

SEP 16 2024

**BEFORE THE BOARD OF TAX APPEALS  
STATE OF KANSAS**

IN THE MATTER OF THE APPLICATIONS  
OF PAI, RAKESH FOR RELIEF FROM TAX  
GRIEVANCES IN BARTON COUNTY,  
KANSAS

Docket Nos. 2024-4483-TG  
& 2024-4484-TG

**ORDER**

Now the above-captioned matters come on for consideration and decision by the Board of Tax Appeals of the State of Kansas.

The Board has jurisdiction of the subject matter and the parties, as tax grievance applications have been filed pursuant to K.S.A. 79-1422.

The subject matter of Docket No. 2024-4483-TG is described as follows:

1999 Schult Mobile Home Barton County,  
Kansas, also known as ID # 005-PP-DOC  
#23891730.

The subject matter of Docket No. 2024-4484-TG is described as follows:

Mobile Homes Barton County, Kansas, also  
known as ID # 005-PP-DOC #23890099.

The Applicant requests a refund of the failure to file penalties for tax year 2023 on the aforementioned property. The Applicant submits in both matters that the rendition for 2023 was not filed in a timely fashion because of personal health reasons, and because the owner was not actively involved in the preparation of business documents. The County asks that the requested relief be denied. In both cases, the County argues that the Applicant owns multiple pieces of personal property and is well aware of the annual filing deadline, but has only filed in a timely fashion once in the past five years. The County further indicates that it physically mails courtesy worksheets to taxpayers in January of each year and that taxpayers also receive a note about the availability to file online. The Board notes that the County's verified submission in Docket No. 2024-4484-TG shows that penalties and interest were assessed to Applicant for late filings in 2018, 2020, 2022, and 2023, and that there is a tax warrant on the property dated February 20, 2024.

K.S.A. 79-306 states that personal property renditions must be filed by March 15 each year. Pursuant to K.S.A. 2010 Supp. 79-1422 and K.S.A. 2010 Supp. 79-1427a, the County is required to impose penalties for the untimely or incomplete filing of personal property renditions. This Board is authorized to abate penalties imposed pursuant to K.S.A. 2010 Supp. 79-1422 and K.S.A. 2010 Supp. 79-1427a only upon a finding of *excusable neglect on the part of the person required to make and file the statement listing property for assessment and taxation purposes*. The Kansas Supreme Court stated in *Tyler v. Cowen Construction, Inc.*, 216 Kan. 401, 406, 532 P.2d 1276 (1975) that “[e]xcusable neglect is a term somewhat nebulous. It touches an area in which there are few if any clear tangible signposts or guidelines. Whether excusable neglect is present or not in any given situation requires the judicious application of discretion.”

The Kansas Supreme Court in *In re Application of American Restaurant Operations*, 264 Kan. 518, 957 P.2d 473 (1998), addressed the issue of excusable neglect for purposes of K.S.A. 79-1422 and K.S.A. 79-1427a and sustained the Board’s interpretation of “excusable neglect” as “a justifiable failure to properly file taxes or as a legitimate attempt to correct tax problems once they are discovered.” *Id.* at 534. It is an objective test by which the taxpayer’s actions must be judged against those of a reasonably prudent person under similar circumstances.

In this case, the Board finds no evidence of “excusable neglect” on the part of the Applicant. The Applicant has owned the property at issue for multiple years and should be well aware of the filing requirements given the previous assessment of penalties for late filing. Nevertheless, it appears that Applicant has a history of filing the required renditions untimely or not at all. The Applicant’s history indicates that the failure to file here was not a justifiable failure to file or a legitimate attempt to correct problems once discovered, but part of a pattern or practice of failing to file renditions in a timely manner. Based on the lack of evidence of excusable neglect, the Board concludes the applications for relief for tax year 2023 should be denied. The Board notes the existence of penalties on other tax years, but as Applicant’s request in both matters pertains only to tax year 2023, the Board’s ruling is likewise limited to that tax year.

**IT IS THEREFORE ORDERED that the tax grievance applications are DENIED.**

Any party who is aggrieved by this order may file a written petition for reconsideration with this Board as provided in K.S.A. 77-529. See K.S.A. 74-2426(b). The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the

Board's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to the Secretary of the Board of Tax Appeals. The written petition must be received by the Board within 15 days of the certification date of this order (allowing an additional three days for mailing pursuant to statute).

Rather than filing a petition for reconsideration, any aggrieved person has the right to appeal this order of the Board by filing a petition with the court of appeals or the district court pursuant to K.S.A. 74-2426(c)(4)(A), and amendments thereto. Any person choosing to petition for judicial review of this order must file the petition with the appropriate court within 30 days from the date of certification of this order. *See* K.S.A. 77-613(b) and (c) and K.S.A. 74-2426(c). Pursuant to K.S.A. 77-529(d), any party choosing to petition for judicial review of this order is hereby notified that the Secretary of the Board of Tax Appeals is to receive service of a copy of the petition for judicial review. Please note, however, that the Board would not be a party to any judicial review because the Board does not have the capacity or power to sue or be sued. *See* K.S.A. 74-2433(f).

If both parties are aggrieved by this order, and one party timely appeals this order to the district court (which necessitates a trial de novo pursuant to K.S.A. 74-2426(c)(4)(A)), then this order will be deemed final and will render moot any pending petition for reconsideration filed by the other party. If both parties are aggrieved by this order, one party timely appeals this order to the court of appeals (which would involve appellate review under the Kansas judicial review act), and the other party timely files a petition for reconsideration, then this order will be deemed non-final and the Board will proceed to render an order regarding reconsideration.

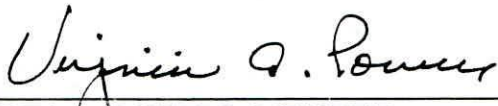
The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603-3958. A party filing any petition shall also serve a complete copy of the petition on all other parties.

IT IS SO ORDERED


THE KANSAS BOARD OF TAX APPEALS



  
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KRISTEN D. WHEELER, CHAIR

  
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VIRGINIA A. POWELL, MEMBER

  
\_\_\_\_\_  
DEVIN SPRECKER, MEMBER

  
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JOELENE R. ALLEN, SECRETARY

**CERTIFICATE OF SERVICE**

I, Joelene R. Allen, Secretary of the Kansas Board of Tax Appeals, do hereby certify that a true and correct copy of this order in Docket Nos. 2024-4483-TG and 2024-4484-TG, and any attachments thereto, was placed in the U.S. mail, on this 13<sup>th</sup> day of SEPTEMBER, 2024, addressed to:

Rakesh Pai, Manager  
11580 Monrovia Street  
Overland Park, KS 66210

Wendy Prosser, Barton County Appraiser  
Barton County Courthouse  
1400 Main St Room 206  
Great Bend, KS 67530-4046

James E Jordan, Barton County Treasurer  
Barton County Courthouse  
1400 Main St Room 208  
Great Bend, KS 67530-4077

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.

  
Joelene R. Allen, Secretary