

STATE OF MICHIGAN  
COURT OF APPEALS

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WOODROW REYNOLDS,

Petitioner-Appellant,

v

DEPARTMENT OF TREASURY,

Respondent-Appellee.

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UNPUBLISHED

August 30, 2005

No. 253855

Tax Tribunal

LC No. 00-291309

Before: Fort Hood, P.J., and Meter and Schuette, JJ.

PER CURIAM.

Petitioner appeals as of right from an order dismissing his tax appeal. We affirm.

The un rebutted evidence in the record established that petitioner had substantial earnings from wages in 1999 and 2000.<sup>1</sup> Despite the substantial earnings, petitioner completed his Michigan tax return for both years, reporting that he had no adjusted gross income and did not owe any state income taxes. In fact, petitioner completed the state income tax forms for 1999 and 2000 by entering zeroes in every line related to income reporting and computation. Consequently, respondent utilized its statutory authority to compute the taxes owed and assessed those taxes with interest and penalties. Petitioner appealed the assessment orders, essentially challenging the constitutionality of the income tax on wages and the authority of respondent to impose the assessments. The Tax Tribunal granted respondent's motion for summary disposition, dismissed the petition, and affirmed the assessments with penalties and interest.

When fraud is not presented, a decision of the Tax Tribunal is reviewed to determine whether the tribunal erroneously applied the law or adopted an incorrect principle. *Danse Corp v City of Madison Heights*, 466 Mich 175, 178; 644 NW2d 721 (2002).

Petitioner first alleges that the tribunal utilized an erroneous definition of income because the state applies the federal definition that refers only to corporate profit. We disagree. MCL

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<sup>1</sup> In 1999, petitioner's employer determined that his wages, tips, and other compensation were \$71,026.33 on his W-2 form. In 2000, petitioner's wages, tips, and other compensation were approximately \$81,281.

206.2(3) provides that “the income subject to tax be the same as taxable income as defined and applicable to the subject taxpayer in the internal revenue code, except as otherwise provided in this act.” With regard to income, the United States Code provides that “taxable income” is comprised of “gross income minus the deductions allowed by this chapter (other than the standard deduction).” 26 USC 63(a). “Gross income” is defined as “all income from whatever source derived, including ... compensation for services, including fees, commissions, fringe benefits, and similar items.” 26 USC 61(a)(1). Accordingly, petitioner’s wages are subject to tax in Michigan.

Petitioner also alleges that the state income tax is based on “self-assessment,” and he has self-assessed himself as exempt from federal income tax. Therefore, he is also exempt from state income tax for 1999 and 2000. The failure to report federal taxable income does not create an exemption from state taxation. As this Court observed in *Lawrence v Dep’t of Treasury*, 140 Mich App 490, 496-497; 364 NW2d 733 (1985):

Petitioner’s reasoning is sophistical. Under the petitioner’s analysis, a Michigan taxpayer may avoid state tax withholdings by filing a fraudulent federal tax return so long as the return evidences no federal income tax liability. We do not believe that the Michigan Legislature intended this result when it “piggybacked” the state income tax scheme on the Internal Revenue Code. ... The tribunal and the department may consider the return as a whole, not for the purpose of computing federal tax liability, but for the purpose of determining whether that taxpayer’s return accurately evidences no federal income tax liability. Where, on the face of the federal return, it is clear that the figures entered on the tax lines are contrived, neither the department nor the tribunal need accept that return as conclusive evidence of federal income tax liability.

Petitioner alleges that it was error to adopt the term “wage” as defined by respondent and that a person’s labor constitutes property that is “sacred and inviolable.” Although petitioner purportedly cites a litany of authority to substantiate his stated position, review of the authority reveals that it does not support the challenges raised by petitioner. See *Newton v Bank West*, 262 Mich App 434, 437 n 2; 686 NW2d 491 (2004).

Petitioner also alleges that respondent did not have the statutory authority to make tax assessments because there is no reference to state income. We disagree. Issues of statutory construction present questions of law that are reviewed de novo. *Cruz v State Farm Mut Auto Ins Co*, 466 Mich 588, 594; 648 NW2d 591 (2002). The goal of statutory construction is to discern and give effect to the intent of the Legislature by examining the most reliable evidence of its intent, the words of the statute. *Neal v Wilkes*, 470 Mich 661, 665; 685 NW2d 648 (2004). When the statutory language is unambiguous, appellate courts presume that the Legislature intended the plainly expressed meaning and further judicial construction is neither permitted nor required. *DiBenedetto v West Shore Hosp*, 461 Mich 394, 402; 605 NW2d 300 (2000). MCL 205.21(1) addresses the failure to make a return or payment and provides, in relevant part:

If a taxpayer fails or refuses to make a return or payment as required, in whole or in part, or if the department has reason to believe that a return made or payment does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an

assessment of the tax. By its duly authorized agents, the department may examine the books, records, and papers and audit the accounts of a person or any other records pertaining to the tax.

MCL 205.23(1) addresses the determination of tax liability and provides, in relevant part:

If the department believes, based upon either the examination of a tax return, a payment, or an audit authorized by this act, that a taxpayer has not satisfied a tax liability or that a claim was excessive, the department shall determine the tax liability and notify the taxpayer of that determination. A liability for a tax administered under this act is subject to the interest and penalties prescribed in subsections (2) to (5).

Petitioner objects to the application of the above cited statutory provisions because they do not expressly state the tax and do not contain the word income, allegedly contrary to Const 1963, art 4, § 32. However, the plain language of the statutory provisions cited reveal that the provisions are not taxation provisions, but merely enforcement provisions. Accordingly, petitioner's objection to the application of the statutes is without merit. The plain language provides respondent with the authority to obtain information on which to base a tax assessment and thereafter determine the tax liability owed by a taxpayer who has not satisfied a tax liability. *Neal, supra.*<sup>2</sup>

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Patrick M. Meter  
/s/ Bill Schuette

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<sup>2</sup> Petitioner also alleged that the tax tribunal erred in granting summary disposition on a "first-come, first-serve" basis. Review of the tax tribunal's order reveals that the decision considered the arguments raised by petitioner and concluded that they were without merit. Consequently, it was proper to grant respondent's motion for summary disposition. The tax tribunal did not need to address the petitioner's request for summary disposition because the arguments were discussed and rejected within the rationale for granting respondent's motion.