

IN THE MAGISTRATE DIVISION  
OF THE OREGON TAX COURT  
Income Tax

JERALD L. AND SHARON K. SCOTT,	)	
	)	
Plaintiffs,	)	
	)	No. 010080B
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
STATE OF OREGON,	)	
	)	
Defendant.	)	<b>DECISION</b>

A case management conference was convened on March 7, 2001. Jerald L. Scott participated for plaintiffs; Ronda Kerner represented the defendant. At issue is a denial of a refund claim received more than three years beyond the original due date.

This concerns an Oregon tax refund claim for the 1996 tax year. The return was due on April 15, 1997. After that date, the return was late, but a refund claim could be made within the next three years. That open period expired on April 15, 2000. Defendant did not receive the 1996 claim until eight weeks later, on June 8, 2000.

Plaintiffs’ 1996 refund claim was dated April 10, 2000. Mr. Scott states it was probably mailed that date, but is unsure how the envelope was addressed. The Oregon form found its way to the (federal) Internal Revenue Service in Ogden, Utah. It was returned to plaintiffs sometime after the April 15 date. It is reasonable to conclude that the Oregon form was misplaced in an envelope addressed and delivered to Utah.

The placing of an Oregon refund claim in an envelope not addressed to defendant cannot constitute the “filing of a tax return” pursuant to ORS 314.415(1)(b)(A). It is unfortunate that the three year limit cannot be extended under

these specific facts, but that is the risk inherent in waiting until near the statutory deadline.

Now, therefore,

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this \_\_\_\_ day of March, 2001.

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JEFF MATTSON  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, 1241 STATE STREET, FOURTH FLOOR, SALEM, OR 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF MAILING OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON MARCH 27, 2001. THE COURT FILED THIS DOCUMENT ON MARCH 27, 2001.**