Taxpayer received annual annuity payments of about \$371,000 until 2012.

On June 29, 2009, sixteen years after taxpayer won the lottery, the Legislature amended N.J.S.A. 54A:6-11, making lottery winnings from prizes in excess of \$10,000 taxable. L. 2009, c. 69, § 3. The amendment was to “take effect immediately and apply to taxable years beginning on or after January 1, 2009.” Id. at § 5. From 2009 to 2012, taxpayer paid gross income tax on the remaining annuity payments from his 1993 lottery prize.

Meanwhile, in 2011, three complaints were filed against the Director in this court by others who had won the lottery prior to the 2009 enactment. Milligan v. Dir., Div. of Tax’n, 29 N.J. Tax 381 (Tax 2016), Leger v. Dir., Div. of Tax’n, 29 N.J. Tax 354 (Tax 2016), Harrington v. Dir., Div. of Tax’n, 29 N.J. Tax 370 (Tax 2016). On September 26, 2016, the court in Milligan, Leger, and Harrington determined that the square corners doctrine barred the Director from collecting income tax on lottery winnings from prizes won prior to the enactment of the law because taxpayers who participated in and won those lotteries understood that their

winnings would be tax-free. Milligan, 29 N.J. Tax at 406-07, Leger, 29 N.J. Tax at 355-56, Harrington, 29 N.J. Tax at 379-81.¹

Here, taxpayer filed and paid his 2009, 2010, 2011, and 2012 New Jersey gross income tax returns in a timely manner.² As such, per the three-year deadline in N.J.S.A. 54A:9-8(a), the last day for him to file a claim for a refund of overpayment was April 15 of 2013, 2014, 2015, and 2016, respectively.³ Taxpayer filed an amended gross income tax return for all four tax years on April 5, 2017, seeking a refund.

¹ The Milligan court concluded by holding:

[it is] the judiciary's obligation to apply legal precedents that limit the ability of the other branches of government to use their considerable powers in ways that trespass on the State's obligations to deal fairly with members of the public with whom it has entered financial arrangements. That obligation is violated when the State seeks to tax lottery winning[s] from prizes awarded prior to January 1, 2009, where all participants in the financial transaction that resulted in the award of the lottery prize understood that the winnings would not be subject to State income tax.

[Id. at 407-08.]

² Returns are to be filed by April 15 of the following year for a taxpayer utilizing the calendar accounting year. N.J.S.A. 54A:8-1(a).

³ For purposes of the refund section, taxes paid and returns filed early are deemed paid and filed, correspondingly, on April 15 for a calendar year taxpayer. N.J.S.A. 54A:9-8(h), (g).

On April 2, 2018, the Director denied taxpayer's request for a refund of claimed overpayments for tax years 2009 through 2012. Taxpayer filed his complaint with this court on June 27, 2018.

III. CONCLUSIONS OF LAW

This case comes before the court on cross-motions for summary judgment. The New Jersey Supreme Court has held that summary judgment provides "a prompt, businesslike and inexpensive method of disposing of any cause which a discriminating search of the merits in the pleadings, depositions and admissions on file, together with the affidavits submitted on the motion clearly shows not to present any genuine issue of material fact requiring disposition at trial." Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 530 (1995).

Here, the parties do not dispute any material facts, including that taxpayer's amended gross income tax returns seeking refunds for years 2009 through 2012 were filed untimely, making the matter ripe for summary judgment. See N.J.S.A. 54A:9-8(a) (taxpayer has three years from date of filing to seek refund). The only remaining issue and potential ground for taxpayer's relief is whether the Director is estopped from denying taxpayer's refund based on equitable considerations.

The New Jersey Supreme Court has ruled that "[s]trict adherence to statutory time limitations is essential in tax matters, borne of the exigencies of taxation and

the administration of [] government.” F.M.C. Stores Co. v. Borough of Morris Plains, 100 N.J. 418, 424 (1985). However, the F.M.C. Stores Co. court also stated that government officials act solely in the public interest and that in dealing with the public, the government must turn square corners. Id. at 426. The square corners doctrine provides that:

statutory provisions governing substantive standards and procedures for taxation, including the administrative review process, are premised on the concept that government will act scrupulously, correctly, efficiently, and honestly. It is to be assumed that the [taxing authority] will exercise its governmental responsibilities in the field of taxation conscientiously, in good faith and without ulterior motives.

