

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Small Claims  
Income Tax

JOHN HENRY SLAUGHTER JR., )  
 )  
 Plaintiff, ) TC-MD 031051F  
 )  
 v. )  
 )  
 DEPARTMENT OF REVENUE, )  
 STATE OF OREGON, )  
 )  
 Defendant. ) **DECISION AND JUDGMENT**

This appeal concerns Defendant's assessment of additional income tax for tax year 2002. Plaintiff is an enrolled member of the Klamath Tribe. He lives in Klamath Falls in Klamath County. He also earns his income in Klamath County. Plaintiff filed a 2002 Oregon personal income tax return, asserting he was exempt from Oregon income tax pursuant to ORS 316.777.<sup>1</sup> Defendant denied the exemption.

As discussed with the parties at the status conference on December 23, 2003, this issue was previously litigated in *Markley v. Dept. of Rev.*, OTC-MD No 001139F, WL 31108200 (Sept 20, 2002). The court held that "Klamath County is not Indian country within the meaning of OAR 150-316.777(2)." *Id.* at \*2. The law has not changed. The court is bound by its earlier decision. Now, therefore,

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

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

\_\_\_\_\_  
SALLY L. KIMSEY  
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON**

<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.

**DECEMBER 31, 2003. THE COURT FILED THIS DOCUMENT ON DECEMBER 31, 2003.**