



FILED
GA. TAX TRIBUNAL

**BEFORE THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA**

JUN 11 2014

**MARK D. BANNER and TINA L.
KELLEY,**

Petitioners,

v.

**DOUGLAS J. MACGINNITIE,
Commissioner, Georgia Department of
Revenue,**

Respondent.

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Yvonne Bouras
Yvonne Bouras
Tax Tribunal Administrator

**TAX TRIBUNAL DOCKET
NO.: TAX-IIT-1411889**

DECISION

2014-10 Ga. Tax Tribunal, June 11, 2014

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners filed their Petition with the Tax Tribunal on September 30, 2013. In their Petition, Petitioners designated their case to proceed under the regular case procedures for the Tribunal and paid the required filing fee. They did not, however, serve Respondent or the Attorney General with a copy of their Petition.

Respondent did not in fact discover that a Petition had been filed with the Tax Tribunal until reviewing a case list maintained by the Tribunal Administrator. Respondent did not receive a copy of the Petition until April 14, 2014, when one was mailed to Respondent by the Tax Tribunal Administrator in response to a request from Respondent.

After receiving a copy of the Petition, Respondent filed his Motion to Dismiss on April 17, 2014.

When working with self-represented taxpayers, Respondent and this Tribunal make every reasonable effort to address issues raised by taxpayers in their Petitions. Where it is possible to do so, reasonable allowances are made for minor procedural irregularities or ambiguities in


filings with the Tribunal. See e.g., Alice D. Doby, 2014-3 Ga. Tax Tribunal, February 17, 2014; Gail K. and Paul T. Zantzinger, 2014-2 Ga. Tax Tribunal, January 31, 2014; Lorraine L. Hunter, 2014-6 Ga. Tax Tribunal, March 13, 2014.

Some matters are fundamental, however, and cannot be overlooked. Service of the Petition on Respondent in accordance with the prescribed statutory procedures is one of those essential requirements.

Petitioners were required by O.C.G.A. § 50-13A-10(a) “to serve a copy of the petition on the commissioner and the Attorney General and attach a certificate of service to the petition filed with the tribunal.” Moreover, O.C.G.A. § 50-13A-18(a) requires that an “initial petition shall be served by certified mail or statutory overnight delivery.” This they did not do.

Because neither the Department nor the Attorney General was served with the Petition by certified mail or otherwise, Respondent’s Motion to Dismiss must be **GRANTED** and Petitioners’ Petition in this case must be **DISMISSED**.

SO ORDERED, this 17th day of June, 2014.


CHARLES R. BEAUDROT, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL

MARK D. BANNER & TINA L. KELLEY, *PRO SE*

PETITIONERS

SAMUEL S. OLENS, Attorney General, W. WRIGHT BANKS, JR., Deputy Attorney General, WARREN R. CALVERT, Senior Assistant Attorney General, ALEX F. SPONSELLER, Senior Assistant Attorney General

ATTORNEYS FOR RESPONDENT, DOUGLAS J. MACGINNITIE, Commissioner, Georgia Department of Revenue