



**THE COMMONWEALTH OF MASSACHUSETTS**

**Appellate Tax Board**

100 Cambridge Street  
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Boston, Massachusetts 02114

(617) 727-3100  
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**Docket No. C339444**

**ALICE MARIE PARRY**

**Appellant.**

**V.**

**COMMISSIONER OF REVENUE**

**Appellee.**

**DECISION WITH FINDINGS**

The commissioner's Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction. On the basis of the documents submitted in connection with the Motion, the Appellate Tax Board ("Board") makes the following findings and rulings.

This appeal concerns the commissioner's denial of the appellant's abatement application concerning personal income tax for tax year 2014. The appellant filed an abatement application with the commissioner on November 9, 2018, which the commissioner denied by notice dated April 2, 2019. The appellant filed her appeal of the commissioner's denial with the Board on September 6, 2019.

Under G.L. c. 62C, § 39, the appellant's appeal was due 60 days after the date of notice of the Commissioner's decision. Sixty days after the April 2, 2019 denial notice was Saturday, June 1, 2019. Accordingly, the last date for filing a timely appeal with the Board was Monday, June 3, 2019. The appellant's September 6, 2019 appeal to the Board was therefore over 3 months late.

The appellant failed to appear at the hearing of the Motion, filed no opposition, and did not otherwise challenge the arguments advanced by the commissioner. Accordingly, the Board finds that the appellant failed to file her appeal with this Board within 60 days after the date of notice of the commissioner's decisions as required under G.L. c. 62C, § 39.

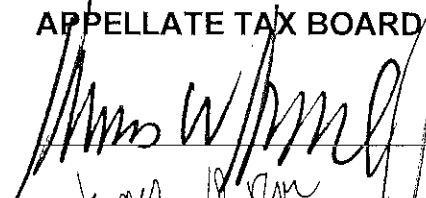
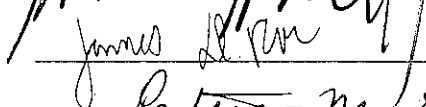
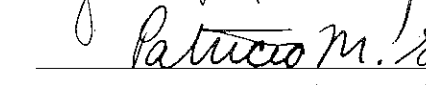
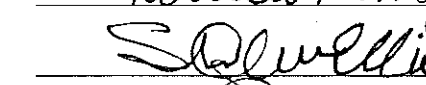
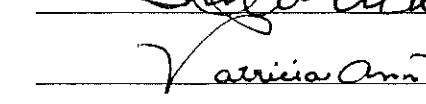
The Board has only that jurisdiction conferred on it by statute. ***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 732 (1982). "Since the remedy of abatement is created by statute, the board lacks jurisdiction over the subject matter of proceedings that are commenced at a later time or prosecuted in a different manner from that prescribed by statute." ***Nature Church v. Assessors of Belchertown***, 384 Mass. 811, 812 (1981) (citing ***Suffolk Law School***, 295 Mass. at 495 (1936)). Adherence to the statutory prerequisites is essential "to prosecution

of appeal from refusals to abate taxes." **New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth**, 368 Mass. 745, 747 (1975). **Old Colony R. Co. v. Assessors of Quincy**, 305 Mass. 509, 511-12 (1940).

The Board has no jurisdiction over an appeal that is filed more than sixty days after the date of notice of the commissioner's decision. **Good v. Commissioner of Revenue**, 395 Mass. 685 (1985); **Sears, Roebuck & Co., v. State Tax Commission**, 370 Mass. 127 (1976). The appellant's appeal to the Board was due no later than June 3, 2019 but was not filed until September 6, 2019. The appellant's appeal is therefore beyond the 60-day period mandated in G.L. c. 62C, § 39.

Accordingly, the appeal is dismissed for lack of jurisdiction and the decision is for the appellee.

APPELLATE TAX BOARD

	Chairman
	Commissioner
	Commissioner
	Commissioner
	Commissioner

Attest:

  
Clerk of the Board

Date: DEC 12 2019  
(Seal)

**NOTICE:** Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.