

The appeal period has expired, pursuant to Iowa Admin. Code rule 701-7.19(8)(d) the Administrative Law Judge's proposed decision is adopted as the final decision by the Department.

Iowa Department of Inspections and Appeals
Administrative Hearings Division
Wallace State Office Building, Third Floor
Des Moines, Iowa 50319

IN THE MATTER OF)	
)	IDR Docket No. 2022-200-2-0380
August Schubert)	
306 Whitten Ave.)	DIA Case No. 23IDRIIT0012
Rowen, IA 50470)	
)	PROPOSED DECISION
INDIVIDUAL INCOME TAX PROTEST)	
)	

STATEMENT OF THE CASE

August Schubert contests the Department of Revenue’s (Department) assessment of individual income tax. The matter came on for telephone hearing before this tribunal on May 31, 2023. Schubert appeared and testified. Assistant Attorney General Ryan Tang represented the Department, along with tax appeals specialist Sharon Turner. Official notice was taken of the administrative file. The Department submitted exhibits A-G, which were admitted into the record.

FINDINGS OF FACT

In 2021, August Schubert, an Iowa resident, worked for Stellar Industries, Inc. (Ex. G). Stellar Industries withheld \$2695 for state income tax from Schubert’s pay. (Ex. G). Schubert had no other income in 2021. (Ex. E; Schubert testimony).

Schubert completed his 2021 IA 1040 Iowa Individual Income Tax Return. (Ex. E). The entries shown on the form calculate out to Schubert owing \$170 in tax. (Ex. E). Schubert submitted this form to the Department. (Exs. C, E). But he did not pay the \$170. (Exs. A-D).

In June 2022, the Department issued a Notice of Assessment requesting \$170, plus interest, for a total of \$171.36. (Ex. F). Schubert denies owing that amount, which brings us here.

CONCLUSIONS OF LAW

States have the power to tax. *Int’l Harvester Co. v. Wis. Dep’t of Taxation*, 322 U.S. 435, 444 (1944). In Iowa, every resident, with some exceptions not relevant here, is subject to an income tax. Iowa Code § 422.5.

Withholding taxes at the source—that is, by the employer—is one method of collecting income tax owed. *Longmire v. Ind. Dep’t of Revenue*, 638 N.E.2d 834, 897 (Ind. T.C. 1994); *Molter v. Mich. Dep’t of Treasury*, 505 N.W.2d 244, 252 (Mich. 1993); see 26 C.F.R. § 1.1-1. But what is withheld

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is not the same as what the taxpayer owes. See Iowa Code § 422.16(1)(a) (requiring withholding agents to “deduct and withhold from the wages an amount which will approximate the employee’s annual tax liability”) (emphasis added); *Kuypers v. Comptroller of Treasury of State of Md.*, 173 F. Supp. 2d 393, 397–98 (D. Md. 2001); *Hornsby v. Dir. of Revenue*, 865 S.W.2d 662, 664 (Mo. 1993); *Iannuccillo v. Comm’r of Revenue*, No. 13-P-288, 2014 WL 2807329, at *2 (Mass. App. Ct. June 23, 2014).

The total tax owed is due at the time of filing the return. Iowa Code § 422.24(1). If what is owed exceeds what is paid, the Department issues a notice of assessment for what is owed plus interest. Iowa Code § 422.25(2)(a).

Here the Department has assessed the amount shown by the 2021 IA 1040 Iowa Individual Income Tax Return to be owing, plus interest. That is proper.

Schubert makes several arguments. He seemed to argue that he may be exempt from income tax. He put forward no basis for finding as much. That argument is unavailing.

Schubert argued that he should not be required to pay more than what was withheld from his paychecks, where he had no other income. The amounts withheld by an employer are approximations of what is owed. Iowa Code § 422.16(1)(a). There is no challenge to the tax liability calculated here, and the tribunal assumes it is correct. Under that assumption, the withholdings here were a reasonable approximation of what was ultimately owed. The tribunal will not require more than that of the withholding agent. The total tax remains the taxpayer’s responsibility. See *Hornsby*, 865 S.W.2d at 664.

Schubert argues that the Department is violating consumer protection laws by attempting to collect a debt from him. Under both state and federal law, this is not a “debt” and the Department is not a “debt collector.” See 15 U.S.C. § 1692a(5), (6); Iowa Code § 537.7102(3), (5).

Finally, Schubert argues he is entitled to know where his tax money goes. He would like his money to go to expenditures he supports. To some degree, we can all know where our money goes, because the State publishes its budget annually. See, e.g., Iowa Budget Report: Fiscal Year 2024, <https://dom.iowa.gov/sites/default/files/2023-01/budget-report-FY2024.pdf> (last accessed May 31, 2023). But in a pluralistic society, we don’t get to choose where our money goes. Schubert may want his money to go one place, Tang another, and Turner yet another. Elected officials set a budget; ideally, it reflects the priorities of all Iowans. This tribunal has no power to order otherwise. If there’s any remedy here, it would be for Schubert to engage with his elected representatives to ensure they are aware of his priorities for the state.

The Department’s decision is affirmed.

ORDER

The Department’s decision is hereby affirmed. The Department shall take any action necessary to implement this decision.

Dated this 1st day of June, 2023.

cc: August Schubert, 306 Whitten Ave., Rowan, IA 50407, august.jami@gmail.com (By Mail and Email)

Ryan Tang, Assistant Attorney General (By AEDMS)

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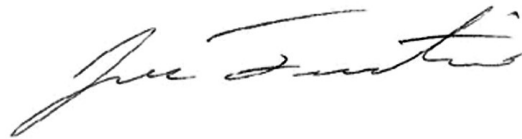
NOTICE

Pursuant to 701 Iowa Administrative Code 7.19(8)(d), this order becomes the final order of the Department for purposes of judicial review or rehearing unless a party files an appeal to or review on motion of the director with 30 days of the date of this order, including Saturdays, Sundays and legal holidays, of the date of this Proposed Decision to file an appeal to the Director of the Department of Revenue. The appeal shall be directed to:

Office of the Director
Iowa Department of Revenue
Hoover State Office Building
Des Moines, Iowa 50319

Case Title: AUGUST R SCHUBERT VS IOWA DEPARTMENT OF REVENUE
Case Number: 23IDRIIT0012
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in cursive script, appearing to read "Joe Ferrentino".

Joseph Ferrentino, Administrative Law Judge