

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

JAMES E. POWELL and TERESA K. POWELL,)	
)	
Plaintiffs,)	TC-MD 031096F
)	
v.)	
)	
DEPARTMENT OF REVENUE, STATE OF OREGON,)	
)	
Defendant.)	DECISION AND GENERAL JUDGMENT

Plaintiffs appeal from a Notice of Deficiency for tax year 2000. The deficiency arose when Defendant disallowed Plaintiffs' claimed deduction of moving expenses.

Plaintiffs were residents of Oregon prior to their move to Montana in November 2000. Plaintiffs filed their part-year Oregon resident return for tax year 2000. Plaintiffs included their moving expenses to Montana, totaling \$6,436, as an itemized deduction on their Oregon return. Defendant disallowed the expenses as a deduction, asserting that the expenses were not connected with employment in Oregon. Plaintiffs assert that because the expenses were paid with income earned in Oregon, they were connected with employment in Oregon.

The court looks to ORS 316.127¹ to determine the income of a part-year Oregon resident. ORS 316.119. ORS 316.127 provides that:

“(1) The adjusted gross income of a nonresident derived from sources within this state is the sum of the following:

“(a) The net amount of items of income, gain, loss and deduction entering into the nonresident's federal adjusted gross income that are derived from or connected with sources in this state * * * .

¹ All references to the Oregon Revised Statutes are to 1999.

“* * * * *

“(2) Items of income, gain, loss and deduction derived from or connected with sources within this state are those items attributable to:

“ * * * * *

“(b) A business, trade, profession or occupation carried on in this state[.]”

ORS 316.127.

Plaintiffs’ moving expenses were paid with income earned in Oregon. Although the moneys used to pay the expenses may be connected with employment in Oregon, the actual expenses enabled Plaintiffs to leave their Oregon employment and be employed in another state. Plaintiffs’ moving expenses are the antithesis of being “attributable to * * * [an] occupation carried on in this state.” *Id.* This is borne out by OAR 150-316-127(3)(a) which clearly states that “[m]oving expenses incurred by a part-year or nonresident taxpayer for the purpose of beginning work at a new principal place of employment outside of Oregon are not deductible.”

Plaintiffs’ moving expenses are not deductible on their part-year Oregon resident return for tax year 2000. Now, therefore,

IT IS ADJUDGED that Plaintiffs’ appeal is denied.

Dated this _____ day of February, 2004.

SALLY L. KIMSEY
MAGISTRATE

THIS DOCUMENT IS FINAL AND MAY NOT BE APPEALED. ORS 305.514.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON FEBRUARY 26, 2004. THE COURT FILED THIS DOCUMENT ON FEBRUARY 26, 2004.