

**STATE OF NORTH CAROLINA  
BEFORE THE COUNTY of WAKE  
Tax Review Board**

**IN THE MATTER OF:**

|   |   |                            |
|---|---|----------------------------|
| The proposed Assessment of Additional       | ) |                            |
| Income Tax for the Taxable Year 2004 by the | ) | <b>Docket No. 2007-XX</b>  |
| Secretary of Revenue of North Carolina      | ) |                            |
|   | ) | <b>Petition for Review</b> |
| Vs.   | ) |                            |
|   | ) |                            |
| Ray Patriot, Taxpayer                       | ) |                            |

Taxpayer above-named hereby files his Petition for Review for an administrative review of the Decision of the Secretary of Revenue dated August 15, 2007 to the Tax Review Board, based on the following reasons:

1. NC DOR issued on August 15 their final decision in this case for tax year 2004 for individual income tax assessment of a total of \$1,987.60.
2. Taxpayer does not owe this money because he had dependents, un-reimbursed business expenses, credits, allowances, deductions for medical and dental expenses, church and charitable donations, tax return preparation expense, etc. Tax victim denies the tax liability, the assessment and the accusation that he owes NC any money.
3. DOR is a bully who takes advantage low income people who do not have the resources to defend themselves. DOR is mean, vindictive and put taxpayers through the wringer. They came up with a large number of senseless, meaningless requirements for taxpayer. The agents were intransigent and refused to assist a hardworking citizen who pays the agent's salaries.

DOR is using the overwhelming resources of the taxpayers against a penniless, average working-class man with no legal education or training. He does not understand the complexities of the tax law and procedure. He is a peaceful rabbit in the jaws of a vicious snake!

4. Due to his low income and declining health, he is unable to protect himself or hire an expensive tax professional. The tax collectors are merciless in exercising their authority and will not relax their procedures to give him a fair chance.

Therefore he requests either a court appointed attorney or his Constitutional right to a counsel of choice i.e. meaning a paralegal.

5. Thousands of taxpayers in our wonderful state have the same problem: no funds to hire a tax lawyers/CPA. The bullies at DOR know this very well. They are using their financial advantage to the maximum benefit.

The taxvictims of NC are therefore paying large amounts of non-owed taxes. Unjust taxes are assessed and collected because the working people do not have the economic resources and knowledge to fight back. Without the representation, the taxpayer is in sense being tried in the Star Chamber.

6. This administrative court has a duty to protect the people from the rapturous, insensitive, bureaucracy. Because prey are unable to contest audits, DOR is knowingly and purposely collecting taxes that they know is not owed.
7. The State legislature did not authorize the tax collectors to collect taxes that are un-owed. The tax collectors, by law must determine the tax liability, not determine how much money the little people have to fight the audit. Everybody knows when a case is assigned to an agent, the first thing he does is analyzes the file to see whether his subject has the ability to protect his interest. Then the agent acts accordingly.

Would a lawyer or a relative of a politician ever be treated as this bureaucracy has terrorized this honest, hard-workingman and loyal citizen of this magnificent state?

8. The Evidence section of the said Final Decision listed 14 letters and notices to and from the parties. In these, ratepayer stated that he had no tax liability, that the figures were incorrect, that the transcript from the IRS was incomplete, inaccurate and unfair. Taxpayer followed the burdensome procedures and clearly proved that none of the money was owed.

However the tax authorities took the position that the loyal citizen had not followed their meaningless procedures, which was not true.

9. The Administrative officers in their said Final Notice based their decision on frivolous and groundless arguments by DOR because they raised issues not raised by taxpayer. DOR educates everyone about the definition of income. However taxpayer did not raise this issue in this case. Why did DOR focus on events that did not happen? They wanted to divert this review board from the real facts.
10. DOR demanded over and over that this working man drive to Raleigh for a short hearing. If low income workers take off from work for three days, they get fired and DOR collects nothing. But the Civil Servants do not care, because the other citizens in NC would bare the burden of their meanness.

As previously stated many times, Taxpayer does not have the funds to travel to Raleigh, meals, lodging, etc.

11. DOR has an office in Charlotte, which has the population four times Raleigh. The tax boys have ample staff and equipment to resolve this dispute in the Charlotte office, which is only a few minutes from the citizen. However, the tax bullies purposely located the hearing at a location outside the reach of the citizen in order to force him to abandon his case.
12. Due to a flood in his storage area, citizen is unable to substantiate his deductions, expenses, etc, but he still had them. He can testify under oath about his deductions. DOR knows that he had one penny or more for the cost of going to work.

The Cohen v. CIR case shows that in tax appeals, you can use reasonable figures, instead of figures conjured by the tax collectors that cannot be correct. You can also reconstruct lost paperwork to substantiate your deductions and business expenses.

Further, you can claim a percentage of business expenses and profit for a business enterprise, even if you have no records to substantiate your business expenses. For example, a plumbing subcontractor could claim as expenses 60% of gross receipts from the form 1099s that the IRS received from the contractors.

The 9<sup>th</sup> Circuit Court ruled in Cohen v. CIR, 266 F 2d 5(1959):

*"\* \* \* We think our only proper course is to approach the problem indirectly by analysis of the record in the light of the principles established in Cohan v. Commissioner, 39 F.2d 540 (2d Cir. 1930). Our objective will be, after resolving any reasonable doubts against petitioner, to reconstruct his gross income as betting commissioner at a figure which in our judgment it would be unlikely to exceed in fact. (Petitioner, it is clear, has failed to establish a lesser amount.)"*

13. The purpose of the DOR is to collect taxes, not to brow beat hard working citizens who are unable to keep records because they struggle to make a living and suffer calamities. Due to a flood, taxpayer is unable to provide all the records sought. However, everyone knows that he did incur large expenses for business purposes. Let us figure out what the law says he owe so he can start paying.
14. In conclusion, please send the petitioner the necessary forms and instructions so he can perfect his appeal. Also reject the said Final Decision and order DOR to hold a proper hearing at a reasonable location so taxpayer can present any books and records he may have.

**Certificate of Service:** I do hereby certify that on this date I sent properly a copy of this pleading to opposing counsel.

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Ray Patriot  
Concord, NC 28027

Date: November 8, 2007