

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

TERRENCE C. LINDSLEY and DIANA LINDSLEY,)	
)	
Plaintiff,)	TC-MD 031009A
)	
v.)	
)	
DEPARTMENT OF REVENUE, STATE OF OREGON,)	
)	
Defendant.)	DECISION

Plaintiffs have appealed Defendant's assessment of interest for the underpayment of estimated tax for the 2002 tax year. Diana Lindsley appeared and made the arguments for Plaintiffs. Serene Fung, of Defendant's staff, responded.

I. STATEMENT OF FACTS

Diana Lindsley became unemployed. In order to pay their bills, Plaintiffs liquidated some funds they were holding for their retirement. At the time of these transactions insufficient amounts of estimated tax were forwarded to Defendant. Although Plaintiffs paid all their tax when due, interest was imposed due to the timing in which Plaintiffs met their obligation.

II. ANALYSIS

The two grounds for challenging interest on the underpayment of estimated taxes are set out in OAR 150-305.265(1)-(B). Appeals based on either the correctness of the imposition of interest or the method of its calculation may be appealed to the Oregon Tax Court as provided by ORS 305.275.¹ On the other hand, a taxpayer who agrees that

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

interest on the underpayment of estimated tax was correctly imposed, but who believes there is good and sufficient cause for a waiver of all or part of the interest, may file a request for waiver under OAR 150-305.145(3)-(F) with the Department of Revenue. A denial by the department of a discretionary waiver request is final and may not be appealed to the Oregon Tax Court.

In this case it is clear that estimated taxes were due but not timely paid. This conclusion removes the controversy from the Tax Court. The only issue here is whether interest should be reduced, or eliminated, because of Plaintiffs' circumstances. That is a question for the exclusive review of the Department of Revenue.

III. CONCLUSION

Interest on the underpayment of estimated taxes was properly imposed. Whether or not Plaintiffs' circumstances ought to be taken into account so as to waive all or part of the interest is a matter that is prerogative of the Department of Revenue. Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is denied. Plaintiffs and Defendant shall continue this matter in the Department of Revenue's administrative process.

Dated this _____ day of November, 2003.

SCOT A. SIDERAS
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 SCOT A. SIDERAS ON
NOVEMBER 12, 2003. THE COURT FILED THIS DOCUMENT ON NOVEMBER 12,
2003.**