

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

WILLIAM A. DAVID,)	
)	
Plaintiff,)	TC-MD 030080B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT

This matter is before the court on the agreement of the parties.

A telephone trial was held August 5, 2003. William A. David (taxpayer) represented himself. Amy Stalnaker, Oregon Department of Revenue, represented Defendant.

Taxpayer appealed Defendant's denial of an Amtrak Act exemption for the three years 1999, 2000, and 2001. Defendant contended that taxpayer failed to qualify for the exemption because his duties in Washington were not regularly scheduled, but were of an "on call" nature.

At trial taxpayer testified that while he does have "on call" emergency repair duties in Washington, he also performs regularly scheduled maintenance at several customer locations in Washington. For example, taxpayer conducts yearly federal Department of Transportation inspections and Oregon transfer "G" service every 60-90 days on vehicles at a number of customer locations in Washington. Taxpayer estimated that he performed such scheduled maintenance duties in Washington approximately eight times per month during the years in question. Taxpayer provided current examples of the work orders for these scheduled maintenance duties.

(Ptf's Ex 1.)

Upon hearing taxpayer's sworn testimony and examining the evidence submitted, Defendant's representative recommended relief be granted. The court concurs. Now, therefore,

IT IS ADJUDGED AND DECREED as follows:

For tax years 1999, 2000, and 2001, Defendant shall allow taxpayer's Amtrak Act exemption.

Dated this ____ day of August, 2003.

JEFF MATTSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON ON AUGUST 18, 2003. THE COURT FILED THIS DOCUMENT ON AUGUST 18, 2003.