

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

MELVIN E. CLABORN JR.)	
and GLENDA CLABORN,)	
)	
Plaintiffs,)	TC-MD 040857D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiffs appeal Defendant’s Notice of Tax Assessment (Notice), dated May 25, 2004, for tax year 2000.

I. STATEMENT OF FACTS

Plaintiffs filed their Complaint in the above entitled matter on June 24, 2004. Defendant’s Answer was filed July 22, 2004. In its Answer, Defendant stated that its original Notice was issued because Plaintiffs failed to respond to Defendant’s request for documentation to support deductions that Plaintiffs claimed as allowable business expenses.

On June 23, 2004, the parties meet and reviewed Plaintiffs’ records. As a result of their meeting, Defendant submitted a Proposed Audit Report with its Answer. Defendant reduced the original assessment, allowing \$41,177 of claimed expenses and reducing the tax-to-pay in the amount of \$3,466. Defendant proposed a tax-to-pay in the amount of \$3,067.

The first case management conference in the above-entitled matter was set for September 9, 2004. Plaintiff, Melvin Claborn, requested that the conference be reset and Defendant agreed to the reset. The conference was set for October 25, 2004. Plaintiffs failed to

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appear. The court wrote to Plaintiffs, requesting them to submit a written explanation for their failure to appear.

On November 8, 2004, the court received a letter from Melvin Claborn, stating that his cellular provider had changed and he apologized for missing the conference. The court set another conference for December 14, 2004. Melvin Claborn appeared and agreed to meet with Defendant's representative, David Fisher, in January to discuss the auditor's proposed adjustments. Another conference was set for February 14, 2005, to review with the court the status of Plaintiffs' appeal.

On February 14, 2005, Plaintiffs failed to appear for the telephone conference. The court wrote to Plaintiffs, stating that their case would be dismissed unless a written explanation was received by March 2, 2004.

On March 2, 2004, Glenda Claborn (Claborn) wrote to the court. In her letter, Claborn wrote that she had been legally separated from Melvin Claborn since 1998. Claborn stated that she has no knowledge of his business, Claborn Enterprises, and is unable to provide any additional documentation to support the expenses claimed by Melvin Claborn on their joint income tax return filed for tax year 2000. She wrote that she had contacted the Oregon Department of Revenue and planned to "file forms claiming myself as an 'Innocent Spouse.'" Further, Claborn wrote that Melvin Claborn "was just sentenced to 6 years in prison."

After receiving Claborn's letter, the court set a case management conference for March 23, 2005. Glenda Claborn appeared on behalf of Plaintiffs. David Fisher (Fisher), Tax Auditor, appeared on behalf of Defendant. During the conference, Fisher stated that Melvin Claborn had told him that he did not agree with the proposed adjustments, but neither he nor his tax preparer provided documentation to refute the proposed adjustments supporting the

deductions claimed as business expenses. Fisher also stated that during his meeting with Melvin Claborn, the parties agreed to a “no change” report for tax years 2001 and 2002.

The court advised the parties that because Glenda Claborn has no knowledge of, or documents to support the claimed deductions, and because Melvin Claborn and his tax preparer were unable to provide the auditor with documents to support the claimed deduction, and Melvin Claborn is unavailable to continue the appeal, the court will issue a decision, accepting Defendant’s proposed adjustments and tax-to-pay. Fisher agreed to assist Glenda Claborn with her Innocent Spouse filing.

II. CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant’s proposed tax-to-pay in the amount of \$3,067 is accepted by the court.

Dated this _____ day of April 2005.

JILL A. TANNER
PRESIDING 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 Presiding Magistrate Jill A. Tanner on April 11, 2005 . The Court Filed this Document on April 11, 2005.