[Id.] at 427.]

However, “[e]very man is supposed to know the law, and if he voluntarily makes a payment which the law would not compel him to make, he cannot afterwards assign his ignorance of the law as a reason why the state should furnish him with legal remedies to recover it back. Ignorance or mistake of law by one who voluntarily pays a tax illegally assessed furnishes no ground of recovery.” In re New Jersey State Bd. of Dentistry, 84 N.J. 582, 588 (1980). This is because “[p]ublic policy discourages suits for the refund of taxes erroneously paid or illegally collected.” Continental Trailways, Inc. v. Dir., Div. of Motor Vehicles, 102 N.J. 526, 548 (1986). Government budgets are prepared on an annual cash basis and governments are entitled to presume that tax statutes are valid. See ibid.

“[I]n the absence of statutory authority, taxes voluntarily, although erroneously, paid even under an unconstitutional statute cannot be refunded.” Ibid. The statutory authority here provides for a three-year deadline to claim a refund. N.J.S.A. 54A:9-8(a). Taxpayer did not meet the deadline. “Plaintiff is charged with knowledge of the law and cannot now defeat the imposition of statutory deadlines by pleading lack of knowledge or awareness.” Peoples Exp. Co., Inc. v. Dir., Div. of Tax’n, 10 N.J. Tax 417, 434 (Tax 1989). See also Trump Plaza Associates v. Dir., Div. of Tax’n, 25 N.J. Tax 555, 571 (App. Div. 2010).

Taxpayer argues that he detrimentally relied on the Director’s initial interpretation of N.J.S.A. 54A:6-11, and that he had no way to know that he was not required to pay his tax until the court’s 2016 rulings. Taxpayer goes on to argue that he was not ignorant of the law and that ignorance was not an excuse for his untimely filing.

It appears that taxpayer was fully aware of the Legislature’s 2009 amendment to N.J.S.A. 54A:6-11 and the Director’s interpretation of the statute from that year forward. Taxpayer had the opportunity to challenge the Director’s interpretation of N.J.S.A. 54A:6-11 at any point after he submitted his 2009 and later years’ tax returns. Like the Milligan, Leger, and Harrington plaintiffs, taxpayer could have raised the square corners doctrine, or any other objection he might have found

appropriate, as an argument against the Director's interpretation. Moreover, he could have simply joined himself in the Milligan, Leger, or Harrington cases.

Because taxpayer did not submit a timely amended tax return, and because there is no evidence to suggest that the Director did not act scrupulously, correctly, efficiently, or honestly in his dealings with taxpayer (i.e., violate the square corners doctrine) as to filing for a refund, the court will deny taxpayer's motion for summary judgment and will grant the Director's cross-motion for summary judgment. There is no claim in this case that the Director ever prevented the taxpayer from filing an amended return and seeking a refund. It must be emphasized that the successful plaintiffs in Milligan, Leger, and Harrington timely filed amended returns claiming refunds.

Although the Director must act "correctly" under the square corners doctrine, this does not extend to the situation in which the tax or assessment is found invalid after the tax has been paid. Such a result would gut statutory provisions setting a limitations period for seeking refunds, as well as ignore the ruling of the New Jersey Supreme Court recognizing that even taxes found to be unconstitutional cannot be refunded outside of established statutory procedures. Continental Trailways, 102 N.J. at 548. Even in F.M.C. Stores Co., in which the New Jersey Supreme Court first announced the square corners doctrine, the Court recognized that strict adherence to time limitations established by statute is essential. Id., 100 N.J. at 424.

