

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

JEFFREY L. JONES,)	
)	
Plaintiff,)	TC-MD 040888A
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appealed the imposition of interest for the 2003-04 tax year, demanded for the late payment of property taxes due upon a residence identified by Account R1456891. Plaintiff appeared and made his arguments. Defendant was represented by Diane Belt, of its staff.

I. STATEMENT OF FACTS

Plaintiff assured the court that he had not received a tax statement from Defendant presenting the property tax that he must pay. Plaintiff testified that he would have recognized the property tax statement when it arrived and, would as was his custom with all his obligations, have paid the bill. Plaintiff was particularly concerned that it took so long for Defendant to send out any notice as to his unpaid liability.

For its part, Defendant testified that it sent Plaintiff's tax statement in a timely manner and did not receive it back as returned mail.

II. ANALYSIS

Under some limited circumstances, this court will cancel the interest imposed for late payment of taxes. If the reason a taxpayer did not receive a tax statement was because of the tax collector's failure to note the correct address on the tax roll, then the court will apply

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ORS 311.565¹ to invalidate the interest charge. *Argo Investment Corp. v. Marion County Assessor*, OTC-MD 991105E (Nov. 5, 1999); *Jeffrey W. and Tammy M. Powell v. Lane County Assessor*, OTC-MD 991429B (March 15, 2000); and *Clara M. Neal, Trustee v. Umatilla County Assessor*, OTC-MD 991436B (April 3, 2000).

However, this case is not a situation in which Defendant made a mistake in its records as to the address to which the property tax statement ought to have been sent. Rather, this is an instance where apparently something happened to prevent the tax statement from arriving at Plaintiff's address. The court has never waived interest under those circumstances, reasoning that every property owner should expect a tax statement in the fall of each year and that they would be required, as to their non-exempt property, to pay the annual tax. If the property owner did not receive the annual statement, they have a duty to inquire as to their obligation and satisfy the debt in a timely manner.

Plaintiff's remaining point is that Defendant should be required to send out a late notice. The manner of collecting tax is set out in trimesters. ORS 311.505(1). Plaintiff's debt did not, under that method, become delinquent until June 2004. Defendant gave notice at that point in a manner that allowed Plaintiff to avoid the imposition of additional interest. While the legislature might have chosen a different method, the court cannot say that the choice it made was so unreasonable or unfair as to call for a different result.

III. CONCLUSION

The court believes Plaintiff when he says that he is the type of person who pays his bills, and that he would have responded to his tax statement in a timely manner if he had actually received it. However, the law in this area expects a property owner to anticipate that tax

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¹All references to the Oregon Revised Statutes (ORS) are to 2003.
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statements will be sent and inquire if one is not received. If a property owner fails to investigate, interest is a consequence. Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is denied.

Dated this _____ day of December 2004.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON DECEMBER 6, 2004 . THE COURT FILED THIS DOCUMENT ON DECEMBER 6, 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.