

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Property Tax

CECIL J. NIX,)
)
 Plaintiff,) No. 000938C
)
 v.)
)
 COOS COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals defendant's denial of his claim for a War Veteran's property tax exemption for tax years 1996-97, 1997-98, 1989-99, 1999-00 and 2000-01. The case was presented to the court for determination of the legal question based on defendant's Motion to Dismiss for failure to timely file the application. Plaintiff appeared on his own behalf. Barbara Foord appeared on behalf of defendant (the county).

STATEMENT OF FACTS

The relevant facts are not in dispute. Plaintiff applied for a retroactive grant of partial property tax exemption available to qualifying veterans. The application was filed with the assessor's office on July 6, 2000, following plaintiff's receipt of a disability determination letter from the United States Department of Veterans Affairs (V. A.) dated June 29, 2000. The letter concludes that plaintiff has a 40 percent disability. Plaintiff seeks the exemption back to the 1996-97 tax year. The county denied the exemption for all years requested because plaintiff failed to timely file a claim.

The application for exemption was delayed because plaintiff waited some five years for the V. A. to conclude that he had a compensable disability with a rating of 40 percent. Upon determining that plaintiff was in fact disabled, the V. A. granted monthly

benefits (compensation) retroactively back to July 1, 1995. (Ptf's Complaint, at 2). Plaintiff promptly filed application for veteran's exemption with the assessor's office within one week of receiving the determination letter from the V. A.

COURT'S ANALYSIS

Oregon law provides a partial property tax exemption to a war veteran with a disability rating of 40 percent or more. ORS 307.250. The statute provides that the exemption is available to "any war veteran who is officially certified by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States as having disabilities of 40 percent or more." ORS 307.250(1)(a).

There is no question that Mr. Nix now meets that criteria. However, in addition to qualifying for an exemption as set forth above, the veteran seeking the exemption must file a timely application.

The statute setting forth the filing requirements is ORS 307.260. It states, in pertinent part:

"(1)(a) Each veteran or surviving spouse qualifying for the exemption under ORS 307.250 **shall file** with the county assessor, on forms supplied by the assessor, a claim therefor in writing **on or before April 1 of the assessment year for which the exemption is claimed * * ***" ORS 307.260 (emphasis added).

The filing requirement is made mandatory by use of the word 'shall.' Moreover, the claim must be filed 'on or before April 1 of the assessment year' for which the claim is made. *Id.* Plaintiff's application was not filed until July 6, 2000. Thus, he missed the deadline for the 2000-01 tax year.¹ There is no provision available for claiming

¹ The court did discuss with plaintiff the option of filing an application with the Department of Revenue for consideration under the Hardship Statute (ORS 307.475) for the current tax year.

the exemption for prior years.

The court finds plaintiff's claim must be denied because he failed to satisfy the requirements of the law. The court recognizes Mr. Nix was unable to file prior to receipt of the letter of determination. However, as explained above, there is no provision in the law for the grant of the retroactive veteran's exemption. The legislature made its intent even more specific with the passage of ORS 307.280, which states:

“Allowance of the [War Veteran's] exemption * * * in any year **shall not** have the effect of canceling or permitting the cancellation of any tax levied in a **prior** year.” (Emphasis added).

CONCLUSION

Plaintiff missed the filing deadline and the court is unable to grant the relief requested. Accordingly, plaintiff's request for a veteran's exemption under ORS 307.250 must be denied.

Now, therefore;

IT IS THE DECISION OF THE COURT that plaintiff's request for a War Veteran's property tax exemption for tax years 1996-97, 1997-98, 1988-89, 1999-00 and 2000-01 is denied.

Dated this _____ day of OCTOBER, 2000.

DAN ROBINSON
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 DAN ROBINSON ON OCTOBER
DECISION**

30, 2000. THE COURT FILED THIS DOCUMENT ON OCTOBER 30, 2000.