Plaintiff relies on Toys “R” Us, Inc. v. Dir., Div. of Tax’n, 300 N.J. Super. 163 (App. Div. 1997), where the Appellate Division reversed a finding of summary judgment for the Director when the taxpayer untimely filed a claim for a refund. Id. at 173. There, the taxpayer claimed that the Director assessed and taxed its product after issuing an official publication stating that the product was not taxable. Id. at 164-68. The Appellate Division in its conclusion stated that the “grounds for an estoppel or equitable relief may be present in this case. The taxpayer should have an opportunity to establish those grounds.” Id. at 173.

Here, the court can clearly discern that there are no grounds for an estoppel or equitable relief claim. In Toys “R” Us, the issue was whether the Director assessed a tax on the taxpayer after it had already published an interpretation of the relevant statute stating that the goods at issue were not taxable. The Milligan, Leger, and Harrington tax court decisions, striking down the tax at issue, were issued on September 26, 2016, well after taxpayer filed his subject income tax returns and after the statute of limitations on all the subject years had run. Had the Director insisted upon payment after issuance of the court’s decisions in Milligan, Leger, and Harrington, this case would more closely parallel Toys “R” Us. Yet, the simple truth here is that the Director did not act unfairly in assessing taxpayer because of the pending litigation in Milligan, Leger, and Harrington. Although litigation began in the other cases in 2011, the Director is under no obligation to presume an

unfavorable outcome of those cases, to in any way warn taxpayers of pending litigation, or to disclaim taxes paid under statutes or interpretations that are challenged by other taxpayers.

Taxpayer also makes broad allegations of manifest injustice, an equitable remedy applied in tax matters when legislation is applied retroactively. For example, in Oberhand v. Dir., Div. of Tax'n, 193 N.J. 558 (2008), the estate tax was amended to apply retroactively to those who died up to six months prior to enactment. Id. at 564. The Court found it was manifestly unjust to apply this tax to decedents who were unable to make changes in their estate planning (since they had already died) to avoid the full effects of the statutory change. Id. at 574. In Leger, the taxpayer won the lottery and proceeded to pay off debts, buy out a business partner, purchase an investment property, give cash to siblings and donations to his church. Id., 29 N.J. Tax at 358. Of the \$3.5 million in winnings which was paid in a lump sum, only \$300,000 remained. Id. With the legislation enacted to retroactively tax lottery winnings, the remaining \$300,000 went primarily to taxes. Id. at 360. The court found that to be manifestly unjust since taxpayer was not aware the tax was coming so that he may have rearranged his financial affairs differently. Id. at 367-68. While manifest injustice invalidated the underlying tax assessment, Leger appealed the law timely.

Here, the issue is not so much whether the underlying tax is manifestly unjust, but rather, whether the three-year statute of limitations set forth at N.J.S.A. 54A:9-8(a) is. The statute of limitations provision has been effect since 1976. L. 1976, c. 47, § 54A:9-8(a). Thus, the taxpayer is hard pressed to argue that it was not possible for him to be aware of the three-year limitation when he paid the tax each year. While manifest injustice may have formed a basis to invalidate portions of the underlying lottery tax statute, it does not serve as a basis to eviscerate the statute of limitations provision.

Finally, taxpayer has contentions about the voluntariness of his payments to the Director. The Director alludes to the payment of tax being a “business decision,” whereas taxpayer, while not going so far as to say taxes are a form of coercion, claims that tax payments are not truly voluntary when faced with penalties and accrued interest in the event of nonpayment. Although case law has generally described our tax system as one of voluntary payments, the court need not dive into the fine details of the system because it suffices to say that no matter the willingness of taxpayer’s payments, he did not voluntarily timely object to his payments in a way that similarly situated taxpayers did.⁴

⁴ In Leger, Milligan, and Harrington the taxpayers filed an initial gross income tax return and paid the tax to avoid penalties and interest. Almost immediately thereafter, those taxpayers filed amended returns seeking a refund. Certainly, taxpayer here could have done the same, or at least filed an amended return within three years.

IV. CONCLUSION

For the foregoing reasons, taxpayer's motion for summary judgment is denied, and the Director's cross-motion for summary judgment is granted.