

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Income Tax

ERIC L. SIMONSON,)	
)	
Plaintiff,)	
)	No. 000711C
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT

Plaintiff's 1999 income tax return was adjusted by the Oregon Department of Revenue (department) to disallow the refund claimed. Plaintiff appealed, alleging that he was entitled to the entire amount of tax withheld by his employer. The matter was addressed at a case management conference held July 17, 2000. Plaintiff appeared on his own behalf. The department appeared through its auditor Mike Halter.

Plaintiff lives in Washington. He works in construction. In 1999 plaintiff spent four months working in Oregon building a post office in The Dalles. Plaintiff believed that he was exempt from Oregon income tax because he was a Washington resident. After some discussion plaintiff came to understand that Oregon imposes a state income tax on anyone who either lives in Oregon or works in this state. ORS 316.037(3), 316.117 and 316.127.

The other issue addressed was the calculation of the refund. Although the Department originally denied the full amount of the reported refund, an adjustment was made allowing a portion of the tax withheld based on a W-2 submitted with the appeal.

DECISION AND JUDGMENT

The W-2 (Copy B) originally submitted by plaintiff with the return did not indicate the amount of wages earned in Oregon (box 17) or the amount of state income tax paid to Oregon (box 18). Consequently, the department denied the entire amount. Another W-2 (Copy C) was submitted with the Complaint. This wage statement indicated that \$29,858.40 was attributable to wages earned in Oregon (Oregon source income) and that \$2,467.58 was withheld from wages for Oregon state income tax. Using this information Mr. Halter revised the calculations and determined that plaintiff was due a refund of \$228. Plaintiff accepted this figure.

Plaintiff's understanding of Oregon's income tax system, which imposes a tax on nonresidents working in Oregon, and the revised calculations stemming from the correct W-2, resolved the appeal.

IT IS HEREBY ADJUDGED AND DECREED that plaintiff is due a refund of \$228 for 1999 based on excess employer withholding.

Dated this ____ day of July, 2000.

DAN ROBINSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON JULY 24, 2000. THE COURT FILED THIS DOCUMENT ON JULY 24, 2000.