

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Income Tax

|                        |   |   |
|------------------------|---|---|
| DOUGLAS R. BEESLEY,    | ) |   |
|                        | ) |   |
| Plaintiff,             | ) | TC-MD 021084C                                 |
|                        | ) |   |
| v.                     | ) |   |
|                        | ) |   |
| DEPARTMENT OF REVENUE, | ) |   |
| STATE OF OREGON,       | ) |   |
|                        | ) |   |
| Defendant.             | ) | <b>DECISION AND JUDGMENT OF<br/>DISMISSAL</b> |

This matter is before the court on Defendant's motion to dismiss, included in its Answer, requesting that the Complaint be dismissed because the tax is self-assessed. By the Complaint, Plaintiff seeks to change his filing status for state income tax purposes from that taken on his original 2001 state return.

The gist of Defendant's motion is that it has not adjusted Plaintiff's return and Plaintiff is therefore not aggrieved, as required by ORS 305.275(1)(a).<sup>1</sup> Accordingly, there is no appealable act and the Complaint should be dismissed. The court agrees.

Plaintiff argues he was prevented by his probation officer from contacting his wife to discuss the filing status and, as a result, he was compelled to file married separate on both his federal and state returns. Assuming the facts to be as represented, Plaintiff nonetheless has not had any action taken by Defendant regarding his 2001 return and there is no aggrievement. If Plaintiff filed an amended return showing a different filing status Defendant would review that return and accept or reject it. If it were rejected, Plaintiff could appeal. At this juncture, the appeal is premature. Now, therefore,

---

<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.

///

IT IS ADJUDGED AND DECREED that Plaintiff's Complaint is dismissed.

Dated this \_\_\_\_ day of March, 2003.

---

DAN ROBINSON  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON MARCH 18, 2003. THE COURT FILED THIS DOCUMENT ON MARCH 18, 2003.**