

ARIZONA TAX COURT

COPY

TX 2005-050371

03/15/2006

HONORABLE MARK W. ARMSTRONG

CLERK OF THE COURT
L. Slaughter
Deputy

FILED: _____

PATTY J HOHN

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BOX 31171
PHOENIX AZ 85046

v.

LA PAZ COUNTY

MARTIN E BRANNAN
LA PAZ COUNTY ATTORNEY
1320 KOFA
PARKER AZ 85344

UNDER ADVISEMENT RULING

This matter was taken under advisement after Oral Argument on March 13, 2006, on Defendant's Motion to Dismiss Complaint and Notice of Appeal. The Court has considered the papers and arguments of the parties.

From the record, it is unclear to the Court exactly which Tax Year Plaintiff is challenging. It appears from the Complaint that Plaintiff is appealing the property valuation for Tax Year 2006. However, in Plaintiff's Opposition memorandum, mention is also made of prior tax years.

Although Plaintiff has since paid the property taxes assessed in 2004, according to the Affidavit of La Paz County Treasurer, they were delinquent and unpaid as of January 5, 2006. In addition, Plaintiff's property taxes for the first half of 2005 became delinquent after 5:00pm on November 1, 2005, and remain unpaid. Thus, the property taxes that are the subject of any challenge to Tax Years 2004 or 2005 were not paid before becoming delinquent. In addition, because 2005 taxes have not been paid, in any challenge to Tax Year 2006 there remain unpaid past taxes. Therefore, the Court agrees with the County's argument that Plaintiff is prohibited from testing the validity or amount of tax pursuant to A.R.S. § 42-11004.

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A personal property tax challenge is governed by A.R.S. § 42-11004, which provides that a taxpayer who fails to timely pay past, current, or accruing property taxes before delinquency “may not test the validity or amount of tax, either as plaintiff or defendant.” See *Shew v. Jeffers*, 147 Ariz. 192, 709 P.2d 549 (App. 1985) (no person may test the validity or amount of taxes which have not been paid); *Bull HN Info. Sys. v. Ariz. Dep’t of Revenue*, 185 Ariz. 393, 916 P.2d 1109 (App. 1995) (court lacked jurisdiction to grant relief to a taxpayer who made payment of personal property taxes five days beyond the delinquency date). Although this may seem a harsh requirement to Plaintiff, it is necessary to insure that government is not paralyzed by delinquent taxpayers trying to “forestall the inevitable” by bringing suit. *Shew*, 185 Ariz. at 193, 916 P.2d at 550.

IT IS THEREFORE ORDERED granting Defendant’s Motion to Dismiss Complaint and Notice of Appeal.