



BEFORE THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA

OCT 17 2023

MALLIE J. SECKINGER SR.,

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Petitioner,


Clara Davis, Tax Tribunal Administrator

DOCKET No.: 2319576

v.

FRANK M. O'CONNELL, in his
Official Capacity as Commissioner of
the GEORGIA DEPARTMENT OF
REVENUE,

Respondent.

ORDER OF DISMISSAL

Respondent, FRANK M. O'CONNELL, in his Official Capacity as Commissioner of the Georgia Department of Revenue, submitted a Motion to Dismiss to this Court on March 14, 2023. Respondent filed this motion in response to Petitioner's appeal of Letter No. L0590723760, Statement of Taxpayer's Account, issued by the Georgia Department of Revenue ("Department") on January 18, 2023. Petitioner, Mallie J. Seckinger Sr., responded to this motion on March 17, 2023. A hearing was held before the Georgia Tax Tribunal on October 3, 2023, on the issue of the Department's Motion to Dismiss for lack of subject matter jurisdiction.¹ Melody Chapman, Esq. appeared on behalf of the Department, and Petitioner, Mr. Seckinger, represented himself pro se. Having carefully read and considered all of the evidence in the record, Respondent's Motion to Dismiss for lack of subject matter jurisdiction is hereby **GRANTED**.

This matter has been challenged on the grounds that the Tribunal lacks subject matter jurisdiction to hear Petitioner's claims. The Tax Tribunal's jurisdiction is prescribed by O.C.G.A. §

¹ On August 25, 2023, Petitioner filed a Motion for Declaratory Summary Judgment. Respondent filed a response to this motion on September 22, 2023.

50-13A-9(a), which provides that:

[a]ny person may petition the tribunal for relief as set forth in Code Sections 48-2-18, 48-2-35, 48-2-59, 43-3-1, 48-5-519, 48-6-7, and 48-6-76 and subparagraph (d)(2)(C) of Code Section 48-7-31. The tribunal shall have jurisdiction over actions for declaratory judgment that fall within subsection (a) of Code Section 50-13-10 and involve a rule of the commissioner that is applicable to taxes administered by the commissioner under Title 48.

See also O.C.G.A. § 50-13A-9(b) (“The tribunal shall have concurrent jurisdiction with the superior courts over those matters set forth in subsection (a) of this Code section.”).

With the exception of declaratory judgments under O.C.G.A. § 50-13-10, each of the code sections mentioned above expressly provide for Tax Tribunal jurisdiction within the statutes themselves. See O.C.G.A. § 48-2-18(c) (appeals from property tax assessment issued to public utilities); O.C.G.A. § 48-2-35(c)(1)(D)(4) (appeals from denial of refund claims); O.C.G.A. § 48-2-59(a) (appeal of tax assessments generally); O.C.G.A. § 48-3-1 (appeals contesting state tax executions); O.C.G.A. § 48-5-519(b) (appeals of railroad equipment property tax assessments); O.C.G.A. § 48-6-7(b)(1) (appeals seeking refunds of real estate transfer taxes); O.C.G.A. § 48-6-76(e)(1) (appeals seeking refunds of intangible recording taxes); and, O.C.G.A. § 48-7-31 (d)(2)(C) (appeals related to a specific allocation or apportionment formula, by reference to O.C.G.A. § 48-2-59). Moosa Company LLC v. Comm’r, TAX-OTHER-1902782 (Ga. Tax Tribunal 2018).

Respondent’s Motion to Dismiss for lack of subject matter jurisdiction has two bases. First, Respondent argues that the Tribunal lacks subject matter jurisdiction over this matter because a Statement of Taxpayer’s Account is not an appealable notice. Respondent argues that a Statement of Taxpayer’s Account is only a notification of Petitioner’s current account status with the Department and does not establish any tax liability or constitute an order, ruling, or finding of the Department. Petitioner argues that the Statement of Taxpayer’s Account letter is appealable because it is an official declaration of a taxpayer’s account by the Department and should therefore be considered to

be a binding order, ruling, or finding by the Department.

O.C.G.A. § 48- 2-59(a) states, in part, that a party “may appeal from any order, ruling, or finding of the commissioner to the Georgia Tax Tribunal in accordance with Chapter 13A of Title 50.” It has been well established before this Court that a Statement of Taxpayer’s Account does not constitute an “order, ruling, or finding” of the Department and that it does not establish tax liability. See Robbie D. Terry-Washington and Carl Washington Jr. v. Comm’r, TAX-IIT-2000622 (Ga. Tax Tribunal 2021). The Tribunal agrees with Respondent’s argument that a Statement of Taxpayer’s Account is not appealable because it is only a notification of Petitioner’s current account with the Department and is not considered to be an order, ruling, or finding of the Department. Since there is no decision of the Department being appealed,² there is no relief which may be granted by this Tribunal. Thus, the Tribunal does not have jurisdiction over this matter and Respondent’s Motion to Dismiss could be granted on this basis alone.

The second basis for Respondent’s Motion to Dismiss is that the Tribunal lacks subject matter jurisdiction over Petitioner’s claim related to a condemnation action concerning real property located in Chatham County. Under O.C.G.A. § 50-13A-9(a), the Tribunal may only hear appeals of orders, rulings, or findings of the Georgia Department of Revenue. During the hearing, Respondent argued that Petitioner’s condemnation claim arises from actions taken by the Chatham County Board of Assessors, Chatham County Board of Equalization, and Chatham County Superior Court. Respondent further argued that the Department did not have any involvement in the events that led to Petitioner’s claim and is therefore not a party to the condemnation claim. The Tribunal is again in agreement with Respondent on this issue. Additionally, except for appeals of tax assessments issued to public utilities, the Tax Tribunal does not have jurisdiction to review county property (ad

² By agreement of the parties, issues related to decisions made by the Department for tax years 2016 and 2021 were resolved prior to the occurrence of the hearing.

valorem) tax assessments of real or personal property. See O.C.G.A. § 48-2-18(c); O.C.G.A. § 48-5-511. Thus, the Tribunal lacks jurisdiction over this matter and Respondent's Motion to Dismiss is granted on these grounds as well.

Because the Tribunal lacks subject matter jurisdiction over this matter, Respondent's Motion to Dismiss is **GRANTED**. Accordingly, Petitioner's Motion for Declaratory Summary Judgment, filed on August 25, 2023 is deemed **MOOT** and is therefore **DENIED**. For the foregoing reasons, this action is hereby **DISMISSED**.

SO ORDERED, this 17th day of October, 2023.



LAWRENCE E. O'NEAL, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL