

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Income Tax

JACOB SHEWELL,)	
)	
Plaintiff,)	No. 000305B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT

A trial was convened on August 14, 2000. Jacob Shewell testified on his own behalf. Kim Carey represented the defendant.

At issue is omitted wage income for the 1995 tax year.

STATEMENT OF FACTS

Plaintiff filed a 1995 Form 40S with defendant. Under penalties for false swearing, he declared \$215 in Oregon wages. At trial he admitted this was incorrect, that he was paid cash "under the table" in an uncertain amount.

Defendant received information about plaintiff from the federal Internal Revenue Service. It was reported that he received an additional \$12,000 in wages from Autotote CBS, Inc. Plaintiff was also billed by the IRS for this omitted income. He was unsure what happened to that federal billing, but was of the opinion that perhaps "someone else" paid the federal account for him. He provided no details.

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Plaintiff offered conflicting information. The unreported income exceeded
DECISION AND JUDGMENT

\$3,000, but he was unsure of the amount or the source. No records were produced from the employment service or the local employer. While plaintiff states that he was a student during the first part of 1995, he apparently worked full time for at least five months.

COURT'S ANALYSIS

Plaintiff's opinions are without independent support. There is no corroboration of the amounts earned or the employers and job duration. Mr. Shewell's testimony about amounts earned was sketchy and inconsistent. It ranged from \$215 to \$3,000 and beyond. Given the lack of substantiation, the court will not guess at an amount in the face of the federal report.

Plaintiff was given ample time to obtain a federal transcript of his account and offer it at trial. It was not produced. If such a transcript is later obtained, and it shows the federal billing was canceled, the court suggests it be presented to defendant's revenue agent in an offer to compromise the underlying state claim. However, at this stage, defendant's 1995 tax assessment must be sustained.

CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that the appeal is denied.

Dated this ____ day of August, 2000.

JEFF MATTSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON AUGUST 24, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 24, 2000.