



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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Governor

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MELANIE YOUNG
Secretary

In the Matter of)	Case No. 19-145 B
)	
APN: 001-660-125)	
)	
Aspen Plaza Partners, LLC)	
PETITIONER)	
)	
v.)	
)	
Katrinka Russell,)	
Elko County Assessor)	
RESPONDENT)	
)	
Direct Appeal of the Decision of the Elko)	
County Assessor)	

NOTICE OF DECISION

Appearances

John Fericks appeared on behalf of Aspen Plaza Partners, LLC (Taxpayer).

Katrinka Russell, Elko County Assessor and Deputy District Attorney Rand Greenburg appeared on behalf of the Elko County Assessor's Office (Assessor).

Summary

The matter of the Taxpayer's direct appeal with respect to the 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 Unsecured Roll within Elko County, Nevada, came before the State Board of Equalization (State Board) for hearing in Carson City and Las Vegas, Nevada, on August 26, 2019, after due notice to the Taxpayer and the Assessor. The subject property is commercial and leased to the Taxpayer.

On or about May 3, 2019, the Taxpayer filed a petition to the State Board purporting to appeal, in part, assessments for "2010-2011 through 2017-2018."¹ Petitions for review of an assessor's determination placed on the unsecured roll after December 15, but before April 30, must be filed directly with the State Board on or before May 15 of the same fiscal year. NRS 361.360(3). Accordingly, the Secretary recommended to the State Board that the appeals be dismissed for lack of jurisdiction.

¹The petition filed on or about May 3, 2019, also appealed assessments for the 2018-2019 tax year. That portion of Taxpayer's appeal was assigned Case No. 19-145 A, and will be addressed in a separate Notice of Decision.

The State Board, having considered all evidence, documents and testimony pertaining to this matter, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

1. The State Board is an administrative body created pursuant to NRS 361.375.
2. The Taxpayer and the Assessor were given adequate, proper and legal notice of the time and place of the hearing before the State Board and the matter was properly noticed pursuant to the Open Meeting Law at NRS 241.020.
3. With respect to tax years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018, the Taxpayer must file on or before May 15 of the appropriate fiscal year.
4. The Taxpayer acknowledged the petition was untimely filed.
5. The Taxpayer challenged some of the prior years previously and those decisions were challenged in the district court.
6. Any finding of fact above construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

CONCLUSIONS OF LAW

1. The State Board has authority to determine whether it has jurisdiction to hear a matter. The State Board has the authority to determine matters necessary to carry out the power conferred on the State Board by statute. *Checker, Inc. et al. v. Public Serv. Comm'n*, 84 Nev. 623, 629-30, 446 P.2d 981, 985 (1968).
2. The Taxpayer failed to meet its burden to show any legal authority which would allow the State Board jurisdiction to hear the case. Accordingly, the State Board did not accept jurisdiction to determine this matter.
3. Any conclusion of law above construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

DECISION

Based on the above Findings of Fact and Conclusions of Law and a preponderance of the evidence, the State Board held by unanimous vote that it is without jurisdiction to hear the portion of Taxpayer's appeal filed with respect to tax years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018, and the petition is dismissed with respect to those years.

BY THE STATE BOARD OF EQUALIZATION THIS 10th DAY OF October, 2019.


Melanie Young, Secretary