

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

TED JAMES JEFFERY IV,)
)
Plaintiff,) No. 011209A
)
v.)
)
DEPARTMENT OF REVENUE,)
STATE OF OREGON,)
)
Defendant.) **DECISION AND JUDGMENT**

At issue is a tax assessment for the 2000 tax year. Mr. Jeffery's arguments were made by his father, Edward James Jeffery. The Department of Revenue was represented by its employee, Jason Barbee.

STATEMENT OF FACTS

The Department of Revenue reasons that additional tax is due from Mr. Jeffery because of a distribution from his individual retirement account. Mr. Jeffery argues that the distribution is not taxable to Oregon because there was no tax benefit for the individual retirement account contribution.

Mr. Jeffery testified that during the year at issue Ted Jeffery was on active duty in the United States military, stationed out of Oregon, and filing a resident tax return claiming 100% deduction for active duty pay. From this observation Mr. Jeffery reasoned that, if no tax was imposed due to the exclusion of active duty pay from income, why should a tax be later imposed when that same money is subsequently distributed from an individual retirement account?

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COURT'S ANALYSIS

Mr. Jeffery's argument has a great deal of intuitive appeal. However, Mr. Jeffery is being taxed, not on the basis of what his money originally was, active duty pay, but because of what it subsequently became, a distribution from an individual retirement account.

Oregon has set out a series of criteria in OAR 150-316.159 which permit a subtraction to be made for distributions from an individual retirement account. There is no provision for contributions made from income earned while on active duty with the United States military. The rule instead supports the assessment.

CONCLUSION

IT IS HEREBY ADJUDGED AND DECREED that the appeal is denied.

Dated this ____ day of June, 2002.

SCOT A. SIDERAS
PRESIDING MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON
JUNE 12, 2002. THE COURT FILED THIS DOCUMENT ON JUNE 12, 2002.**