

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

MEGGITT-OREGON, INC.,)
)
 Plaintiff,) No. 020186B
)
 v.)
)
 YAMHILL COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

A case management conference was held on May 7, 2002. William Chomko, Controller, participated for Plaintiff. Susan DeBolt represented Defendant.

During the conference, at Plaintiff's request, the Complaint was amended to reflect the 2001-02 tax year. The parties agreed this Decision would be based on the written record. That record closed on June 10, 2002.

The issue concerns a personal property penalty imposed for the 2001-02 tax year in the amount of \$12,619.87. Plaintiff seeks a reduction of that penalty.

STATEMENT OF FACTS

Plaintiff owns taxable personal property in Yamhill County. Plaintiff has filed personal property tax returns with the county in the past and was aware of the need to file a return by March 1 of each year. For 2001-02, a return was not submitted.

Because the return was not submitted before August 1, the county assessed a penalty of 100 percent. That original amount was \$16,826.49. Plaintiff then filed an appeal with the Yamhill County Board of Property Tax Appeals (BOPTA). That body reduced the penalty to 75 percent, or \$12,619.87.

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In its petition to BOPTA, Plaintiff stated:

“Property tax return was completed [and] signed. However, employee who had possession of file was terminated [and] filing was never mailed. No notification was received from the county until after penalty was assessed.”

COURT’S ANALYSIS

ORS 308.290(1)(a)¹ requires a business to file a personal property tax return by March 1. The statute goes on to state that, if a party fails to file a return by the March 1 deadline, they “shall be * * * subject to the provisions of ORS 308.296.” ORS 308.290(1)(a). ORS 308.296(1) states that any person or company responsible for filing a personal property return who or which 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. ORS 308.296(4), the provision applicable here, states:

“After August 1, a taxpayer who files a return to which this section applies or who fails to file a return shall be subject to a penalty equal to 100 percent of the tax attributable to the taxable personal property of the taxpayer.”

Plaintiff admittedly did not file its return before August 1, 2001. Pursuant to the statute, it is responsible for a 100 percent penalty. Plaintiff claims, however, it should be excused from the penalty because of circumstances beyond its immediate control.

ORS 308.296(6) allows waiver of a late-filing penalty when there is good and sufficient cause to waive the penalty. The statute, however, provides that BOPTA has the power to waive that penalty. It states:

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“The county board of property tax appeals, upon application of the taxpayer, may waive the liability for all or a portion of the penalty upon a proper showing of good and sufficient cause. However, an application made

¹ All references to the Oregon Revised Statutes are to 1999.

under this subsection shall not be considered by the board unless filed timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the board under this subsection.”

The legislature vested the county board with the authority to waive a penalty assessed under ORS 308.296 upon a showing of good and sufficient cause. Plaintiff did file an appeal with BOPTA. Now, it seeks further relief from this court. The statute, however, is explicit that the county board is the sole entity with authority to waive an assessed penalty for 2001-02 . Further, the statute specifically states that there is no appeal from the board’s determination, thus precluding an appeal to the Tax Court.

CONCLUSION

IT IS THE DECISION OF THE COURT that the above-entitled matter be dismissed.

Dated this _____ day of August, 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 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 JEFF MATTSON ON AUGUST 29, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 29, 2002.