

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Small Claims

Property Tax

CHRIS RARIDEN,)	
)	
Plaintiff,)	
)	No. 000211D
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals the real market value of his personal property as determined by defendant for the 1999-2000 tax year. A telephone trial was held on Monday, October 16, 2000, at 10:30 a.m. Mr. Chris Rariden appeared on his own behalf. Ms. Kathy Lieb, Assessment Specialist/Personal Property, appeared on behalf of defendant. Mr. Russell Sears, Appraiser, was present but did not testify.

STATEMENT OF FACTS

Mr. Rariden's 1999-2000 personal property tax return incorrectly stated that he terminated his business on April 1999. Mr. Rariden's error lead to subsequent correspondence with defendant which ultimately resulted in the value of Mr. Rariden's personal property being determined by defendant in the amount of \$64,020. When the county assessor issued a warrant for the 1999 personal property taxes, Mr. Rariden filed a Complaint with the court on March 10, 2000. Mr. Rariden submitted to the court a listing of his personal property as of January 1, 1999. (Ptf's Item 9.) Mr. Rariden concluded that the "total value" of his personal property was \$7,910, including the Miller Matic Welder which

Mr. Rariden received as a gift and he subsequently used in his business. He reduced the value of the property for the time he estimated the tools were used as "hobby." His net "business value" was stated as \$1,287.50.

Mr. Rariden explained that he believes he was generous in his estimate of market value because most of the tools were purchased from his father for \$1,000. In addition, some of the equipment is inoperable even though he still has it at his business. Mr. Rariden testified that it is his understanding that his 1978 dump truck did not have to be reported because it is a licensed vehicle. Ms. Lieb agreed that the licensed vehicle was not taxable personal property. However, she stated that other items used in connection with the vehicle are taxable personal property.

In response to Ms. Lieb's questions about the actual date he terminated his business, Mr. Rariden testified that he terminated his business in April 1998. However, after reviewing the city inspection information submitted by Ms. Lieb, Mr. Rariden stated that he completed two projects after that date. Each project was completed no later than the fall of 1998. Mr. Rariden testified that he used equipment rented from Power Rents, Corvallis, Oregon to complete the projects. Mr. Rariden testified that as of January 4, 1999, he was working for a tree farm located in Benton County building rock roads. In addition, he operated a trucking business doing "light general welding, greasing and changing of fluids."

Ms. Lieb questioned Mr. Rariden about the telephone book yellow page listings for Rariden Bros Excavating & Logging in both the 1999 and 2000 year publications. (Def's Ex I.) Mr. Rariden testified that he was too late to cancel the 1999 yellow page listing so it was printed. He testified that he had no knowledge of why the

listing appeared for the 2000 year as he has not contracted nor paid for the listings.

Ms. Lieb asked Mr. Rariden why he renewed his licence with the Contractor's Board in May 1998. (Def's Ex J.) Mr. Rariden explained that at the time the license renewal was submitted he had three bids outstanding in Albany, Oregon. If he had won those bids, Mr. Rariden testified that he would have needed a license to complete the excavation work. Mr. Rariden testified that he did not "win" any of those bids. Mr. Rariden's license lapsed in 2000.

Ms. Lieb testified that because Mr. Rariden failed to accurately complete the 1999 personal property tax return the county relied on prior information and estimated a value as of January 1, 1999. Ms. Lieb testified that based on the notes taken by Mr. Deming, a Lincoln County Appraiser who has subsequently retired, when he visited Mr. Rariden's business in May 2000 and the Oregon Department of Revenue Personal Property Valuation Factors Table (guide), the real market value of Mr. Rariden's personal property was no more than \$25,000. Mr. Lieb explained the difficulty the county faced in arriving at a value because Mr. Rariden failed to include model year, date of purchase, original cost and quantity. In addition, Mr. Rariden never notified the county that he had changed the name of his business and the type of business he was operating in 1999. Mr. Rariden testified that if he failed to provide the correct information to the county it was not intentional. According to Mr. Rariden, when Mr. Deming and Mr. Sears visited his property in May 2000 they did not tell him that he needed to submit a list with the original cost and other information listed by Ms. Lieb. Ms. Lieb reminded Mr. Rariden that the personal property tax form clearly states that the purchase date, original cost, and other items of information along the taxpayer's estimate of value are to be submitted on the personal

property tax return by the filing due date.

