

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Property Tax

HEINZ G. GEHRT,)
)
 Plaintiff,) TC-MD 060206B
)
 v.)
)
 MULTNOMAH COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

A case management conference was held on May 23, 2006. Heinz G. Gehrt (Gerht) participated on his own behalf. Deborah R. Huff and Pat Frahler appeared for Defendant. At the request of the parties, the Decision will be based on the written submissions and arguments advanced at the conference.

At issue is Plaintiff's request for a refund of amounts charged for the late payment of real property taxes for the 2005-06 tax year for Account R320127.¹

I. STATEMENT OF FACTS

Plaintiff resides at 13045 SE Stark #116 in Portland. For the 2005-06 tax year, Defendant mailed² the property tax statement to a different address: 13055 SE Stark Street #31 in Portland. That latter address was the address of record contained in the assessor's office and on the tax roll. The envelope was not forwarded or ever received by Plaintiff. It was not returned to Defendant as undeliverable.

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¹ Plaintiff listed 1905-06 as the tax year he was appealing when he filed his Complaint March 17, 2006. That was later amended to tax year 2005-06.

² On October 10, 2005.

For many years prior to 2005-06, Plaintiff's real property tax matters were handled by a financial institution. Washington Mutual collected funds in an escrow account and made all tax payments in a timely fashion, relieving Plaintiff of that responsibility. When the mortgage was paid in full, the lender did not inform him of any changes necessary as to addresses of record or tax payment expectations.

Gehrt stated he did not learn that the tax statements had been mailed to a different address until much later. As a result, Defendant disallowed the three percent discount for taxes paid by November 15 (\$981.07) and charged interest for the late payment (\$731.16). Payment in full was made on March 14, 2006.

Plaintiff seeks a refund of \$1,718.23 for interest fees and the lost discount. He states that, had he received a timely tax bill, he would have made payment immediately, thus saving those additional charges.

II. COURT'S ANALYSIS

Defendant committed no error in addressing the tax statement envelope. The address of record is the only one to be utilized. Without official notice from a taxpayer, there is no way for Defendant to officially make a change in its records.

The statutes are clear. The failure of a taxpayer to receive a tax statement does not invalidate the tax amount due. ORS 311.250(2).³ In similar cases, the discount allowed for payments made before November 15 has not been extended past that deadline. That is because it is presumed every citizen knows that his land is taxable, that it will be assessed and taxed in due course, and that it is his duty to pay taxes timely. *See Hood River Co. v. Dabney*, 246 Or 14, 423 P2d 954 (1967).

³ All references to the Oregon Revised Statutes (ORS) are to 2003.

As to the interest charges, ORS 311.555 provides that every person owning taxable property within the state “shall keep the tax collector of the county where such real or personal property is situated informed of the true and correct address of the person.” ORS 311.560 requires the tax collector to note on the tax roll the address furnished under ORS 311.555. Here, plaintiff did not provide his most current address.

III. CONCLUSION

The 2005-06 tax payment was made past November 15, 2005. That qualifies it as late, which, in turn, forfeits the discount for early payment. There are no exceptions or extensions that apply. Plaintiff is not entitled to a refund of interest paid because Defendant utilized the address on the tax roll. Now, therefore,

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this ____ day of June 2006.

JEFFREY S. MATTSON
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 Jeffrey S. Mattson on June 20, 2006. The Court filed and entered this document on June 20, 2006.