

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

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| ARTHUR E. ISRAELSON and KATHRYN L. ISRAELSON |) | |
| |) | |
| Plaintiffs, |) | TC-MD 030677B |
| |) | |
| v. |) | |
| |) | |
| MULTNOMAH COUNTY ASSESSOR, |) | |
| |) | |
| Defendant. |) | DECISION |

Plaintiffs appeal Defendant’s denial for the proration of real property taxes for the 2002-03 tax year.

The parties agreed that the court’s decision would be based on the written submissions.

I. STATEMENT OF FACTS

Plaintiffs’ residential property at 202 NE 202 Avenue, Gresham, Oregon, was partially destroyed by fire on June 22, 2002. (Incident Report - Gresham Fire & Emergency Services). The rebuilding of the home was completed on February 13, 2003. (Inspection Record Card). For the 2002-03 tax year, Defendant assessed the property at \$134,970 (AV) and levied taxes of \$2,236.34. Plaintiffs filed, pursuant to ORS 308.425,¹ for the proration of real property taxes. The application was submitted on April 22, 2003; it was denied. On Plaintiffs’ original application for proration, there is no indication as to which specific tax year relief was sought. However, Plaintiffs’ pleadings and evidence indicate proration is requested for the 2002-03 tax year.

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¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

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II. ANALYSIS

A property owner whose property is damaged by fire may apply for proration of real property taxes. Qualification for the proration of those taxes depends on the timely filing of an application. The controlling law is found at ORS 308.425. The pertinent portion of that statute states

“(1) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, the owner * * * may apply to the tax collector for proration of the taxes imposed on the property for the tax year.

“(2) Application for proration of taxes under subsection (1) of this section shall be made not later than the end of the tax year or 30 days after the date the property was destroyed or damaged, whichever is later.”

ORS 308.425(1),(2).

The tax year is a 12 month fiscal year that begins on July 1, and ends on June 30 of each year. ORS 308.007(1)(c). In this case, the fire occurred on June 22, 2002, which was during the 2001-02 tax year. That specific tax year concluded on June 30, 2002.

The 2001-02 tax year ended before 30 days had elapsed. Plaintiffs’ application for proration of the 2001-02 tax year was required to be filed by July 3, 2002. Plaintiffs did not file until April 22, 2003. Therefore, Plaintiffs missed the deadline to apply for proration of those 2001-02 property taxes. The law does not provide the tax collector or the court with authority to excuse an untimely filing. To the contrary, it must “uphold the law and preserve the integrity of the system.” *Arnold v. Dept. of Rev.*, 12 OTR 69, 72 (1991).

Plaintiffs raise concerns about potential proration for both the 2001-02 and 2002-03 tax years. The statute does not allow for the proration of tax for any year other than the one in which the event occurred. “A taxpayer can have his taxes prorated for an event (fire or act of God) that occurs at any time during the tax year.” *Gorski v. Clackamas*

County Assessor, OTC-MD No 010049B, WL 456076 at *1, (April 18, 2001) (emphasis in original). Because the fire took place during the 2001-02 tax year, Plaintiffs are not eligible for the proration of taxes for the 2002-03 tax year.

III. CONCLUSION

Plaintiffs are not entitled to the proration of property taxes for the 2001-02 tax year because the application was filed after the deadline provided in ORS 308.425. There is no provision in the law to excuse an untimely filing.

Plaintiffs are likewise not entitled to the proration of property taxes for the 2002-03 tax year because the statute allows only for the proration of taxes during the tax year in which the event occurred. Now, therefore,

IT IS THE DECISION OF THIS COURT that the relief requested by Plaintiffs must be denied.

Dated this ____ day of November, 2003.

JEFF MATTSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. 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 NOVEMBER 26, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 26, 2003.