

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

PAULINE TAYLOR,)
)
 Plaintiff,) TC-MD 030522B
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 STATE OF OREGON,)
)
 Defendant.) **DECISION AND JUDGMENT**

This matter is before the court on Defendant's request to dismiss the complaint for lack of jurisdiction. The motion was filed with the Answer on May 1, 2003.

A case management conference was convened on August 8, 2003. Pauline Taylor participated on her own behalf; Laurie Fery appeared for Defendant. The issue concerns a Form 90R - a request for elderly rental assistance (ERA) - for the 2002 tax year.

When Plaintiff's Complaint was filed on April 7, 2003, a completed ERA return had not yet been submitted to Defendant. As confirmed during the conference call, the pertinent information has since been provided.

According to Defendant's representative, all ERA refunds are subject to proration based on available funds. Any ERA refunds for the 2002 tax year will not be issued until the fall. Plaintiff has not been denied her request; no action has (yet) been taken by Defendant. Any such appeal at this time is premature.

After considering the facts, the court finds the motion should be granted. There is no action of Defendant that has harmed the Plaintiff as to the 2002 tax year. Now, therefore,

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IT IS ORDERED that Defendant's motion to dismiss is granted.

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.