

APPEAL #: 22-1848
TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED
TAX YEAR: 2022
DATE SIGNED: 7/11/2023
COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND J.FRESQUES
EXCUSED/RECUSED: R.ROCKWELL

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.</p>	<p>ORDER ON COUNTY’S DENIAL OF LATE FILED APPLICATION</p> <p>Appeal No. 22-1848</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2022</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PROPERTY OWNER

For Respondent: RESPONDENT'S REP-1, Public Services Manager, Tax Relief COUNTY-1

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Hearing on County’s Denial of Late Filed Application, on April 24, 2023. The County had issued a letter dated DATE, notifying Petitioner (“Property Owner”) that the County was unable to approve his 2022 application for the Blind Tax Relief Program because the application was submitted after the September 1st deadline. The Property Owner appealed this decision to the Utah State Tax Commission and it is the appeal of this decision that is currently before the Tax Commission.

APPLICABLE LAW

Utah Code Ann. §59-2-103(2) provides for the assessment of property, as follows:

All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

However, various exemptions, abatements, and tax relief are provided in the Property Tax Act. Utah Code Sec. 59-2-1106 provides an exemption for property owned by blind persons as follows:

(1) (a) Subject to Subsections (2) and (3), the first \$11,500 of taxable value of real and tangible personal property in this state owned by the following is exempt from taxation:

- (i) a blind person;
- (ii) the unmarried surviving spouse of a blind person; or
- (iii) a minor orphan of a blind person.

...

(2) (a) Every person claiming the exemption under Subsection (1) shall file an application:

- (i) on or before September 1 in each year; and
- (ii) with the county in which the person resides.

(b) A county may extend the deadline for filing under Subsection (2)(a) until December 31 if the county finds that good cause exists to extend the deadline.

(3) The first year's application shall be accompanied by a statement signed by a licensed ophthalmologist verifying that the person:

- (a) has no more than 20/200 visual acuity in the better eye when corrected; or
- (b) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of vision no greater than 20 degrees.

(4) (a) For purposes of this Subsection (4):

(i) "Property taxes due" means the taxes due on a person's property: (A) for which an exemption is granted by a county under this section; and (B) for the calendar year for which the exemption is granted.

(ii) "Property taxes paid" is an amount equal to the sum of: (A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the exemption; and (B) the amount of tax the county exempts under this section.

(b) A county granting an exemption to a person under this section shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is \$1 or more.

Utah Code Subsection 59-2-1102(7) provides:

Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

DISCUSSION

The Property Owner had failed to file his application for the exemption for property owned by a blind person by the September 1 deadline. The Property Owner explained that he never received the "paperwork" from the County, and then realized that he had not submitted the application in November when the taxes were due. On DATE, he filed a Late Tax Relief Petition form with the County, as well as the 2022 Tax Relief Application form. On the Late Tax Relief Petition form, the Property Owner had checked the box for "Extraordinary and unanticipated circumstances occurring during the prescribed time period for filing the tax relief application" and wrote on the form in the space provided "did not receive the form in the mail and did not notice until tax time."

At the hearing, the Property Owner explained that he was declared legally blind in YEAR and he stated that he had been receiving the blind exemption for almost #####-years. He also stated that every year he received the form in the mail from the County. He also explained that he has had the same mailing address since YEAR.

At the hearing the representative for the County pointed out that Utah Code Subsection 59-2-1106(2)(a) requires that a property owner file the application every year and Subsection 59-2-1106(2)(a)(i) provides that the deadline to file the application is September 1. The County acknowledged that Subsection 59-2-1106(2)(b) provides, “[a] county may extend the deadline for filing under Subsection (2)(a) until December 31 if the county finds that good cause exists to extend the deadline.” The County’s representative points out, however, that the statute provides no guidance on what constituted “good cause” for late filing of the blind exemption. He explained that where the County has been told it could extend an application for property tax relief deadline for good cause, but the criteria for good cause has not been defined in the statute, that the County has been using as guidance Utah Code Subsection 59-2-1904(5). The County acknowledges that this section applies to the veteran armed forces exemption, but states it is the only exemption statute that provides a list of criteria to extend the application deadline. The County points out that this section talks about illness or injury of the claimant or immediate family member, death of the claimant or immediate family member and other factors that occurred during the time period to file the application. It was the County’s contention that non receipt of the application form in the mail is not one of the criteria under Utah Code Subsection 59-2-1904(5). The County’s representative pointed out that the County is not required to mail the applications to property owners. He stated that as a courtesy the County does mail the application for blind property owner’s exemption to everyone who received the exemption for the prior year. The County’s representative stated that the Property Owner had not applied for the blind exemption in tax year 2021 and so did not receive the blind exemption for 2021. Because he had not received the exemption in 2021, the County did not mail the application to the Property Owner for tax year 2022.

The Property Owner was unaware that he had not applied or received the exemption in tax year 2021. He stated at the hearing that he had a traumatic brain injury in YEAR and he was just now trying to get his life back together.

After reviewing the facts in this matter and the applicable law, it is undisputed that the County had not mailed the application to the Property Owner for tax year 2022, but there is no statutory requirement for the County to do so. The statute places the responsibility on the property owner to file the application by the September 1 deadline. The statute also gives the County authority to extend the deadline to December 31 “if the county finds that good cause exists to extend the deadline.” This discretion has been expressly delegated to the County and not the Tax Commission. The County has

explained that due to the lack of statutory guidance in the statutory provisions for the property owned by blind persons exemption, the County did look elsewhere in the code and determined to apply the same factors set at as good cause to extend the application deadline for the veterans armed forces exemption. Based on the fact that it appears that the County is applying the same factors to all of the late application exemptions, it does not appear that the County has abused its discretion by applying these same factors in the subject appeal and concluding the facts in this appeal do not constitute “good cause.” On that basis, the Tax Commission declines to overturn the County’s decision in this matter.

DECISION AND ORDER

Based on the foregoing, the Tax Commission denies the Property Owner’s appeal in this matter regarding the blind exemption for tax year 2022. It is so ordered.

DATED this _____ day of _____, 2023.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.