

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

CLEM FLECK MASONRY, INC.,)	
)	
Plaintiff,)	TC-MD 120758D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

This matter is before the court based on Defendant’s Auditor’s Report, filed July 3, 2013.

The above-entitled matter was set for trial on May 29, 2013. Plaintiff failed to exchange exhibits prior to trial and requested an opportunity to meet with Defendant’s representative to discuss settlement of the disputed issues for tax years 2006, 2007, and 2008. Plaintiff withdrew its appeal of tax year 2005. The trial was canceled.

At the conclusion of the parties’ settlement discussion, Plaintiff requested additional time to provide documentation (Bank of America credit card statements) to Defendant. The court granted Plaintiff’s request. The parties were informed that the court would issue a decision after receipt of Defendant’s revised auditor’s report.

On July 3, 2013, Defendant’s Auditor’s Report was filed, including “the updated Explanation of Adjustments, Bank of America Credit Card Statement Allowed/Disallowed Amounts worksheet, and Adjustment to Corporation Income and Expenses worksheet that show[ed] the revised adjustments.” (Def’s Auditor’s Report at 1.) In her transmittal statement, Defendant’s representative, Celita Holt, wrote:

“Due to additional information being provided during the Magistrate phase, the corporation was allowed to deduct additional expenses of \$83,663, \$64,527, and \$97,550 for tax years 2006, 2007, and 2008, respectively. The

corporation[']s account was paid off in full, as a result, the additional allowed expenses result in a refund of taxes of \$5,521, \$1,405, and \$6,439. Furthermore, the 20% Substantial Understatement of Income penalty and interest will be partially abated, which will increase the total refund to the corporation for 2006, 2007, and 2008.”

(*Id.*) This matter is now ready for decision. Now, therefore,

IT IS THE DECISION OF THIS COURT that based on supplemental documentation submitted by Plaintiff and reviewed by Defendant, Plaintiff is entitled to an income tax refund in the amount of \$5,521 for tax year 2006, \$1,405 for tax year 2007, and \$6,439 for tax year 2008.

IT IS FURTHER DECIDED that Defendant will adjust the substantial understatement of income tax penalty and interest in accordance with its determination.

IT IS FURTHER DECIDED that Plaintiff's appeal of tax year 2005 is withdrawn.

Dated this ____ day of July 2013.

JILL A. TANNER
PRESIDING MAGISTRATE

If you want to appeal this Decision, file a Complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your Complaint must be submitted within 60 days after the date of the Decision or this Decision becomes final and cannot be changed.

This Decision was signed by Presiding Magistrate Jill A. Tanner on July 9, 2013. The court filed and entered this Decision on July 9, 2013.