

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

TAHAN ADVERTISING, INC.,)	
)	
Plaintiff,)	No. 020922D
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals the 100 percent penalty assessed for failure to timely file its 2001-2002 personal property tax return. A case management conference held on Tuesday, August 27, 2002, was converted to a trial. Ms. Mary Tahan, President, Tahan Advertising, Inc., appeared on her own behalf. Mr. Richard Teague appeared on behalf of Defendant.

STATEMENT OF FACTS

Plaintiff's representative, Ms. Mary Tahan, testified that in early January 2001, she instructed her bookkeeper, Ms. Janice Daley, to notify the county that Tahan Advertising, Inc. moved the location of its business. Ms. Tahan submitted a copy of the 2001-2002 personal property tax return for Tahan Advertising, Inc., showing that on February 15, 2001, she signed the return. Ms. Daley was instructed to mail the signed return to Defendant.

On October 2, 2001, Ms. Daley wrote to Defendant. In her letter, she stated that a copy of the 2001-2002 personal property tax return was enclosed, "which was previously mailed to your office in February 2001." Ms. Daley also wrote that on October 1, 2001 and October 2, 2001, Plaintiff received two letters dated May 15, 2001, and August 21, 2001, respectively, from Defendant stating that it had not received Plaintiff's personal property tax return. These letters were addressed to Plaintiff at the

prior business location.

Ms. Tahan asks the court to waive or reduce the 100 percent penalty. She testified that she has previously moved the location of her business, giving required notification to Defendant. In addition, Ms. Tahan testified that she has "always filed and paid" her personal property taxes on time. In response to Plaintiff's representations concerning its record of timely filing personal property tax returns, Defendant researched the filing history of Plaintiff. In a letter dated August 29, 2002, Mr. Teague wrote that Plaintiff filed its personal property tax returns in tax years 1997 and 2000 on or before the due date, March 1. Plaintiff's returns for tax years 1998 and 1999 were filed July 29, 1998, and April 20, 1999, respectively.

COURT'S ANALYSIS

The issue before the court is the 100 percent penalty assessed Plaintiff for failure to file its 2001-2002 personal property tax return by August 1, 2001.

ORS 308.296(4),¹ imposing the 100 percent penalty, reads:

"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 submitted a copy of its return, showing that on February 15, 2001, she signed the return. Unfortunately, she was unable to submit any evidence to show that it was mailed or filed before August 1, 2001. According to the records of both Plaintiff and Defendant, Plaintiff's 2001-2002 personal property tax return was received by Defendant on October 3, 2001. Because Defendant did not receive Plaintiff's return until after August 1, the penalty was lawfully assessed as required by the statute.

Plaintiff testified that she followed the statutory requirement to notify the

¹ All references to the Oregon Revised Statutes (ORS) are to year 1999.

assessor of her change of location. ORS 308.212. Unfortunately, Plaintiff was unable to submit any evidence to show that Ms. Daley, Plaintiff's bookkeeper, sent a letter to Defendant notifying it that Plaintiff's business location changed. In addition, Plaintiff was unable to submit any evidence to show that Ms. Daley mailed Plaintiff's personal property tax return prior to the original due date. Without any corroborating evidence, the court cannot conclude that Ms. Daley fulfilled Plaintiff's requests to notify the county of the change in address and mail the personal property tax returns before the March 1 due date.

CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is denied.

Dated this _____ day of October, 2002.

JILL A. TANNER
PRESIDING 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 JILL A. TANNER ON OCTOBER 2, 2002. THE COURT FILED THIS DOCUMENT ON OCTOBER 2, 2002.