

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Small Claims
Income Tax

JAMES W. KING AND KATHLEEN H. KING,)	
)	
Plaintiffs,)	No. 010849C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	DECISION AND JUDGMENT OF
Defendant.)	DISMISSAL

This matter is before the court on Defendant's Motion to Dismiss the Complaint.

The Motion was contained in the Answer and was filed on June 22, 2001.

The basis of the motion is that the Defendant has not assessed the deficiency and the Plaintiffs timely filed a written objection to the deficiency with the Oregon Department of Revenue pursuant to ORS 305.265(5)¹. An appeal to the Magistrate Division of the Oregon Tax Court is from an assessment of a deficiency. ORS 305.280(2). The appeal to the court is therefore premature. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that this matter be dismissed.

Dated this ____ day of August, 2001.

DAN ROBINSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON AUGUST 20, 2001. THE COURT FILED THIS DOCUMENT ON AUGUST 20, 2001.

¹All references to the Oregon Revised Statutes are to 1999.
DECISION AND JUDGMENT OF DISMISSAL