

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

STEVEN B. RENNIE,)	
)	
Plaintiff,)	TC-MD 0030823A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION

Plaintiff has appealed, for the 2002 tax year, the assessment of charges for the underpayment of estimated taxes and interest. He appeared and made his arguments. Defendant was represented by Linda Carroll, of its staff.

I. STATEMENT OF FACTS

Plaintiff was laid off from Fujitsu Microelectronics in August 2001. Despite his best efforts to otherwise secure alternative employment, he remained unemployed for a year, at which point he enlisted in the Air Force.

Due to his unemployment Plaintiff was forced to sell his home. The circumstances of his sale created additional income in the context of the cancellation of debt. This sum, \$22,169, represented approximately a third of Plaintiff's income for the year, the balance of which consisted of unemployment compensation, IRA distributions, and military income.

Despite those hardships Plaintiff paid his taxes in full by the April 15th deadline. However, the roller coaster nature of Plaintiff's income, and especially because so much of Plaintiff's income was due to the cancellation of debt, Plaintiff underpaid his estimated taxes.

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Defendant has since revised its assessment, reducing the original total of \$410.04, first by removing \$220.40 in charges for the underpayment of estimated tax and next by removing \$12.20 in interest, for a balance of \$177.44.

II. ANALYSIS

As a matter of law the court cannot, at this point, extend relief to Plaintiff beyond that appearing in Defendant's recalculations. The reason for that is discussed in *Young v. Dept. of Rev.*, OTC-MD No 010881C (Mar 29, 2002), a copy of which is enclosed with this decision. The legislature has reserved to the agency an important power, which is the discretionary ability to waive amounts otherwise due. That aspect of the agency's power is, contrary to the expectations of those unfamiliar with the situation, frankly greater than the court's.

As a suggestion to the agency, the court will point out that it is particularly struck by two aspects of Plaintiff's behavior. The first, obviously, is that he did not only pay his taxes, but also in large part paid his estimated taxes, under circumstances that were obviously difficult. The next is that much of Plaintiff's income was due to cancellation of debt. It is understandable that Plaintiff should have to struggle to pay a tax on funds that, although certainly taxable, had no liquidity.

III. CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is granted to the extent

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of the recalculations offered by Defendant, reducing the total charges to \$177.44. Plaintiff is urged to request additional discretionary relief from Defendant to reduce this sum further.

Dated this _____ day of September, 2003.

SCOT A. SIDERAS
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. 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 SCOT A. SIDERAS ON SEPTEMBER 17, 2003. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 17, 2003.