

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

FRIDAYS ENTERPRISES OF OREGON,)	
)	
Plaintiff,)	TC-MD 031087C
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff¹ seeks a refund of property taxes paid for tax years 1999-2000 through 2002-03. The request concerns certain statutory provisions providing for a property tax exemption and applies to Plaintiff's real and personal property. Defendant requests that the appeal be dismissed as untimely.

I. STATEMENT OF FACTS

Plaintiff is a nonprofit charitable organization providing on-the-job training and life skills for single parents and others seeking to improve their present situation. Plaintiff leases a portion of a building owned by Celebration Tabernacle, a nonprofit religious organization. Celebration Tabernacle acquired the building in the latter part of 1998 and successfully applied for a property tax exemption in 1999 on the portion of the building (80 percent) it occupies. That exemption was granted under ORS 307.140 and continues to the present time.

Plaintiff applied for tax exemption on its personal property in 2001 under the provisions of ORS 307.140. Defendant denied that application, which covers the 2001-02 tax year, by letter dated December 18, 2001. The stated reason for the denial

¹ The Complaint identified Celebration Tabernacle as a second plaintiff. However, that organization has received an exemption for each of the years under appeal and has nothing to appeal. Accordingly, the court has removed them from the caption.

was: 1) the application was not timely filed in accordance with ORS 307.162(1) and (2); and (2) the organization does not qualify pursuant to ORS 307.140(1). Plaintiff again unsuccessfully applied for an exemption on its personal property in early 2002. Although the application was apparently timely filed, Defendant denied the application because it determined that the organization did not qualify pursuant to ORS 307.140(1). The denial letter is dated April 4, 2002. Plaintiff timely received both denial letters.

Plaintiff filed a third application for tax exemption in 2003. That time the request covered both Plaintiff's personal property and the real property it occupies in the building owned by Celebration Tabernacle. That application requested exemption under a different statute; ORS 307.130. Defendant granted that application, which was applicable for the 2003-04 tax year.

II. ANALYSIS

Defendant requests that the court dismiss Plaintiff's appeal because it was not filed within the 90-day period provided by ORS 305.280.² That statute requires that an appeal be filed within 90 days of actual knowledge of the denial, but no more than one year from the date thereof.³ Defendant denied Plaintiff's applications for tax years 2001-02 and 2002-03. The notices of denial were issued December 18, 2001, and April 4, 2002. Plaintiff's Complaint was not filed until November 19, 2003, which was more than one year from the date of the latest denial (tax year 2002-03). The appeal for the

² All references to the Oregon Revised Statutes (ORS) are to 2001.

³ The statute provides, in relevant part:

“(1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred, or the order or determination has been made.”

2001-02 tax year came nearly two years after the denial. Accordingly, Plaintiff's appeal for tax years 2001-02 and 2002-03 is dismissed as untimely.

The appeal for the 1999-2000 and 2000-2001 tax years presents a different question. A taxpayer seeking relief from the Magistrate Division of the Oregon Tax Court must be "aggrieved" by an act or omission of the county assessor. ORS 305.275. The act causing the taxpayer to be aggrieved is the denial of an exemption application (or the removal of an exemption from a property previously qualified). Plaintiff in this case did not apply for an exemption in 1999 or 2000 and there is, therefore, no denial. Accordingly, Plaintiff is not aggrieved.

Plaintiff, however, contends that it is entitled to cancellation of the taxes under subsection (3)(a) of ORS 307.162. That statute provides, in relevant part:

“(3)(a) Notwithstanding subsection (1) of this section [providing for and April 1 exemption application deadline], if an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and fails to make a timely application for exemption under subsection (1) of this section for additions or improvements to the exempt property, the additions or improvements may nevertheless qualify for exemption.”

ORS 307.162. However, the statute further provides:

“(b) The organization must file an application with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The application shall:

“(A) Describe the additions or improvements to the exempt property;

“* * * * *

“(E) Be accompanied by a late filing fee equal to the product of the number of tax years for which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real market value, as of the most recent assessment date, of the property that is the subject of the application.”

ORS 307.162

If Plaintiff is entitled to relief under ORS 307.162(3), Plaintiff would have to file an application with the county assessor, accompanied by a late filing fee. The court cannot independently grant relief in an otherwise appropriate situation where the taxpayer has not first filed the required application. Appeal to the court under ORS 307.162(3) would be from the denial of an application under that provision.

III. CONCLUSION

The court concludes that Plaintiff is not entitled to a property tax exemption under ORS 307.130 for tax years 1999-2000 through 2002-03, inclusive. Plaintiff is not aggrieved for tax years 1999-2000 and 2000-2001 because it never applied for exemption and therefore was never denied an exemption. Plaintiff is aggrieved for tax years 2001-02 and 2002-03 because its exemption applications were denied; however, Plaintiff's appeal for those years is untimely. Finally, Plaintiff is not entitled to relief from the court under the retroactive provisions of subsection (3) of ORS 307.162 because it must file an appropriate application with the county assessor. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal seeking a retroactive property tax exemption on its personal and leased real property is dismissed.

Dated this _____ day of January, 2004.

DAN ROBINSON
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 DAN ROBINSON ON JANUARY 29, 2004. THE COURT FILED THIS DOCUMENT ON JANUARY 29, 2004.