

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

CHARLES E. DEMING,)	
)	
Plaintiff,)	No. 020206D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant's motion to dismiss, filed April 11, 2002, requesting that the Complaint be dismissed.

A case management conference was held in the above-entitled matter on Tuesday, July 2, 2002. Mr. Charles Deming appeared on his own behalf. Ms. Laurie Fery, Auditor, appeared on behalf of Defendant.

During the conference, the court confirmed with the parties that Defendant issued its Notice of Tax Assessment on November 29, 2001. Plaintiff filed his appeal on March 12, 2002. Plaintiff's appeal was filed more than 90 days after the Notice of Tax Assessment was issued by Defendant. Plaintiff's appeal was not timely filed. ORS 305.280(3)¹. The court informed the parties that it would grant Defendant's motion to dismiss.

In response to the issue raised by Plaintiff in his Complaint, Ms. Fery explained that an Oregon resident may not claim a credit on their Oregon return for taxes paid to Indiana. She explained that Oregon has the same rule for three other states, California, Arizona and Virginia. However, Ms. Fery stated that an Oregon resident can claim

¹All references to the Oregon Revised Statutes are to 2001.

credit for taxes paid to Oregon on his Indiana (California, Arizona or Virginia) non-resident tax return. ORS 316.082; ORS 316.131. Mr. Deming stated that he would look into filing an amended non-resident Indiana income tax return.

In conclusion, the court advised the parties that it would grant Defendant's motion to dismiss. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this _____ day of July, 2002.

JILL A. TANNER
PRESIDING 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 JILL A. TANNER ON JULY 18, 2002. THE COURT FILED THIS DOCUMENT ON JULY 18, 2002.