Ms. Lieb testified that she valued all the tools listed on Mr. Rariden's Item 9, trying to match Mr. Rariden's brief description to the guide. In addition, Ms. Lieb testified that she valued a tractor and implements at \$10,850 and 12 truck tires and rims at \$2,040.

Ms. Lieb testified that she did not know the condition of any of these items; she took them from the listing and valued them based on the guide. Mr. Rariden disputed the inclusion of the tractor (1993 Kubota, 25 HP, four-wheel drive) and implements (48" tiller, 48" scraper and 52" brush hog), and the 12 truck tires and rims as his personal property for tax year 1999. Mr. Rariden testified that the tractor was not used in his business since he completed the two projects in late fall 1998. He testified that the tractor did not reside in Lincoln County as of January 1999. He testified that the tractor was brought by his father or brother to Lincoln County in February 1999 for a period of time and then transported back to his father's property which is located outside Lincoln County. Mr. Rariden testified that in 1999 if he used the tractor at all it was on his five acre farm parcel and not in his trucking business. Mr. Rariden testified that the 12 truck tires were "blown out" and had no resale value. He testified that it would cost him \$6 per tire or \$10 at the public dump to dispose of the tires. Further, Mr. Rariden testified that the tire rims are "broken or the mounting holes are worn out" and the rims have no value. He testified that the tires and rims are in a junk or scrap pile behind his shop and have been there for three to ten years.

COURT'S ANALYSIS

Every person owning or having in possession or under control taxable personal property is required to file a personal property tax return. See ORS 308.290(1)(a). Each personal property tax return shall contain a full listing of the taxable

property in the form prescribed by the Oregon Department of Revenue. See ORS 308.290(2)(a) and (b). Plaintiff's appeal arises out of his failure to accurately complete his personal property tax return for tax year 1999-2000.

The issue before the court is the real market value of plaintiff's property as of the assessment date, January 1, 1999. In accordance with the law, "[a]ll personal property not exempt from ad valorem taxation or subject to special assessment shall be valued at 100 percent of its real market value, as of January 1 * * *." ORS 308.250(1). The parties have each independently determined real market value. The parties' real market values are quite close after the removal of the tractor, tires and rims which the court concludes based on plaintiff's testimony were not used in plaintiff's business during the 1999 tax year. According to Mr. Rariden, the tractor was used in his personal farming activities, if at all, and there is some question that the tractor was present in the county on the assessment date. In addition, based on plaintiff's testimony the tires and rims had little, if any, value.¹ Mr. Rariden has further reduced the value for what he terms "hobby use" of the personal property. There is no provision in the tax laws permitting a reduction in value of a business asset for hobby use.

Mr. Rariden believes that the total value of his taxable personal property before the hobby use reduction is less than \$10,000 which would permit the county assessor to cancel the ad valorem tax assessment for the 1999 tax year. See ORS

¹Ms. Lieb stated that she made a telephone inquiry as to the value of used truck tires and rims. Having no knowledge of the condition of the tires and rims, Ms. Lieb assumed that they were in average condition and could be resold. According to Mr. Rariden, the tires and rims were nothing more than scrap and to dispose of them would result in a net expense to him.

308.250(2). The court agrees with plaintiff. The taxable personal property reported by plaintiff to the court which was used in his trucking business for tax year 1999 was primarily purchased as "used" equipment from a relative, at garage sales or auctions. In addition, plaintiff listed taxable personal property items as "gardening tools" which should not be included in his return for tax year 1999 based on his reported type of business (trucking) and the personal use of these tools at his farm. Defendant estimated the original cost of the various items based on incomplete information and in some cases gave a minimal reduction for depreciation. Plaintiff's failure to provide date of purchase and original cost and the county's failure to detail its findings after its site visit have resulted in defendant's value estimate to be in excess of real market value. The court concludes that the real market value of plaintiff's personal property for tax year 1999 was no more than \$9,000.

Now, therefore;

CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that the real market value of plaintiff's personal property identified as Lincoln County Assessor's Account No. P503801 3712 was \$9,000 for tax year 1999.

FURTHER IT IS HEREBY ADJUDGED AND DECREED that the county shall correct the assessment and tax rolls to reflect the above value with any refund due plaintiff to be promptly paid with statutory interest.

Dated this _____ day of November, 2000.

JILL A. TANNER
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JILL A. TANNER ON

NOVEMBER 15, 2000. THE COURT FILED THIS DOCUMENT ON NOVEMBER 15, 2000.