
Coates' Canons Blog: When is a Deadline Not Really a Deadline? When the PTC Gets Involved.

By Chris McLaughlin

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One of the legal world's most well known principles is, "Ignorance of the law is no excuse." In light of two recent decisions by the state Property Tax Commission, this centuries-old maxim may need to be amended to read, "unless property taxes are involved."

The Property Tax Commission ("PTC") is the state board that hears property tax assessment appeals by taxpayers from decisions by county boards of equalization and review. Earlier this week the PTC released two decisions that approved retroactive requests for tax exemptions based solely on the taxpayers' alleged ignorance of the exemption application process. Concern over long-established legal principles aside, the real problem with these PTC decisions is that they do grave damage to the ability of local governments to finalize their tax bases.

From a taxpayer's perspective, the PTC's decisions in *Congregation Sha'Arei Shalom* and *Summitt Evangelical Covenant Church* seem to offer reasonable relief from sometimes confusing government regulations. Both cases involve religious institutions that acquired and/or built new property that they then used for religious purposes. The new properties clearly qualified for exemption from property taxes under NCGS 105-278.3.

However, in both cases the religious institutions failed to submit timely exemption applications for the newly acquired property as required by NCGS 105-282.1. Religious exemptions from property taxes require a single application per property; once a property is exempted, the religious institution need not submit another application for that same property. New applications are required only for additions/improvements to existing exempt property and for the acquisition of new property.

Exemption applications are due by the end of the listing period, usually the last day of January. But "upon a showing of good cause" local governing boards can approve exemption applications received by December 31. Neither the statutes nor the courts have defined good cause in this context, meaning local boards can define it as they see fit. Some boards accept "I forgot!" or "I didn't know!" as good cause, others require more. Either approach is fine under this loosely defined provision.

But what is *not* loosely defined is the deadline for exemption applications. Applications for the fiscal year that opens on July 1 must be submitted by December 31. If I want an exemption for the 2010-2011 tax year, I need to submit my application by December 31, 2010. Period. End of story. Local boards would violate state law and be subject to personal liability if they approved applications submitted after December 31. In both *Congregation Sha 'Arei Shalom* and *Summitt*, the exemption applications were submitted well past the December 31 deadline—in one case more than a year later—meaning the local boards had no authority to accept them.

As a result, from a local government perspective the PTC's decisions are both misguided and potentially very harmful. Local governments need finality in their tax bases for budgeting purposes. If taxpayers could submit exemption applications for prior years, tax bases could be substantially reduced years after the fact. Budgeting for local governments, already an inexact science, would be made even more difficult. For this reason, property tax refunds and releases are permitted only in two very limited situations. And courts have repeatedly rejected retroactive appeals of property tax assessments using similar reasoning. (Read the most recent Court of Appeals ruling on this issue here.)

The PTC apparently rejects both the explicit language of the exemption statutes and the logic behind them. In both *Congregation Sha 'Arei Shalom* and *Summitt*, the PTC based its rulings on these observations: "A taxpayer that intends to seek a property tax exemption for its property will file a timely application within the calendar year if the taxpayer is aware

of the application requirement. . . . If [the religious institution] had received notice [of the property taxes] within the calendar year, it could have filed a timely exemption application”

While these observations may be true, they are legally irrelevant.

First, the exemption statutes do not make the application deadline dependent on notice. The PTC cites a single Court of Appeals opinion in support of its decision to waive the deadline for exemption applications. But in that case, *In re: Valley Proteins, Inc.*, 128 N.C. App. 151 (1997), prior to December 31 the property owner informed the county of its desire for an exemption and provided the necessary information, albeit not on the “official” application form. The Court of Appeals reasonably concluded that because the county had both notice of the exemption application and the information needed to process the exemption application prior to the December 31 deadline, the county could not refuse to grant the exemption simply because the taxpayer failed to use the correct form. The PTC overreaches by quite a bit when it implies that the Court of Appeals’ willingness to forgive a taxpayer’s failure to submit the *correct* exemption application by December 31 should extend to a taxpayer’s failure to submit *any* exemption application by December 31.

Second, NCGS 105-348 explicitly charges all property owners with notice of their property tax obligations regardless of whether they receive actual notice. In other words, “ignorance of the law is no excuse.” Failure to receive notice of your taxes is no excuse for not paying them. Nor, presumably, would lack of notice would excuse the failure to submit an exemption application.

A decade ago the North Carolina Supreme Court admonished the PTC not to “circumvent the statutory procedural process at the county level or exceed the strict statutory authority granted to county assessors, county boards and county commissioners.” *In re: Allred*, 351 N.C. 1, 8 (1999). It appears that the PTC has done exactly that in *Congregation Sha ‘Arei Shalom and Summitt*.

True, the short-term consequences for the two counties involved with these cases are minor. But the long-term consequences for local governments across the state could be dramatic. In the words of the Supreme Court, when the PTC ignores the statutory framework created by the state legislature, it “invalidate[s] the integrity of the local system of appraisal and appeals and undermine[s] the efficiency and equalization goals” of the entire property tax structure. More plainly, it just ain’t right.

Links

- canons.sog.unc.edu/wp-content/uploads/2011/02/Congregation-ShaArei-Shalom.pdf
- canons.sog.unc.edu/wp-content/uploads/2011/02/Summitt-Evangelical-Covenant-Church.pdf
- canons.sog.unc.edu/?p=1861
- appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC03MjMtMS5wZGY=
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