

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

RELIABLE TRANSFER CO., INC.,)	
)	
Plaintiff,)	No. 000724F
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

This matter comes before the court on the parties' Cross-Motions for Summary Judgment. John Anderson represented plaintiff. John Thomas represented defendant. Plaintiff appeals its tax year 1999-00 personal property assessment. The parties agree that there are no issues of material fact.

STATEMENT OF FACTS

On January 1, 1999, plaintiff owned personal property that was used in its business and subject to ad valorem taxation. In April 1999, plaintiff sold the property at issue and went out of business. In November 1999, plaintiff received its tax statement for tax year 1999-00. Plaintiff notified defendant that it no longer owned the property and in fact had not owned it on July 1, 1999, the beginning of tax year 1999-00.

Plaintiff argues that because it did not own the property during the tax year, it is not responsible for the personal property tax for that year. Plaintiff also argues that defendant may change the tax roll to reflect changes in ownership that occur after January 1.

Defendant argues that because plaintiff owned the personal property on January 1, 1999, plaintiff is responsible for taxes on the property for tax year 1999-00.

COURT'S ANALYSIS

ORS 308.105(1) requires that “[e]xcept as otherwise specifically provided, all personal property shall be assessed for taxation each year at its situs as of the day and hour of assessment prescribed by law.” The assessment date for tax year 1999-00 was January 1, 1999. See ORS 308.007 and 308.210(1). Further, ORS 308.105(2) provides that “[p]ersonal property may be assessed in the name of the owner or of any person having possession or control thereof. Where two or more persons jointly are in possession or have control of any personal property, in trust or otherwise, it may be assessed to any one or all of such persons.”

In its brief, plaintiff cited ORS 308.210(2) as authority for its proposition that defendant was authorized to change the tax roll to reflect changes in ownership that occurred after January 1. That statute provides;

“Except as provided in subsections (3) and (4) of this section, **the ownership and description of all real property and manufactured structures** assessed as personal property shall be shown on the assessment roll as of January 1 of such year or as it may subsequently be changed by divisions, transfers or **other recorded changes**. This subsection is intended to permit the assessor to reflect on the assessment roll the divisions of property or the combining of properties after January 1 so as to reflect the changes in the ownership of that property and to keep current the descriptions of property. The assessor shall also have authority to change the ownership **of record** after January 1 of a given year so that the assessment roll will reflect as nearly as possible the current ownership of that property.”

(Emphasis added.)

Plaintiff misapplies the statute. It is clear from the content and context of ORS 308.210(2) that it is intended to apply only to “real property and manufactured structures assessed as personal property.” The use of the words “other recorded changes” and “of record” in the statute provide further support that ORS 308.210(2) does not apply to personal property.

Typically, taxes assessed against personal property become a lien against the property on July 1. ORS 311.405(3)(b). In certain circumstances, “[t]he assessor **may, immediately after listing and valuing** the personal property for assessment and taxation, **levy, demand and collect** for remittance to the tax collector[.]” ORS 311.465(2) (emphasis added). An assessor may act under the authority of ORS 311.465(2) if

“[i]n the opinion of the assessor it seems probable that personal property may be removed from the county, sold, dissipated or destroyed before the taxes on the property otherwise become due and payable and it further appears that the owner or person liable for the taxes * * * is not financially responsible or intends to depart from the state before the taxes become due.”

ORS 311.465(1)(b).

As noted in ORS 311.465(1)(b), personal property is movable and subject to removal from a taxing authority’s jurisdiction. This is likely why the legislature gave an assessor authority to “levy, demand and collect” personal property taxes prior to the usual lien date of July 1. Plaintiff’s view of the law as it related to the imposition of personal property taxes is inconsistent with the act of the legislature in enacting ORS 311.465.

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CONCLUSION

The court has reviewed and carefully considered all the arguments submitted by the parties. The court finds that plaintiff owned the personal property on the assessment date of January 1, 1999, and is therefore responsible for taxes on the property for the tax year starting July 1, 1999, notwithstanding plaintiff's sale of the property prior to July 1, 1999.

IT IS THE DECISION OF THE COURT that defendant's Motion for Summary Judgment is granted.

IT IS THE FURTHER DECISION OF THE COURT that plaintiff's Motion for Summary Judgment is denied.

Dated this _____ day of September, 2000.

SALLY L. KIMSEY
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON SEPTEMBER 29, 2000. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 29, 2000.