

BEFORE THE MONTANA TAX APPEAL BOARD

Byron Taylor,

Appellant;

v.

**State of Montana
Department of Revenue,**

Respondent.

CASE No: IT-2015-9

**Findings of Fact,
Conclusions of Law, Order,
and Opportunity for Judicial
Review**

Before the Board is Respondent State of Montana Department of Revenue's (DOR) motion for summary judgment requesting the Board to uphold the Office of Dispute Resolution (ODR) decision that Appellant Byron Taylor improperly reported no wages earned for tax years 2010, 2011, 2012, and 2013. Also before the Board are Taylor's motion to strike DOR's motion, and motion to grant summary judgment.

ISSUE

1. *Whether Taylor properly reported no wages earned for tax years 2010, 2011, 2012, and 2013.*
2. DOR alleges that Taylor improperly reported that he earned no wages.

3. Taylor counters that DOR is required to accept as final and correct the amounts Taylor submitted on his income tax filings with the Internal Revenue Service.

FINDINGS OF FACT

4. Taylor reported no wages earned for tax years 2010, 2011, 2012, and 2013. (Ex. A at 8, 11, 14, 17.)
5. Taylor reported that he was employed by Many Teepees, Inc. for this period. (Id. at 10, 13, 16, 19.)
6. Many Teepees, Inc. reported on Taylor's Form W-2 Wage and Tax Statement, that it had paid him wages, tips, and other compensation in the following amounts:
 - a. 2010 - \$20,778.39 (Ex. C. at 128.);
 - b. 2011 - \$21,180.52 (Id. at 129.);
 - c. 2012 - \$22,614.97 (Id. at 20.);
 - d. 2013 - \$24,657.66 (Id. at 6.).
7. Taylor has presented no evidence contradicting the W-2s issued by Many Teepees, Inc., that reported Taylor received the wages listed above.
8. To whatever extent the following conclusions of law may be construed as findings of fact, they are incorporated accordingly.

CONCLUSIONS OF LAW

9. To whatever extent the foregoing findings of fact may be construed as conclusions of law, they are incorporated accordingly.
10. The Board has jurisdiction over this case and its order is final and binding upon all parties unless changed by judicial review. Mont. Code Ann. § 15-2-302.
11. Under Rule 56(c), Mont. R. Civ. P., judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Roe v. City of Missoula*, 2009 MT 417, ¶ 14. "A material fact is a fact that involves the elements of the cause of action or defenses at issue to an extent that necessitates resolution of the issue by a trier of fact." *Roe*, ¶ 14.
12. "The party moving for summary judgment has the initial burden of establishing both the absence of genuine issues of material fact and entitlement to judgment as a matter of law." *Roe*, ¶ 14. If the moving party meets this burden, then the "burden . . . shifts to the nonmoving party to establish that a genuine issue of material fact does exist." *Roe*, ¶ 14.
13. If no genuine issues of material fact exist, the district court "then determines whether the moving party is entitled to judgment as a matter of law." *Roe*, ¶14.

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14. Each year individuals must pay tax on their taxable income. Mont. Code Ann. § 15-30-2103.
15. “‘Taxable income’ means the adjusted gross income of a taxpayer less the deductions and exemptions provided for ...” Mont. Code Ann. § 15-30-2101(32).
16. “[A]djusted gross income’ means, in the case of an individual, gross income minus” allowed deductions. Mont. Code Ann. § 15-30-2110(1); 26 U.S.C. § 62.
17. “[G]ross income means all income from whatever source derived, including (but not limited to) ... [c]ompensation for services...” Mont. Code Ann. § 15-30-2110(1); 26 U.S.C. § 61; *see* Mont. Code Ann. § 15-30-2102(18)(a) (“Montana source income’ means: ... wages, salary, tips, and other compensation for services performed in the state or while a resident of the state...”).
18. “If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise the return.” Mont. Code Ann. § 15-30-2605.
19. Taylor’s motions and arguments are wholly without merit. They are not supported by legal authority or evidence, but simply by self-serving assertions.
20. The undisputed evidentiary record is clear that there is no genuine issue as to the material fact that Taylor earned wages from Many Teepees, Inc. for tax years 2010, 2011, 2012, and 2013.

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21. The undisputed facts show that Taylor improperly failed to report wages earned from Many Teepees, Inc. for tax years 2010, 2011, 2012, and 2013. DOR is entitled to judgment as a matter of law.

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ORDER

22. The Department of Revenue's motion for summary judgment is **granted**, and the final determination of the Office of Dispute Resolution is **affirmed**.
23. Byron Taylor's motion to strike, motion for summary judgment, appeal and, complaint are **denied**.

Ordered June 27th, 2016.


David L. McAlpin, *Chairman*
MONTANA TAX APPEAL BOARD


Stephen A. Doherty, *Member*
MONTANA TAX APPEAL BOARD


Valerie A. Balukas, *Member*
MONTANA TAX APPEAL BOARD

Notice: You may be entitled to judicial review of this Order by filing a petition in district court within 60 days of the service of this Order. Mont. Code Ann. § 15-2-303(2).

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CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, Order, and Opportunity for Judicial Review to be sent by United States Mail via Print and Mail Services Bureau of the State of Montana on June 27, 2016 to:

Byron Taylor

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Amanda Myers

Montana Department of Revenue

Office of Legal Services

P.O. Box 7701

Helena, MT 59604-7701



Lynn Cochran, *Administrative Officer*
MONTANA TAX APPEAL BOARD