

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

LOVE OVER GOLD INC.,	)	
	)	
Plaintiff,	)	TC-MD 170256R
	)	
v.	)	
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>FINAL DECISION OF DISMISSAL</b> <sup>1</sup>

This matter came before the court on Defendant’s motion to dismiss (motion) contained in its Answer filed October 2, 2017, on the ground that Plaintiff failed to appeal within the 90 days required by ORS 305.280(1)<sup>2</sup>. Plaintiff filed a timely response to Defendant’s motion.

Plaintiff is appealing personal property taxes for the 2011 through 2014 tax years. Plaintiff did not file its appeal until July 12, 2017. That interval is longer than the 90 days required by ORS 305.280(1), which states in pertinent part:

“Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred[.]”

If a taxpayer files an appeal after the deadline they may still be able to appeal to the tax court if they demonstrate “good and sufficient cause exists for the failure by the \* \* \* taxpayer to pursue the statutory right of appeal.” ORS 305.288(3). “Good and sufficient cause” is defined as “an extraordinary circumstance that is beyond the control of the taxpayer, or the taxpayer's agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the

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<sup>1</sup> This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered December 15, 2017. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

<sup>2</sup> All references to the Oregon Revised Statutes (ORS) are to 2009, unless otherwise stated.

statutory right of appeal;” and which “[d]oes not include inadvertence, oversight, lack of knowledge, hardship or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information.” ORS 305.288(5)(b)(A), (B). Plaintiff has not presented any evidence of good and sufficient cause for its delay in filing its appeal.

Plaintiff argues that it never received a personal property tax statement from Defendant. However, the law does not require counties to send personal property tax statements to taxpayers. Rather, owners of personal property are required to file a personal property tax return each year. ORS 308.290(1)(a). The statutory deadline for filing personal property returns was March 1<sup>3</sup>. ORS 308.290(4) . Taxpayers who file returns after the March 1 deadline but on or before June 1 are subject to a five percent penalty. ORS 308.296(2). Taxpayers who fail to file returns entirely or until after August 1 “shall be subject to a penalty equal to 50 percent of the tax attributable to the taxable personal property of the taxpayer.” ORS 308.296(4).

Plaintiff has not presented any fact or argument that contradicts Defendant’s statutory basis in its motion. Defendant’s motion to dismiss is granted. Now, therefore,

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<sup>3</sup> The deadline was changed to March 15 in 2015.

IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is granted.  
Plaintiff's appeal is dismissed.

Dated this \_\_\_\_ day of January 2018.

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RICHARD DAVIS  
MAGISTRATE

***If you want to appeal this Final Decision of Dismissal, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.***

***Your complaint must be submitted within 60 days after the date of the Final Decision of Dismissal or this Final Decision of Dismissal cannot be changed. TCR-MD 19 B.***

***This document was signed by Magistrate Richard Davis and entered on January 3, 2018.***