

Lois Goodenough Toal Rev. Tr.

v.

Department of Revenue Administration

Docket No.: 24706-08LM

DECISION

The board has reviewed the department of revenue administration's ("DRA") November 24, 2009 response and the "Taxpayer's" November 30, 2009 response (copy enclosed for DRA) to the board's November 3, 2009 Order. The fact that the Taxpayer's daughter has power of attorney indicates she could have acted in a timely fashion on her behalf. Therefore, the board finds there was no accident, mistake or misfortune as defined in Tax 102.02. In accordance with Tax 102.02, accident, mistake or misfortune means "something outside the party's own control and not due to neglect, or something that a reasonably prudent person would not be expected to guard against or provide for." Consequently, the appeal is dismissed.

A motion for reconsideration of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; Tax 201.37. The reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; Tax 201.37(b). A reconsideration motion is granted only if the moving party establishes the Board's order was erroneous in fact or law. Filing a reconsideration motion is a

prerequisite for appealing to the supreme court, and the grounds for appeal will be limited to those stated in the reconsideration motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing Decision has been mailed this date, postage prepaid, to: Susan Bullock, 17 London Bridge Road, Windham, NH 03087, representative for the Taxpayer; and Peter M. Colbath, CPA, Assistant Director, Document Processing, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301.

Dated: December 11, 2009

Anne M. Stelmach, Clerk