

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Income Tax

DANIEL GREGG GANNON,	)	
	)	
Plaintiff,	)	No. 000438B
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
STATE OF OREGON,	)	
	)	
Defendant.	)	<b>DECISION</b>

A trial was held on July 6, 2000. Daniel Gannon participated on his own behalf. Rae Parsons represented the defendant. Subsequently written arguments were offered; the record closed on August 28, 2000.

At issue are assessments made for the tax years 1996 and 1997. Taxes were assessed in the amounts of \$414 (1996) and \$1,335 (1997).

STATEMENT OF FACTS

During these tax years, Mr. Gannon engaged in certain experimental activities. On his tax returns, he listed his principal business or profession as "scientific research." He described (Ptf's Ex 1) the activities as relating to:

"1.) Human physiological aging and degenerative disease processes (anti-aging/life extension)

"2.) Human intellectual function and mood

"3.) Preventive engineering\* \* \*.

"4.) Products to modulate human gene expression\* \* \*. [and]

///

"5.) Target controllable factors and elements in the human living environment

which may impact any of the above, and develop products (**for profit**) to achieve such control.” (Emphasis added).

Plaintiff’s “Business Plan and Statement of Purpose” states that “[a]s a matter of ethical and economic necessity, I shall utilize myself as the primary early test subject.” *Id.* at 2.

To that end, Mr. Gannon ingested several over-the-counter medicines and supplements and noted his body's reactions. He kept notes of his research. No products were developed or sold. No research was published.

Substantial losses were claimed by plaintiff during tax years 1996 (\$14,457), 1997 (\$19,423), and 1998 (\$21,794). Many of the claimed items were personal in nature, such as necessary living expenses. Mr. Gannon claims there were no personal components, such as apartment rent; instead, he classified the sums as laboratory expenses. Utilities were treated similarly.

#### COURT'S ANALYSIS

Tax losses, and no profits, are shown here for three consecutive years. In order to constitute a bona fide business, as opposed to a hobby with losses, certain developments and progress must be shown. Here, the activities clearly are more hobby-like in nature. IRC § 183.

Plaintiff claims expenses related to payments to an individual for personal services. OAR 150-305.217 requires certain information returns and substantiation. Those are missing in this case.

Personal living expenses are not deductible. IRC § 262. Despite this strict prohibition, Mr. Gannon claims all are business related expenses. This is not credible.

The record establishes there was experimentation by Mr. Gannon and hypothetical plans. There is not a clear, logical business purpose that excludes all

elements of personal living costs. The expenses may not be allowed on plaintiff's Oregon tax returns for 1996 and 1997.

#### CONCLUSION

IT IS THE DECISION OF THE COURT that plaintiff's appeal is denied.

IT IS FURTHER DECIDED that defendant's request for costs is denied.

Dated this \_\_\_\_ day of September, 2000.

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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 JEFF MATTSON ON SEPTEMBER 19, 2000. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 19, 2000.**