

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

JOHN E. BURAS,)	
)	
Plaintiff,)	No. 010574B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION

An initial case management conference was held on June 7, 2001. John E. Buras participated on his own behalf; Linwood E. Tracy, Jr. provided information for Plaintiff. Bruce Hale represented the Defendant.

Subsequently, other status calls and conferences were held. The parties were allowed to submit numerous written arguments and documents.

With the concurrence of the parties, this Decision is based on the pleadings and current record before the court.

At issue are income tax assessments made for the five tax years: 1995 - 1999.

STATEMENT OF FACTS

Plaintiff is an Oregon resident. For the tax years at issue, he received pension income from The Motion Picture Industry Pension Plan. There is no disagreement as to the amount or receipt of these funds.

Plaintiff contends that since the retirement money was paid due to labors expended while in California, it is unfair for Oregon to tax the distribution of the pension funds paid.

COURT'S ANALYSIS

Oregon imposes a tax on the "taxable income" of every resident. ORS 316.037¹. That taxable income includes pensions such as received by Mr. Buras. IRC 61 and 63. ORS 316.022. Oregon residents are taxed on all income received, whatever the source, unless specifically exempted. ORS 316.048. The benefits paid from California are not specifically exempted by Oregon statutes. Therefore, they are properly taxable by Defendant.

A similar case was presented in *Simpson v. Dept. of Rev.*, 12 OTR 455 (1993), *aff'd per curiam*, 318 Or 579, 870 P2d 824 (1994). There, a former resident of Alaska presented constitutional arguments. The court rejected all those claims and upheld Oregon's taxation of Alaska retirement benefits. The court, at page 459, stated:

"(b)y moving to Oregon, plaintiffs subjected themselves to Oregon's sovereign powers and entitled themselves to participate in its political processes. In doing so, they placed themselves on equal footing with the other citizens of Oregon."

Plaintiff's claims as to "fairness" are not supported by any citations to relevant federal or state law.

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CONCLUSION

IT IS THE DECISION OF THE COURT that this appeal must be denied.

¹All references to the Oregon Revised Statutes are to 1997.

Dated this ____ day of April, 2002.

JEFF MATTSON
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 97301-2563. 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 JEFF MATTSON ON APRIL 25, 2002. THE COURT FILED THIS DOCUMENT ON APRIL 25, 2002.