

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DAN-DEA ENTERPRISES, INC.	)	
dba AMERICAN TRUSS &	)	
MANUFACTURING,	)	
	)	
Plaintiff,	)	TC-MD 050678A
	)	
v.	)	
	)	
TILLAMOOK COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appealed the assessment of penalties imposed for the 2000-2001 and 2001-02 tax years. Plaintiff's case was presented by Daniel Davis. Defendant was represented by Paula Arthur, of its staff.

I. STATEMENT OF FACTS

Plaintiff was a new company engaging in business in Tillamook County in 1999. It was simply unaware of the need to file a return for its real and personal property so that Defendant might calculate and impose the corresponding tax. Plaintiff subsequently paid the tax, but objects to such a sizeable penalty.

II. ANALYSIS

Since Plaintiff, as a new business, had not previously filed returns, Defendant did not have a basis from which to send out notices specifying the need to file. The court accepts Plaintiff's point that it did not know it had the obligation to file returns. However, the legislature, in drafting ORS 308.296(4)<sup>1</sup>, knew that there would be businesses that, like Plaintiff, would fail to pay the tax simply because they were ignorant of their responsibilities. Despite this,

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<sup>1</sup>All references to the Oregon Revised Statutes (ORS) are to 1999.

the legislature choose to impose a penalty. The court cannot say that this was an error, let alone a mistake of constitutional proportions, which would be required to set the law aside.

At the same time, Defendant has given a great deal of thought to Plaintiff's situation, and is willing, under all the circumstances of this case, to reduce the penalty by half. The court is willing to accept this as a satisfactory resolution of this case.

### III. CONCLUSION

The penalty imposed for the 2000-2001 and 2001-02 tax years is reduced from 100 percent to 50 percent. Now, therefore,

IT IS THE DECISION OF THIS COURT that relief is granted in part.

Dated this \_\_\_\_\_ day of January 2006.

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SCOT A. SIDERAS  
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 Scot A. Sideras on January 17, 2006 .  
The Court filed this document January 17, 2006.***