

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Income Tax

DENNIS L. PETERSON and BARBARA J. )  
PETERSON, )  
 )  
Plaintiffs, ) No. 020932C  
 )  
v. )  
 )  
DEPARTMENT OF REVENUE, )  
STATE OF OREGON, )  
 )  
Defendant. ) **DECISION AND JUDGMENT**

Plaintiffs appeal Defendant's Notice of Deficiency for 1999, issued May 1, 2002.

The case management conference held on August 22, 2002, was converted to trial.

Mr. Peterson appeared for Plaintiffs. 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**

This case presents the same legal question presented by taxpayers in an earlier appeal involving the 1998 tax year and decided by the court by Decision and Judgment issued August 8, 2002. The case was *Peterson v. Dept. of Rev.*, OTC-MD No. 020265C (August 8, 2002) (Small Claims).

Here, as in the earlier case, taxpayers took a standard deduction on their federal return but itemized their deductions for Oregon. Taxpayers filled out a federal Schedule A in order to calculate their itemized deductions for Oregon. They wrote "Oregon Only" on the top of the Schedule A. On line 5 of the 1999 Schedule A, which is labeled "State and local income taxes", taxpayers listed their state income taxes of \$2,879. By including state income taxes on Schedule A, those taxes become a deduction. On their

original 1999 state return, Oregon Form 40, taxpayers entered their total Schedule A deductions on line 21 and their state taxes on line 24.<sup>1</sup> The amount entered on line 24 is subtracted from total Schedule A deductions and operates as an add-back. The purpose is to disallow a deduction for state income taxes consistent with ORS 316.695(1)(d(A)).<sup>2</sup> Taxpayers later amended their 1999 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. Dept. of Rev.*, OTC-MD No. 010565B (May 11, 2001) (Small Claims), and their interpretation of line 24. (The appeal for the 2000 tax year settled because the return and related documents were not carefully reviewed by the department.) Taxpayers amended return increases deductions by \$2,879, which is the amount of state income taxes they paid that year.

Taxpayers contend the reference on line 24 of the state Form 40 to “income tax claimed as an itemized deduction on Schedule A” is to federal Schedule A, and that they filed a state Schedule A. Thus, there is no federal Schedule A from which to extract a number to enter on line 24 of the state return. Taxpayers similarly argue that because they took the standard deduction on their federal tax return there is nothing to enter on line 24 of the state return. The department relies on the statute.

### **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.”

ORS 316.695(1)<sup>3</sup>. The result, for purposes of this case, is that all deductions allowed

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

<sup>2</sup> All references to the Oregon Revised Statutes are to 1999.

<sup>3</sup> 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

on a 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' argument is tied to their interpretation of the words "Schedule A." As the court explained in its earlier decision,

"[i]t 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." *Peterson v. Dept. of Rev.*, OTC-MD No. 020265C, at 4 (August 8, 2002) (Small Claims).

### CONCLUSION

The department's denial of taxpayers' refund request for 1999 is upheld.

Taxpayers are not entitled to a deduction of state income taxes. Now, therefore,

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

Dated this \_\_\_\_\_ day of August, 2002.

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DAN ROBINSON  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON AUGUST 30, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 30, 2002.**

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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.

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"(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.