

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2012-000883

04/10/2014

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

L T 4, L L C

STEPHEN C NEWMARK

v.

MOHAVE COUNTY

DOLORES H MILKIE

MINUTE ENTRY

Courtroom 202 – Old Courthouse

9:09 a.m. This is the time set for a telephonic Oral Argument on Defendant's Motion to Dismiss. Defendant is represented by counsel, Dolores Milkie. Plaintiff is neither present nor represented by counsel.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The Court notes that Defendant's counsel was unable to contact Mr. Newmark for today's argument and court staff were unable to contact him as well.

The Court has read the Defendant's Motion to Dismiss, Plaintiff's response, and Defendant's Reply. The Court agrees with the County's position and intends to grant the Motion to Dismiss. The Court will issue a written analysis and ruling separately and sign the order that was electronically submitted by Defendant.

9:15 a.m. Matter concludes.

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LATER:

As referenced at the argument, the Court finds as follows.

A.R.S. § 42-16210(B) provides two exceptions to the rule disallowing an appeal of taxes that were not timely paid: if the full year's tax is paid on or before December 31, or if the "remaining" one-half tax is paid by July 1. (There does not appear to be a distinction between "on or before" and "by," even though both were added simultaneously by the legislature.) The use of "remaining" implies that there has been a previous payment that covered one half of the taxes, the subtrahend that has been subtracted from the entire tax bill, leaving a remainder. The statute does not provide a separate deadline for the first half payment, suggesting that it is treated as distinct from the second half and must be paid prior to the date it becomes delinquent. Reference to the legislative history confirms this meaning. The March 26, 2002 House Summary for HB 2244, which became section B, notes that the successful strike-everything amendment "[a]llows tax court to proceed with the appeal hearing when taxes are delinquent if either: The full year tax is paid by December 31 or [t]he first half is paid on time and the second half is delinquent, but property taxes, and interest, are paid by July 1." (Later versions of the summary revert to the language of the statute, without further explanation.) In addition, logic demands this construction: the safe harbor for payment in full by December 31 would be meaningless if the very next sentence provided a safe harbor for payment in full by July 1 (or for timely payment of the second half by May 1, but delinquent payment of the first half by July 1). As it appears that the first half taxes were not timely paid and the entire year's taxes were not paid by December 31, 2013, the appeal must be dismissed.

Based on this ruling,

IT IS ORDERED vacating the trial scheduling conference set October 3, 2014 in this division.

Effective April 15, 2014 new civil rules and forms are in effect for managing cases moving to trial. Be sure to review the new Civil Rules 16, 26, 37, 38, 72 through 74 and 77.

Arizona Tax Court - ATTENTION: eFiling Notice

Beginning September 29, 2011, the Clerk of the Superior Court will be accepting post-initiation electronic filings in the tax (TX) case type. eFiling will be available only to TX cases at this time and is optional. The current paper filing method remains available. All ST cases must continue to be filed on paper. Tax cases must be initiated using the traditional paper filing method. Once the case has been initiated and assigned a TX case number, subsequent filings can

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be submitted electronically through the Clerk's eFiling Online website at
<http://www.clerkofcourt.maricopa.gov/>

NOTE: Counsel who choose eFiling are strongly encouraged to upload and e-file all proposed orders in Word format to allow for possible modifications by the Court. Orders submitted in .pdf format cannot be easily modified and may result in a delay in ruling.