

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

FOUAD M. HACHEM,)
)
 Plaintiff,) TC-MD 040063F
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

Plaintiff appeals the omitted property assessment for tax years 1998-99 through 2002-03. The court held a case management conference May 17, 2004, and allowed the parties to submit written arguments.

I. STATEMENT OF FACTS

Plaintiff purchased the property from the federal government at an Internal Revenue Service auction in December 1997. He paid \$276,000. The deed was recorded by the Multnomah County Clerk on February 5, 1998. The deed included the following statement:

"After recording, mail to:

"Fouad M. Hachem
P.O. Box 8024
Portland, Oregon"¹

On October 20, 2003, Defendant sent Plaintiff a letter notifying him of its intent to add the property to the tax roll. The letter noted no change to the real market value for each of the years in question; it added an assessed value and indicated the corresponding taxes owing for each year. On November 19, 2003, Defendant sent Plaintiff a letter notifying him that the values had been added to the roll and the corresponding taxes would be billed on the tax year 2004-05 tax statement.

¹ Although the above does not include a zip code, the zip code was mentioned in the body of the deed.

II. ANALYSIS

The applicable statute is ORS 311.206 (2001).² The relevant portion of that statute provides:

"(1) When the roll is corrected under ORS 311.205, and taxes are added to the roll, the additional taxes shall be added to the tax extended against the property on the general property tax roll for the tax year following the current tax year * * *.

"(2) Notwithstanding subsection (1) of this section or other provision of law establishing the delinquency date for additional taxes, additional taxes may not be assessed and imposed if the correction is a result of:

"(a) The disqualification of property from a tax exemption granted erroneously by a tax official; or

"(b) The failure by a tax official to timely disqualify property from a tax exemption.

"(3) Subsection (2) of this section does not apply to a failure by a tax official to timely disqualify property from a tax exemption if the property owner fails to timely notify the assessor of a change in use of the property to a nonexempt use."

In plain English, section 1 states that additional property taxes are added to the roll and when; section 2 states the circumstances when additional property taxes may not be added to the roll; and section 3 sets forth when the exceptions stated in section 2 do not apply. In other words, if section 3 applies, a taxpayer is back to section 1.

Plaintiff argues that ORS 311.206(2)(b) applies because Defendant failed to timely disqualify his property from its exempt status. He further argues that recording the deed served to notify Defendant of a change in use of the property. Even if Plaintiff is correct as to his first argument, he is incorrect as to his second argument.

While it may seem clear on its face that property owned by the federal government sold to an individual will have a change in use from an exempt to a non-exempt status, such is not

² Unless otherwise noted, all references to the Oregon Revised Statutes are to 2003.

necessarily the case. The general rule is that property owned by the federal government is exempt from taxation. ORS 307.040. As with any “general rule,” there are exceptions. *See id.* Two exceptions are of particular interest. Property owned by the federal government that is “the subject of a contract of sale” with the buyer having “the right of present use and possession” is taxable even if the buyer has not completely paid for the property. ORS 307.050. Additionally, property leased or “other interest or estate less than a fee simple” from the federal government is taxable. ORS 307.060. As the above statutes demonstrate, it is not clear that the federal government’s ownership of property means that such property is exempt from taxation. Thus, a change in ownership of property from the federal government to an individual indicates only a change in ownership, not a change in use.

Because Plaintiff failed to notify Defendant of a change in use of the property from an exempt to a non-exempt use, he may not now claim Defendant failed to timely “disqualify [the subject] property from a tax exemption.” ORS 311.206(2)(b).

III. CONCLUSION

Defendant properly assessed omitted property taxes for tax years 1998-99 through 2002-03 pursuant to ORS 311.206(1). Now, therefore,

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

Dated this _____ day of October 2004.

SALLY L. KIMSEY
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON OCTOBER 22, 2004 . THE COURT FILED THIS DOCUMENT ON OCTOBER 22, 2004.

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.