

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

WILLIAM BROKAW,)
)
 Plaintiff,) No. 020116B
)
 v.)
)
 WASHINGTON COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

A case management conference was scheduled for April 29, 2002. At the request of the parties, that proceeding was converted to a trial and convened at 11:00 a.m. that date.

William Brokaw participated on his own behalf. Kathleen Southwick represented the Defendant.

STATEMENT OF FACTS

Plaintiff did not timely file a 2000-2001 personal property return with Defendant. Defendant discovered the omission and proceeded to add the value to the tax roll for that year. As a result, a 100 percent penalty was imposed in the amount of \$2,219.83. Plaintiff now appeals to this court and seeks a review of the penalty. Plaintiff argues the sum should be reduced or canceled. He states he was unaware of the necessity of filing a personal property return, since this was his first full year in business. He argues that since the omission was not intentional, the penalty should be waived in its entirety.

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COURT'S ANALYSIS

ORS 308.290(1)(a)¹ requires businesses to file a property tax return by March 1. Plaintiff failed to meet that deadline.

A party who files after March 1 "shall be * * * subject to the provisions of ORS 308.296." ORS 308.290(1)(a). In turn, ORS 308.296(1) mandates that any person or company responsible for filing a personal property return that has not done so "shall be subject to a penalty as provided in this section." The penalty is graduated based on when the taxpayer files its return. In this case, ORS 308.296(4) states that anyone who files "after August 1 * * * **shall** be subject to a penalty equal to 100 percent of the tax." (emphasis added).

The court finds that Defendant properly calculated and imposed the statutory penalty. Nonetheless, Plaintiff asks the court to utilize its discretion and order the penalty waived based on his circumstances.

The notice of intent to add the omitted personal property assessment and penalty was made on January 9, 2002. The appeal to this court was made pursuant to ORS 311.223(4). That statute allows this court direct review of that penalty and Plaintiff's reasons for the lack of filing. After considering those arguments, the record does not reveal any showing of cause beyond Plaintiff's control; being unaware of the statutory requirements does not rise to the level of reasonable cause.

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CONCLUSION

¹ All references to the Oregon Revised Statutes are to 1999.
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IT IS THE DECISION OF THIS COURT that Defendant's assessed personal property tax penalty for the 2000-2001 tax year is affirmed.

Dated this ____ day of May, 2002.

JEFF MATTSON
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 JEFF MATTSON ON MAY 31, 2002. THE COURT FILED THIS DOCUMENT ON MAY 31, 2002.