

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

DENNIS L. PETERSON and BARBARA J. PETERSON,)	
)	
Plaintiffs,)	No. 020265C
)	
v.)	
)	
DEPARTMENT OF REVENUE, STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT

Plaintiffs appeal Defendant’s Notice of Refund Denial for 1998. The case management conference held on June 6, 2002, was converted to trial. Mr. Peterson appeared for Plaintiffs, who assert their right to a refund of \$343. Defendant appeared through Laurie Fery, an auditor with the Department of Revenue. For ease of reference the parties will be referred to as taxpayers and the department.

STATEMENT OF FACTS

Taxpayers took the standard deduction on their federal return for 1998 but itemized their deductions for Oregon. Taxpayers filled out a federal Schedule A in order to calculate their itemized deductions. They wrote “OREGON ONLY” on the top of the Schedule A. On line 5 of Schedule A, which is labeled “State and local income taxes,” Taxpayers listed their state income taxes of \$3,984. By including state income taxes on Schedule A, those taxes become a deduction. On their original state return, Oregon Form 40, taxpayers entered their total Schedule A deductions on line 21 and their state taxes on line 24¹. The amount entered on line 24 is subtracted from total Schedule A deductions and operates as an add-back. As a result, state income taxes

¹ Line 24 is labeled “State income tax claimed as an itemized deduction from Schedule A, line 5.”

were subtracted from itemized deductions and taxpayers did not claim a deduction for state income taxes. Taxpayers later amended their 1998 state return to remove the line 24 add-back based on the outcome of an appeal to this court for tax year 2000, *Peterson v. Department of Revenue*, OTC-MD No. 010565B (May 11, 2001) (Small Claims), and their interpretation of line 24. Taxpayers amended return increases deductions \$3,984, which is the amount of state income taxes they paid that year.

Taxpayers contend the amended return is consistent with instructions they were given over the phone by a department employee and is validated by the court's decision for the 2000 tax year. They argue the reference on line 24 of the state Form 40 to "income tax claimed as an itemized deduction from Schedule A" is to federal Schedule A, and that they filed a state Schedule A. Taxpayers argue that because they took the standard deduction on their federal tax return there is no federal Schedule A and therefore there is nothing to enter on line 24 of the state return. In a post-trial memorandum taxpayers explain their view as follows: "* * * the value on Line 24 State Form 40 shall be that shown on Federal Schedule A, Line 5. When the standard deduction is taken, the value on Line 5 is zero and that value should be shown on line 24." (Taxpayers' Ltr dated June 6, 2002.) The department responds that Oregon does not allow a deduction for state income taxes, which is the reason for a line on the Oregon return to subtract state income taxes from total itemized deductions.

COURT'S ANALYSIS

Under Oregon law, a taxpayer's Oregon itemized deductions are the taxpayer's federal itemized deductions "minus the deduction for Oregon income tax."

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ORS 316.695(1)(d).² The statute provides in relevant part as follows:

“(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer’s itemized deductions or (ii) a standard deduction. Except as provided in subsection (9) of this section, for purposes of this subparagraph, ‘standard deduction’ means the sum of the basic standard deduction and the additional standard deduction.

“ * * * * *

“(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s itemized deductions are the sum of:

“(A) The taxpayer’s itemized deductions as defined in section 63(d) of the Internal Revenue Code * * * minus the deduction for Oregon income tax * * * .” ORS 316.695.

The result is that all deductions allowed on the federal Schedule A except state income taxes are deductible on the Oregon return. This is because Oregon does not allow a deduction for state income taxes paid. Under taxpayers’ theory, they would claim a deduction for the full amount of federal itemized deductions, including state income taxes. Such an approach contravenes the statute.

Taxpayers list on line 21 of their state return all itemized deductions appearing on their Schedule A. These are the deductions allowed by the federal tax system. Because Oregon does not allow a deduction for state income taxes paid, the total itemized deductions must be reduced to remove state income taxes. That is accomplished by line 24, which asks the taxpayer to enter “state income taxes claimed as an itemized deduction from Schedule A, line 5.” The amount entered on line 24 of the state return is deducted from total itemized deductions listed on line 23. The net itemized deductions are reported on line 25. Taxpayers are misguided in their belief they can enter nothing on line 24.

Taxpayers’ argument that the reference to Schedule A on line 24 of the state

² All references to the Oregon Revised Statutes are to 1997.

return is to federal Schedule A and that they filed a state Schedule A is unpersuasive and produces a result contrary to law. Taxpayers' alternative argument that they did not itemize on their federal return and therefore they had no line 24 deduction for state income taxes is similarly unpersuasive. In filling out the Schedule A, taxpayers entered their state income taxes. It matters not whether one calls the schedule a federal or state Schedule A. Taxpayers listed state income taxes on that schedule and they would receive a deduction for state income taxes if they did not subtract the taxes from total itemized deductions. The subtraction is effectuated by entering state income taxes on line 24 of the state return.

As a final matter, the court rejects taxpayers argument that the outcome of the 2000 year appeal (Case No. 010565B) sets a precedent for this case. That decision has no legal bearing on this case because the parties to that case settled the matter on their own, with the department agreeing with taxpayers' claim for refund. The court simply accepted the parties' agreement. The court did not reach a decision as to the merits of the taxpayers' claim regarding the correct interpretation of ORS 316.695.

CONCLUSION

The department's denial of taxpayers' refund request for 1998 is upheld. Taxpayers are not entitled to a deduction of state income taxes as claimed on their amended return. Now, therefore,

IT IS HEREBY ADJUDGED AND DECREED that taxpayers' appeal is denied.

Dated this _____ day of August, 2002.

DAN ROBINSON
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON
AUGUST 8, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 8, 2002.**