

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

RANDALL R. TYLER,)	
)	
Plaintiff,)	TC-MD 040850E
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s motion to dismiss the above-entitled appeal. Defendant submitted its motion as part of its Answer filed July 21, 2004. The court discussed the matter with the parties during the case management conference held September 16, 2004. Randall R. Tyler appeared on his own behalf. Laurie Fery, Auditor, appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiff has outstanding liabilities for the 1996 through 1999 tax years. For the past few years, he has been trying to pay off the old debt while making sufficient estimated tax payments on his current liabilities to prevent becoming delinquent on additional years. In the first part of 2004, Plaintiff claims he submitted a request to Defendant to adjust his current payment schedule because he is no longer employed. Plaintiff states that he submitted a statement of his finances to Defendant at that time. He received no response to his request from Defendant. On May 24, 2004, Defendant issued a Payment Agreement setting forth a payment schedule of \$2,669 per month. According to Plaintiff, that is more than what he previously had been paying per month.

Plaintiff appeals asking the court to order Defendant to renegotiate his payment plan and to further allow him to allocate a larger portion of his payment to estimated taxes for current

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years. Defendant requests that the court dismiss the appeal, arguing that Plaintiff raises claims outside the court's jurisdiction.

II. ANALYSIS

The jurisdiction of the Tax Court is set forth in ORS 305.410.¹ It states, in pertinent part:

“(1) * * * [T]he tax court shall be the sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact **arising under the tax laws** of this state. * * *.”

ORS 305.410 (emphasis added).

Plaintiff does not dispute the underlying liabilities for tax years 1996 through 1999.² Instead, Plaintiff simply requests that the court require Defendant to adjust his payment schedule based on the fact he is now unemployed and with no significant assets. There is no tax law, however, that directs Defendant to implement one payment plan over another. Instead, the Oregon Legislature left it to the agency to determine how best to implement its payment plans with taxpayers. In *Sanok v. Grimes*, 294 Or 684, 701, 662 P2d 693 (1983), the Oregon Supreme Court, in discussing the extent of the Tax Court's jurisdiction, stated, “in summary, we hold that a claim is not one ‘arising under the tax laws’ unless it has some bearing on tax liability.” Plaintiff's claims have no bearing on his tax liability; instead, his claims relate only to payment of those liabilities. As a result, Plaintiff's claims do not fall within the jurisdiction of this court.

III. CONCLUSION

It is the conclusion of the court that Plaintiff's claim that Defendant should modify his payment plan is not a claim that arises under the tax laws of this state because it has no bearing on his underlying tax liability. As a result, the court is without jurisdiction to consider Plaintiff's

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¹ All references to the Oregon Revised Statutes (ORS) are to 2003.

² Even if Plaintiff did contest the liabilities, his claims would not be timely to the court.

appeal. As discussed at the conference, Plaintiff should contact the new Revenue Agent assigned to his account and discuss modifying his payment plan with that individual. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is granted.

Dated this _____ day of October 2004.

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 OCTOBER 5, 2004. THE COURT FILED THIS DOCUMENT OCTOBER 5, 2004.