

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

AMY KIM,	)	
dba SAKURA JAPANESE RESTAURANT LLC,	)	
	)	
Plaintiff,	)	TC-MD 050841A
	)	
v.	)	
	)	
WASHINGTON COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appealed Defendant’s assessment of taxes on omitted property, identified as Account P2129880, for the 1999-2000 through 2004-05 tax years. Plaintiff appeared and made her arguments. Defendant was represented by Robert Steiner, of its staff.

I. STATEMENT OF FACTS

Plaintiff, a single mother with two children and no experience running a business, opened a restaurant. She works hard at her business, often 14 hours a day, six days a week. Despite her best efforts, she is burdened with substantial debt.

Plaintiff did not attempt to evade her taxes. However, she did not file the returns necessary to report the business property. Plaintiff testified that no one told her of the obligation.

II. ANALYSIS

Plaintiff did not try to evade the tax. However, the legislature, in writing the law that imposes a penalty for the failure to file a personal property return, knew that there would be individuals who would be caught in Plaintiff’s situation. The legislature took this into account, and, after balancing the factors, decided that a substantial penalty was necessary as set out in ORS 308.296.<sup>1</sup>

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<sup>1</sup>All references to the Oregon Revised Statutes (ORS) are to 2003 unless otherwise noted.

The court cannot say this was an error. In previous cases, this court has held that lack of knowledge as to the personal property filing deadlines is not good and sufficient cause for purposes of ORS 305.422 (2001). *See Sushi Town v. Washington County Assessor*, TC-MD 020936F (Oct 15, 2002) and *Brokaw v. Washington County Assessor*, TC-MD 020116B (May 31, 2002). It is regrettable that no one told Plaintiff of the need to file a return; however, that has been held not to be a strong enough reason to excuse the penalty. *See Hollywood Tan & Hair, Inc. v. Multnomah County*, TC-MD 040062F (April 13, 2004). Under all the circumstances of this case, the court has no basis on which to order relief.

### III. CONCLUSION

Now, therefore,

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

Dated this \_\_\_\_\_ day of February 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 February 13, 2006 . The Court filed this document on February 13, 2006.***