

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Income Tax

IKE B. KING,)	
)	
Plaintiff,)	No. 000512C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT

Plaintiff has appealed defendant's denial of a claim for refund of excess taxes paid for 1994 and 1995. The matter was addressed during a hearing held June 7, 2000. Plaintiff appeared on his own behalf. Defendant appeared through Ms. Laurie Fery, an auditor with the Oregon Department of Revenue.

STATEMENT OF FACTS

Plaintiff was a member of the armed forces for the years under appeal. He served in the United States Navy aboard a naval ship. His employer withheld Oregon state income taxes for 1994 and 1995. Plaintiff asserts he is exempt from state taxes because of his military status. Plaintiff testified that he was aware taxes were being withheld from his wages but was unsuccessful in convincing his employer to cease that activity. Plaintiff did not timely file state income tax returns requesting refunds of the taxes withheld. Plaintiff was discharged in 1998. Plaintiff filed state income tax returns on February 17, 2000. Defendant argues that refund requests must by law be filed within three years of the due

date of the return, citing ORS 314.415.

COURT'S ANALYSIS

ORS 314.415(1)(b)(A)¹ sets forth the time in which a claim for refund must be submitted. It provides, in pertinent part:

"(b)(A) * * * nor shall a refund claimed on an original return be allowed or made in any case unless the return is filed within three years of the due date, excluding extensions, of the return in respect of which the tax might have been credited.* * *" ORS 314.415(1)(b)(A).

Plaintiff presents no arguments or evidence to show that ORS 314.415 is not applicable. Employment by the Navy does not automatically exempt an individual from Oregon state income taxes. If plaintiff's status as a military employee entitles him to avoid state income taxes, he had three years from the date the return was due to file his request. Plaintiff was unaware he faced a deadline and testified he was too busy to file his returns. These facts do not preclude enforcement of the statute.

CONCLUSION

Plaintiff did not timely file his request for refund and the appeal must therefore be denied.

IT IS HEREBY ADJUDGED AND DECREED that plaintiff's requested relief is denied.

Dated this ____ day of June, 2000.

DAN ROBINSON
MAGISTRATE

¹ Reference to the Oregon Revised Statutes (ORS) is to the 1999 version of the laws.
DECISION AND JUDGMENT

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON JUNE 14, 2000. THE COURT FILED THIS DOCUMENT ON JUNE 14, 2000.