

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Income Tax

MAITHILY MUNDLE, )  
 )  
 Plaintiff, ) TC-MD 030074F  
 )  
 v. )  
 )  
 DEPARTMENT OF REVENUE, )  
 STATE OF OREGON, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

Plaintiff appeals from a Notice of Deficiency issued by Defendant regarding tax year 2001. A case management conference was held on April 9, 2003. Maithily Mundle appeared for herself. Laurie Fery appeared for Defendant.

Plaintiff is a college student studying at Oregon State University (University). She is also employed by the University. She first arrived in the United States from India on September 8, 2000, entering with a student visa. Tax year 2001 was the first year she filed tax returns in the United States. Plaintiff earned \$11,762.47 in 2001, paying \$438 in federal income tax. On her original Oregon return, Plaintiff subtracted \$3,000 from income for federal tax liability and \$4,500 in itemized deductions. After receiving the Notice of Deficiency, Plaintiff filed an amended Oregon return. On that return she claimed a standard deduction of \$1,800 rather than \$4,500 in itemized deductions. She also subtracted \$3,000 for federal tax liability.

The subtraction for federal tax liability is limited to the smaller of the actual tax liability or \$3,000. ORS 316.680(1)(b),<sup>1</sup> ORS 316.685, and ORS 316.695(3)(a). Plaintiff erred. Her subtraction was limited to \$438, the amount of her federal tax liability in 2001.

Plaintiff also erred in reducing her income by the standard deduction. Plaintiff is a nonresident alien by virtue of her student visa. Consistent with federal tax law, the standard deduction in Oregon for nonresident aliens is zero.<sup>2</sup> ORS 316.695(1)(c)(F)(ii) *See also* Treas Reg § 1.873-1 (a)(4) (1960).

The court recognizes that Plaintiff filed her 2001 return in good faith. Defendant also recognized Plaintiff's good faith by not imposing a penalty. Plaintiff's errors were due to her unfamiliarity with filing a tax return in this country. Now, therefore,

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

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

---

SALLY L. KIMSEY  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON MAY 5, 2003. THE COURT FILED THIS DOCUMENT ON MAY 5, 2003.**

---

<sup>1</sup> Unless otherwise noted, all references to the Oregon Revised Statutes (ORS) are to 2001.

<sup>2</sup> Plaintiff could have itemized deductions; however, the only itemized deduction was her Oregon income taxes withheld which are not permitted as an itemized deduction on Oregon returns.