

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Income Tax

HAROLD M. AND CATHERINE M. FIX,)	
)	
Plaintiffs,)	No. 000221B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION

A case management conference was held on May 11, 2000. Harold and Catherine Fix participated on their own behalf. Nancy Grigorieff represented the defendant.

The parties concurred there was no factual dispute. They agreed to submit the case to the court on written arguments. The record closed on June 19, 2000.

At issue are refunds claimed for the three tax years 1985 through 1987.

STATEMENT OF FACTS

Plaintiffs both were full time Oregon residents from 1981 until June of 1990, and received pension income as retired federal employees. On October 15, 1999, defendant received a claim for refunds for these three years from plaintiffs. That request was denied on January 14, 2000.

Plaintiffs then appealed to this court on March 13, 2000. They claim their federal pension income is exempt from Oregon taxation.

COURT'S ANALYSIS

For tax years beginning in 1991 and later, federal and state pensions were on equal footing as it relates to taxation. Refunds for tax years before 1988 are not allowed. *Ragsdale v. Dept. of Rev.*, 312 Or 529, 823 P2d 971 (1992). This court cannot expand or enlarge upon that decision.

The remedial prior years' situation was then reviewed in *Atkins v. Dept. of Rev.*, 320 Or 713, 894 P2d 449 (1995). There, pursuant to ORS 305.765, refunds of Oregon income tax paid on federal pensions were denied for all years prior to 1988.

Plaintiffs make several equitable arguments. All were considered and rejected by the courts in *Ragsdale* and *Atkins*. They raise no new probative arguments and offer no compelling citations.

CONCLUSION

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this ____ day of July, 2000.

JEFF MATTSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE MATTSON ON JULY 31, 2000. THE COURT FILED THIS DOCUMENT ON JULY 31, 2000.