

Wendy D. Gingras

v.

Department of Revenue Administration

Docket No.: 24720-08LM

DECISION

On November 18, 2009, the board received the “Taxpayer’s” appeal of the department of revenue administration’s (“DRA”) denial of its Low & Moderate Income Homeowner’s Property Tax Relief Application. The DRA denied the claim because it was filed after the deadline of June 30, 2009.

Pursuant to RSA 198:57, VI, (a) “Complete applications for state tax relief shall be filed with the department of revenue administration between May 1 and June 30 following the due date of the final tax bill as defined in RSA 76:1-a for state education property taxes; (b) The commissioner may accept late filed, but complete, applications filed on or before November 1, under the following circumstances:

(1) The claimant satisfies the commissioner that the claimant was prevented from timely filing the application due to accident, mistake or misfortune; (2) The claimant or other adult member of the household requested an extension of time to file his or her federal income tax return.”

The requirement for timely filing is in the nature of a statute of limitations and, thus,

further appeal to the board is precluded. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's powers are entirely statutory); Arlington American Sample Book Company v. Board of Taxation, 116 N.H. 575, 576 (1976) (untimely appeal barred); see also Daniels v. B & J Realty, 134 N.H. 174, 176 (1991) (administrative boards do not have the authority to extend statutory deadlines). 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." After reviewing the Taxpayer's letter included with the appeal, the board finds the Taxpayer's explanation does not meet the standard of accident, mistake or misfortune. Therefore, 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 this date been mailed, postage prepaid, to: Wendy D. Gingras, 37 Joffre Street, Concord, NH 03301, Taxpayer; and Michael Brown, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301, counsel for DRA.

Date: December 7, 2009

Anne M. Stelmach, Clerk