

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

WILLIAM C. STUPEK and ARMETTA J.)	
BRUNETTE-STUPEK,)	
)	
Plaintiffs,)	TC-MD 030856E
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled appeal. The court discussed its motion with the parties during the case management conference held September 9, 2003. Armetta J. Brunette-Stupek (Stupek) appeared on behalf of Plaintiffs. Laurie Fery, Auditor, appeared on behalf of Defendant.

Plaintiffs appeal Defendant's income tax assessments for tax years 1999 and 2000. Plaintiffs do not challenge the underlying assessments; they accept Defendant's determination of the taxes due. They appeal seeking a waiver of the assessed interest and further seeking the establishment of a payment plan for the liabilities. During the conference, the court explained to Stupek that the court does not establish payment plans for taxpayers but, instead, Defendant has a revenue agent assigned the responsibility of collecting Plaintiffs' account. That agent is the person Plaintiffs should contact to establish a payment plan.

Plaintiffs further seek a waiver of the assessed interest. As explained at the conference, the court does not have authority to waive interest. The legislature has vested Defendant with this discretionary power. See ORS 305.145(3) (2001); *Pelett v. Dept. of Rev.*, 11 OTR 364 (1990). As a result, the court finds the case should be

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dismissed because it lacks jurisdiction to provide Plaintiffs with the relief they have requested. Now, therefore,

IT IS THE DECISION OF THIS COURT that the above-entitled matter be dismissed.

Dated this _____ day of September, 2003.

COYREEN R. WEIDNER
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON SEPTEMBER 10, 2003. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 10, 2003.