

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Property Tax

DONALD L. HARPER dba Brownsboro)
Machine,)
)
Plaintiff,) No. 020164A
)
v.)
)
JACKSON COUNTY ASSESSOR,)
)
Defendant.) **DECISION AND JUDGMENT**

Donald L. Harper, doing business as Brownsboro Machine, appealed the assessment of late filing penalties upon property identified by Account No. 2-019286-6 for the 1996-97 through 2000-01 tax years. He appeared and made his arguments. Jackson County was represented by Scott Frederick, of its staff.

STATEMENT OF FACTS

When Mr. Harper started his business he was advised by his tax professional that he was in compliance with all federal, state, and local laws. It therefore came as a considerable surprise to him to learn that a tax was placed on the personal property used in his business, that it was his obligation to file a report as to this personal property with the assessor, and pay the annual tax.

Jackson County explained that it discovered the property had been omitted from taxation and added the property to the roll.

Mr. Harper is not contesting the value of the property now added to the roll. He is, however, contesting the late filing penalty, asserting that his error was in good faith.

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Mr. Harper also spoke of speaking with an individual at Jackson County who did not tell

him about the penalty, but could not remember which person this was or the office he was connected with.

COURT'S ANALYSIS

The court understands that Mr. Harper was unaware that ORS 308.290(1)(a)¹ required his business to annually file a personal property tax return. Presumably the legislature understood, when it wrote the penalty provisions of ORS 308.296, that there would be individuals such as Mr. Harper who simply did not know that they needed to file. Despite this point, the legislature provided no exception for reducing, or eliminating, the penalty in such instances.

This court has consistently held that the penalty may only be waived in instances where the explanation for the failure to file lay in a reason beyond the taxpayer's control. Being unaware of the statutory requirements does not rise to the level of reasonable cause. The court cannot give Mr. Harper the relief that he requests.

CONCLUSION

Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that this appeal is denied.

Dated this _____ day of July, 2002.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON JULY 12, 2002. THE COURT FILED THIS DOCUMENT ON JULY 12, 2002.

¹All references to the Oregon Revised Statutes are to 2001.
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