

Cite as Det. No. 16-0048, 35 WTD 537 (2016)

BEFORE THE APPEALS DIVISION  
DEPARTMENT OF REVENUE  
STATE OF WASHINGTON

In the Matter of the Petition for a Ruling re: )	<u>D E T E R M I N A T I O N</u>
Electronic Filing and Electronic Payment )	
)	No. 16-0048
)	
... )	Registration No. . . .
)	

[1] RCW 82.32.080(2), (3), and (8) – ELECTRONIC FILING REQUIREMENT – ELECTRONIC PAYMENT REQUIREMENT – WAIVER – GOOD CAUSE: Taxpayer showed “good cause” under RCW 82.32.080(8) upon which to temporarily waive both the electronic filing and payment requirements under RCW 82.32.080(2) and (3), respectively, by demonstrating that it lacked the equipment and software necessary to comply with the requirements, and that acquiring the new equipment necessary to comply would impose a significant burden on the taxpayer.

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.

LaMarche, A.L.J. – A small business appeals the Department of Revenue’s (Department’s) denial of its request for a waiver of the electronic filing and electronic payment requirements for its quarterly excise tax returns. Because the business has shown statutory good cause, we grant the petition.<sup>1</sup>

ISSUE

Under RCW 82.32.080(2) and (3), and RCW 82.32.080(8), has Taxpayer shown good cause for which the Department may waive the requirement to file excise tax returns electronically and to pay taxes through electronic funds transfer or other electronic means?

FINDINGS OF FACT

[Taxpayer], is a small business located in . . . , Washington that provides use of a gym and personal training services to its customers. Taxpayer’s sole owners are a husband (Husband) and wife (Wife), both of whom work in the business. Husband provides personal training to customers and Wife does the accounting for the business. Both are elderly. The business sometimes hires an independent contractor who provides personal training services to the business’s customers, but does not perform any other function for the business.

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

Taxpayer receives a relatively small amount of income grossing \$ . . . in annual 2013, \$ . . . in 2014, and \$ . . . through Quarter 3, 2015 (Q3/2015). Taxpayer's reporting period is quarterly and it has timely filed and paid its taxes electronically through Q3/2015.

Wife was recently diagnosed with cancer and has been undergoing treatment. She is experiencing significant deterioration in both her physical and mental health. Wife's eyesight is also deteriorating and she now has difficulty performing tasks she was able to do in the past.

The business's computer recently began to malfunction and no longer interfaces correctly with the Department's electronic filing system. Also, the computer's screen has a tendency to go blank after all data entry has been entered and all data is lost, requiring all of the data to be re-entered. Although the couple has recently filed and paid the business's tax returns electronically, they have experienced great difficulty and have spent a great deal of time on the telephone with the Department walking through the filing process step-by-step. The electronic filing process for Q3/2015 took four hours. In contrast, Wife is able to complete a paper tax form, using the same data used in the electronic filing process, in approximately 15 minutes.

At the telephone hearing on December 22, 2015, Husband indicated that caring for Wife and having less help in the business makes it difficult to keep the business going and makes it very difficult for either Husband or Wife to expend the time, energy, and resources necessary to purchase another computer and software, or to work through the technical difficulties in the existing system. Husband also indicates that the business is unable to afford hiring a Certified Public Accountant or other professional to prepare and file the business tax returns.

Taxpayer requested a waiver of the electronic filing and payment requirements, indicating that filing and paying taxes electronically was too frustrating and time consuming. The Department denied the request in a letter dated September 10, 2015, indicating that the request was denied on information Taxpayer provided, but did not otherwise explain the basis for denial. Taxpayer filed an appeal on October 2, 2015.

#### ANALYSIS

For Taxpayers filing tax returns with the Department on a quarterly or more frequent basis, RCW 82.32.080(2) requires that "payment of the tax must be made by electronic funds transfer." RCW 82.32.080(3)(a) requires that "returns must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize."

The Department is authorized to waive, temporarily or permanently, the electronic filing and payment requirements for a particular taxpayer, or class of taxpayers, for good cause. RCW 82.32.080(2)(b); RCW 82.32.080(3)(b). "Good cause" is statutorily defined to mean the inability of a taxpayer to comply with the electronic payment requirement because:

- (i) Taxpayer does not have the equipment or software necessary to enable it to comply;

- (ii) Equipment or software necessary to enable the taxpayer to comply is not functioning properly;
- (iii) Taxpayer does not have access to the internet using its own equipment;
- (iv) Taxpayer does not have a bank account or credit card;
- (v) Taxpayer's bank is unable to send or receive electronic funds transfer transactions; or
- (vi) Some other circumstance or condition exists that, in the Department's judgment, prevents the taxpayer from complying.

RCW 82.32.080(8)(a).

RCW 82.32.080(8)(b) further includes in the definition of "good cause," ". . . any circumstance that, in the department's judgment, supports the efficient or effective administration of the tax laws of this state, . . ."

Here, Taxpayer has shown that it does not have the equipment or software necessary to enable it to comply without imposing a significant burden; what equipment Taxpayer does have is not functioning properly. RCW 82.32.080(8)(a)(i) and (ii). . . . Furthermore, circumstances here indicate that electronic filing and payment of taxes is inefficient and less effective, both for Taxpayer and for the Department, given that Husband and Wife must spend hours completing the process and must spend a significant amount of time on the telephone with Department employees going through the process step-by-step, all while experiencing technical difficulties with their computer system. RCW 82.32.080(8)(b). Moreover, Taxpayer makes very modest income and pays little tax; the time and other resources both Taxpayer and the Department must expend for Taxpayer to comply with the electronic requirements indicate that the process here does not support the efficient and effective administration of the tax laws of this state. *Id.*

We conclude that Taxpayer has shown good cause for waiver of the electronic filing and payment requirements under RCW 82.32.080. Accordingly, we grant a waiver of Taxpayer's requirement to file and pay taxes electronically. In the discretion of the Department, a waiver may be made temporary or permanent. RCW 82.32.080(2)(b); RCW 82.32.080(3)(b). Because Taxpayer's circumstances may change, such as new ownership or future ability of the business to comply with the electronic filing and payment requirements, the basis for good cause may no longer exist in the future. Accordingly, we grant the waiver temporarily through . . . . After the expiration of the temporary waiver, Taxpayer should request a further waiver should circumstances warrant a continued waiver.

We grant the petition.

#### DECISION AND DISPOSITION

Taxpayer's petition is granted.

Dated this 1st day of February, 2016.