

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

SCOTT D. SHAW and SUSAN C. SHAW,)
)
 Plaintiffs,) TC-MD 020941C
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 STATE OF OREGON,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on Defendant's motion to dismiss, made January 7, 2003, at the first case management hearing. Defendant argues the case is premature because the deficiencies for the tax years at issue (1996 through 2000) have not been assessed. The assessment is the appealable act. ORS 305.265(15).¹ Plaintiffs' appeal was filed after the deficiencies were issued but before they were assessed. The matter was discussed at the February 7, 2003, hearing, and it was determined the court would dismiss the appeal and Plaintiffs would pursue the matter with Defendant administratively. Plaintiffs' timely letter to the department will be treated as a request for conference. Now, therefore,

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

Dated this _____ day of February, 2003.

DAN ROBINSON
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

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

AND CANNOT BE CHANGED.

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON
FEBRUARY 28, 2003. THE COURT FILED THIS DOCUMENT ON FEBRUARY 28,
2003.**