

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DANIELLE ZIZAK and MICHAEL ZIZAK,            )  
  )  
                          Plaintiffs,                                )        No. 020061A  
  )  
                          v.    )  
  )  
MULTNOMAH COUNTY ASSESSOR,                )  
  )  
                          Defendant.                                )        **DECISION**

Michael and Danielle Zizak appealed the assessment of penalties, imposed for the late filing of a personal property tax return for the 2001-02 tax year, upon property identified by Account No. P498347. Mr. Zizak appeared and made their arguments. Multnomah County was represented by Dennis Wardwell, of its staff.

**STATEMENT OF FACTS**

The property at issue is a floating home. Mr. Zizak explained that the reason no return as to their residence was filed was because they simply did not know this was required. The Zizaks had moved to Portland from Connecticut. It was their experience that property tax matters were taken care of by their mortgagor. They testified that they did not receive the blank personal property tax return that Multnomah County customarily mails to those required to file.

Multnomah County testified that the Zizaks had missed their appeal to the board of property tax appeals.

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**COURT'S ANALYSIS**

The court does not have the ability to provide the Zizaks the relief that they request. As owners of a floating home they were required, under ORS 308.290<sup>1</sup>, to file the personal property tax return. ORS 308.296 imposes a penalty for the failure to do so.

There is an opportunity for a taxpayer to present facts showing all or a portion of the penalty should be lifted. The forum to consider these matters is the board of property tax appeals. The ability of the Tax Court to consider penalty waivers is limited to the context of the addition of omitted property to the roll under ORS 311.223. The Zizaks came too late, to the wrong place, for their appeal. The court cannot give them the relief that they request.

### **CONCLUSION**

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal must be denied.

Dated this \_\_\_\_\_ day of July, 2002.

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SCOT A. SIDERAS  
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 97301-2563. 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 SCOT A. SIDERAS ON JULY 12, 2002. THE COURT FILED THIS DOCUMENT ON JULY 12, 2002.**

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<sup>1</sup>All references to the Oregon Revised Statutes are to 2001.  
DECISION CASE NO. 020061A