

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Tri-Met Tax

CMR/COLUMBIA, INC. and LINDA)	
PEPLINSKI,)	
)	No. 000812E
Plaintiffs,)	
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION

Plaintiffs appeal defendant's imposition of the Tri-County Metropolitan Transportation District (Tri-Met) payroll tax. The case management conference held August 15, 2000, was converted to a trial after both parties indicated they had presented their case fully to the court. Linda Peplinski appeared on behalf of plaintiffs. Mary Beth Pike appeared on behalf of defendant (the department).

STATEMENT OF FACTS

CMR/Columbia, Inc. (Columbia) is a company that manufactures and installs electric signs. It has been in business for 18 years and has never, until now, challenged the Tri-Met tax. Recently, however, Ms. Peplinski noticed that Tri-Met is placing electric signs on bus shelters that display advertisements. Ms. Peplinski looked into the matter and discovered Tri-Met is obtaining these signs from a Canadian company and has not opened up bids for the signs to local suppliers. Further, the signs are placed in public right of ways, which Columbia is prohibited from doing by regulation.

Ms. Peplinski does not believe it is equitable for Columbia to pay a tax to an entity with which she perceives to be in competition. She is bothered that Tri-Met is

placing signs obtained from a company outside of the state. She is further frustrated that Tri-Met is able to place signs in areas where private companies, like Columbia, are prohibited. In protest, Columbia chose to begin withholding its tax payments to Tri-Met.

COURT'S ANALYSIS

Tri-Met is a mass transit district created under chapter 267 of the Oregon Revised Statutes. ORS 267.334(2)(c).¹ It is a “municipal corporation” and a “public body, corporate and politic, exercising public power.” ORS 267.200. To finance its operations, ORS 267.385(1) gives Tri-Met, as a mass transit district, the power to, by ordinance, impose an excise tax on every employer within its district. When an employer fails to remit the tax, the Department of Revenue is given the power to enforce collection by issuing a distraint warrant, which is what occurred in this case. See ORS 267.385(4).

Columbia does not claim it is not an “employer” covered by the statute nor does Columbia argue it is not within the boundaries of Tri-Met’s district. Instead, Columbia is claiming it should not be responsible for the tax because Tri-Met can place electric signs in areas where Columbia cannot and because Tri-Met is obtaining its signs from nonlocal suppliers. These concerns, although real, do not pertain to the legitimacy of the tax. The tax was correctly imposed pursuant to the statute. Columbia’s concerns should be pursued through different avenues.²

CONCLUSION

The court concludes that Columbia, as an employer within Tri-Met’s district,

¹ All references to the Oregon Revised Statutes are to the 1999 provisions.

² During trial, the court discussed with Ms. Peplinski the possibility of her writing her local legislator or communicating with Tri-Met’s board about her concerns.

must pay the Tri-Met tax. Now, therefore;

IT IS THE DECISION OF THIS COURT that plaintiffs' appeal is denied.

Dated this _____ day of August, 2000.

COYREEN R. WEIDNER
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 COYREEN R. WEIDNER ON AUGUST 25, 2000. THE COURT FILED THIS DOCUMENT ON AUGUST 25, 2000.