

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

DONALD DEAN PEREZ, JR.,	)	
	)	
Plaintiff,	)	TC-MD 060555B
	)	
v.	)	
	)	
CLATSOP COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION</b>

A case management conference was held August 1, 2006. Andrea Perez participated for her husband, Donald. Debbie Miller and Scott Rutter represented Defendant. The parties agreed the case would be decided based on written submissions. Arguments were subsequently received; the record closed October 5, 2006.

Plaintiff appeals Defendant's denial of an initial application for a homestead<sup>1</sup> exemption for active military personnel for the tax year 2005-06. During the case management conference, the Complaint was amended to include the subsequent 2006-07 year.

I. STATEMENT OF FACTS

Plaintiff is a member of the Oregon National Guard who was first called to active duty beginning June 22, 2004. He submitted his first Oregon Active Military Service Member's Exemption Claim (application) to Defendant on the 2005-06 filing deadline of January 3, 2006. The application was denied by way of a letter dated March 15, 2006. Defendant claims the time of active service mandates are not met.

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<sup>1</sup> Account 22877.

For 2006-07, the application was received by Defendant on June 26, 2006.<sup>2</sup> It was denied by Defendant on July 12. The reason given, again, related to Plaintiff's date of initial service.

## II. ANALYSIS

The homestead exemption at issue was passed by the Oregon Legislature in 2005. It was codified as ORS 307.286 and ORS 307.289.<sup>3</sup> The law first applied to the 2005-06 tax year and provided that applications for the 2005-06 exemption were due "within 60 days after the effective date of this 2005 Act." Or Laws 2005, ch 520, § 6. The effective date of the Act was November 4, 2005. Any Oregon property owner seeking exemption for the 2005-06 tax year needed to submit an application by January 3, 2006. Plaintiff filed his application on that same date.

As to the 2005-06 application, Plaintiff does not qualify. Section 5 states that a person needs to be "initially ordered to federal active duty on or after January 1, 2005." *Id.* at § 5. According to the written submissions, Plaintiff reported much earlier, on June 22, 2004.

As to 2006-07, Plaintiff's application states the dates of service to be January 23, 2006, through July 23, 2007. While this appears to meet the requirements, a closer reading reveals a different result. Section 5 applies to persons "*initially ordered* to federal active duty on or after January 1, 2005." *Id.* (emphasis added). Plaintiff's initial order stemmed from June 22, 2004.

The court understands the frustration of Plaintiff and his spouse, given Plaintiff's long record of service to his country. Exemption statutes must be strictly construed; the court cannot expand the criteria or timelines selected by the legislature. Any changes, either prospective or retroactive, must come from that other body.

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<sup>2</sup> The application's signature was dated June 1, 2006.

<sup>3</sup> All references to the Oregon Revised Statutes (ORS) are to 2005.

The court finds, therefore, that the case should be denied. Now, therefore,

IT IS THE DECISION OF THE COURT that the above-entitled matter is denied.

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

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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 October 19, 2006. The Court filed and entered this document on October 19, 2006.***