

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT

Small Claims  
Income Tax

DONALD R. AND RUTH E. BRYAN,	)	
	)	
Plaintiffs,	)	No. 000473C
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
STATE OF OREGON,	)	
	)	
Defendant.	)	<b>DECISION AND JUDGMENT</b>

Plaintiffs appealed an assessment issued by defendant on January 5, 2000, regarding tax year 1995. Following the filing of pleadings by the parties, plaintiffs submitted a state income tax return. Defendant's representative, Mike Halter, reviewed the 1995 return and, by letter dated and filed May 22, 2000, agreed to accept the return and cancel the tax. However, because Oregon law (ORS 314.415) precludes the issuance of a refund in cases where the original return claiming the refund is not filed within three years of the due date, excluding extensions, he indicated that the refund could not be allowed.

The matter was discussed during the May 25, 2000, case management conference. Plaintiffs were represented by Mr. Shaunessy, CPA. Mr. Shaunessy pursued briefly the refund denial issue and ultimately agreed, on behalf of plaintiffs, to accept defendant's position, given the applicable statutory framework. There is no matter remaining in dispute. After a full review and the court being fully advised, now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that defendant's notice of determination and assessment, issued January 5, 2000, is canceled in full, including penalties and interest. The refund reflected in the return submitted during the course of the appeal is barred by statute and will not be issued.

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

---

DAN ROBINSON  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON  
MAY 31, 2000. THE COURT FILED THIS DOCUMENT ON MAY 31, 2000.**