

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

JAMES A. STOUT and PATRICIA A. STOUT,)	
)	
Plaintiffs,)	TC-MD 040866A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION and JUDGMENT

Plaintiffs appealed Defendant’s denial of a refund of excess personal income taxes withheld for the 1999 tax year. Plaintiffs appeared and made their case. Defendant responded through Laurie Fery, of its staff.

I. STATEMENT OF FACTS

During 1999, Plaintiffs lived in Nevada. Through Mr. Stout’s employer, an Oregon trucking company, personal income taxes were withheld from Mr. Stout’s wages and forwarded to Defendant.

On April 12, 2004, Plaintiffs filed their 1999 Oregon return, amending it a month later. Both returns requested a refund. Defendant denied the refund requests on the basis of ORS 314.415(1)(b)(A).¹

Plaintiffs point out that their situation was complicated by tax debts owed to the state of Oregon and the federal government for prior years, and that they were not reminded to file a 1999 return until after the expiration of the period set out in ORS 314.415(1)(b)(A).

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

II. ANALYSIS

ORS 314.415(1)(b)(A) requires that requests for refunds of withholdings or estimated tax payments be filed within three years of the due date of the return. If the return is filed more than three years after the due date, any refund asserted on the return can neither be issued, nor applied to pay the liability for another year.

Plaintiffs are not the only ones disappointed to discover that ORS 314.415 cuts them off from monies to which they otherwise would have been entitled. Others in their situation have appealed the law to a higher forum than this one, where expert counsel made sophisticated arguments as to the reach of the statute, due process, and equitable tolling. There the court decided this was a matter where the legislature balanced reasonableness and fairness against the need for finality, and denied the appeal. *DeArmond v. Dept. of Rev.*, 14 OTR 112 (1997). This court, as to Plaintiffs' appeal, has no basis from which to reach a different conclusion.

III. CONCLUSION

Now, therefore,

IT IS ADJUDGED that this appeal is denied.

Dated this _____ day of December 2004.

SCOT A. SIDERAS
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON
DECEMBER 6, 2004 . THE COURT FILED THIS DOCUMENT ON DECEMBER 6,
2004.**

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