

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

ARCHERS PRECISION INC.,)	
)	
Plaintiff,)	TC-MD 070693E
)	
v.)	
)	
WASHINGTON COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

Plaintiff appeals penalty and interest assessed for its failure to timely file a 1999-2000 personal property tax return. The court held a case management conference in the matter November 7, 2007. Kathy Archer (Archer) appeared on behalf of Plaintiff. Vickie Ellinwood, Corey Henkelman, Denise Terry, and Svetlana Motsiff appeared on behalf of Defendant. At the conclusion of the conference, the parties agreed to submit the case to the court for ruling.

I. STATEMENT OF FACTS

On August 31, 1999, Archer filed Plaintiff's 1999-2000 personal property tax return. Because the return was late, Defendant assessed the account a 100 percent penalty. The penalty appeared on the 1999-2000 tax statement received by Plaintiff in late October 1999. Plaintiff did not appeal the penalty to the Washington County Board of Property Tax Appeals (BOPTA).

During the conference, Archer explained Plaintiff owes significant back taxes and penalties to Defendant and that she is in the process of paying the outstanding liabilities. Archer stated that, in the past, when she asked about eliminating the penalty, county personnel advised her there was nothing they could do about it. Recently, someone at the county informed her the Tax Court had certain authority to waive penalties assessed for late filed returns. Based on that information, Archer filed an appeal seeking waiver of the assessed penalty and interest.

///

II. ANALYSIS

For the 1999-2000 tax year, Oregon law required taxpayers owning taxable personal property to file personal property tax returns by March 1, 1999. *See* ORS 308.290(3).¹ Returns filed after that due date were subject to penalties. The penalties were graduated based on when the return was eventually filed. For returns filed after August 1, 1999, the law provided for a penalty of 100 percent of the tax. ORS 308.296(4). Archer acknowledges filing the return after August 1, 1999. As a result, Defendant assessed the penalty according to statute.

Notwithstanding, Archer requests that the penalty be waived or reduced based on her good faith attempts to pay the back taxes owing. For penalties imposed in 1999, ORS 308.296(6) provided that a taxpayer wanting to challenge an assessed penalty could appeal that penalty to the local BOPTA. The statute stated:

“The county board of property tax appeals, upon application of the taxpayer, may waive the liability for all or a portion of the penalty upon a proper showing of good and sufficient cause. However, an application made under this subsection shall not be considered by the board unless filed timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the board under this subsection.”

Id.

The law was clear that, to challenge the penalty, Plaintiff should have filed an appeal with the local BOPTA by December 31, 1999. *See* ORS 309.100(2). The law was also clear that there was no appeal allowed from the BOPTA’s decision.

Archer argues she was advised that the court was given authority to consider assessed penalties for late filed returns. That is true, to a limited extent. In 2001, the Oregon Legislature enacted a law that allowed a taxpayer to appeal a personal property penalty to the Tax Court, but

¹ Unless otherwise noted, all references to the Oregon Revised Statutes (ORS) are to 1999.

only when the penalty was assessed under the omitted property statutes. See ORS 311.223(4) (2001) (“[T]he imposition of the penalty may be appealed to the tax court.”); see also ORS 305.422 (2001) (“[T]he court may waive the liability for all or a portion of the penalty upon a proper showing of good and sufficient cause.”). That is not the manner in which the penalty was imposed in this case. Furthermore, the law provides that the court can only waive penalties imposed after the date of the 2001 Act, which was October 6, 2001. See Or Laws 2001, ch 303, § 6. Defendant imposed the penalty contested in this case in the fall of 1999.

III. CONCLUSION

Based on the above analysis, the court finds it lacks authority to waive or reduce the 1999-2000 personal property penalty and interest. Now, therefore,

IT IS THE DECISION OF THE COURT that Plaintiff’s appeal is denied.

Dated this _____ day of November 2007.

COYREEN R. WEIDNER
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 Coyreen R. Weidner on December 3, 2007. The Court filed and entered this document on December 3, 2007.