

July 28, 2006

In Re: **Joyce Tate**
Docket No.: **36REINPZZ5782**

Statement of Record:

1. Joyce Tate (hereafter "Petitioner") filed a petition with the Tax Review Board on February 16, 2005 requesting an abatement of interest and penalties accrued against delinquent Real Estate taxes for her property at 7965 Fayette St. Philadelphia, Pa.
2. Public hearing was held before a Tax Review Board Master on November 3, 2005. The decision of the Master, as ratified by the Tax Review Board, was to deny the petition.
3. Petitioner requested and was granted a hearing before the full Tax Review Board.
4. A Tax Review Board hearing was held on January 17, 2006, following which the Board announced its decision to abate the penalties, the lien charge and one-half of the interest provided that Petitioner maintained payments of \$200 per month.
5. The City of Philadelphia has appealed to the Court of Common Pleas.

Findings of Fact:

1. The petition requested an abatement of interest and penalty accrued against delinquent Real Estate taxes for the property at 7965 Fayette Street for the tax years 1997 through 2004. The principal tax due was \$7,917.65, with interest due at the time of the hearing of \$2990.26, penalties due at the time of the hearing of \$556.38, lien charges of \$160, and legal fees of \$1,986.94, for a total due of \$13,610.23.
2. Petitioner testified that the delinquency accrued at a time when she mistakenly believed that she was paying the taxes as part of a home equity loan and that payments were being remitted to the City by the credit union with which she had the loan.
3. At the time of the hearing, Petitioner was not employed. She was awaiting a decision on a Social Security disability claim.
4. She had previously approached the law firm of Linebarger, Goggan, Blair & Sampson LLP (hereafter "Linebarger"), the firm that the City had assigned to her case for collection action, to enter into a payment agreement for this tax delinquency. She could not meet their down payment requirement although she was prepared to pay \$200 per month.
5. Petitioner had made some payments toward the delinquency. There was a dispute between Petitioner and the City representative as to whether Petitioner had missed any monthly payments.
6. There was also disagreement as to whether Petitioner had received from Linebarger all pertinent information about the programs available to assist low-income taxpayers.
7. Rather than pursue additional contact with Linebarger regarding her low-income status, Petitioner chose to pursue her appeal before the Tax Review Board.

Conclusions of Law:

The Philadelphia Code Chapter 19-1702(1) provides the Tax Review Board with jurisdiction over petitions for review "relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or School District of Philadelphia, including but not limited to, any tax, water or sewer rent, license fee or other charge, and interest and penalties thereon..."

In this case, the tax principal was not in dispute. Petitioner was requesting relief from the additional charges accrued because of the delinquency in payment of the tax. The Philadelphia Code provides broad jurisdiction to the Tax Review Board to review charges claimed by the Department of Revenue. It is under this broad umbrella that the Board considers lien charges assessed by the City.

The Tax Review Board is the administrative forum for taxpayers seeking a review of the City's claims. Absent a specific statutory provision granting jurisdiction to another forum, as, for example, is the case with Real Estate Tax assessments (The Philadelphia Code Chapter 19-1300) and legal fees that may be assessed by the City of Philadelphia on tax collection matters (53 P.S. §7106(a.1)), the Board provides a venue for taxpayers seeking administrative review.

The Philadelphia Code Chapter 19-1705(2) also provides that the Tax Review Board has the authority to waive interest and penalty in situations where, in the opinion of the Board, a taxpayer demonstrates good faith, lack of negligence or intent to defraud the city.

It was the finding of the Tax Review Board that Petitioner met the above standard for an abatement of, in part, of interest and penalties. She demonstrated her good faith by initiating contact with Linebarger and by making payments as best she could, given her financial status.

In addition, at the Tax Review Board hearing she reiterated her intent to continue making payments and to pay in full the tax delinquency.

In this case, the Board added to its decision the requirements that Petitioner enter into a payment agreement of \$200.00 per month as a condition of the abatements offered by the Board.

In an effort to meet the needs of Petitioner for a waiver of some of the accrued interest and penalties so that she can address the delinquencies liened against her property and to also meet the need of the City to collect the tax revenues it needs and to which it is entitled, the Board has fashioned a remedy it believes can meet the needs of both.

Petitioner has received a decision reducing her liabilities but has made this reduction contingent on paying the balance due, the proverbial carrot and stick.

In reviewing Petitioner's testimony regarding her financial status, the Board was mindful of fashioning a remedy that would not doom Petitioner's efforts to failure, a result that would also be a failure for the City since if Petitioner failed to be able to make payments then the City would fail to receive its money. The Board recognized that a Petitioner in this financial condition would not have a substantial down payment to start off with, but could meet her obligation and was willing to meet her tax obligation by making monthly payments that she could afford to maintain over an extended period of time.

Therefore the Board added to its abatement decision, a payment agreement requirement.

Concurred:

Derrick Johnson, Chair
Joseph Ferla
Sharon Losier
Una Vee Bruce