

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

BARBARA JEAN HINMAN,)	
)	
Plaintiff,)	TC-MD 040975A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION and JUDGMENT

The Department of Revenue adjusted Ms. Hinman’s return for the 2003 tax year. Ms. Hinman appealed, and, at the case management conference held February 22, 2005, appeared and presented her case. Nancy Grigorieff, of the Department of Revenue’s staff, responded.

I. STATEMENT OF FACTS

Ms. Hinman’s spouse was in Senior Executive Service of the Civil Service at the Department of Defense. He died in 1991. His savings retirement was rolled over into an Individual Retirement Account (IRA) held by Ms. Hinman.

In her 2003 return, Ms. Hinman took a \$6,000 subtraction for distribution from an IRA on the thinking that it had already been taxed. The Department of Revenue denied the deduction on the reasoning that a deduction, exclusion, subtraction, or other tax benefit had already been allowed at the time of contribution.

Ms. Hinman explained that she completed her return guided by a computer program at a time when she was coping with the death of her son and the revival of her cancer. She did not present proof as to how her contributions were treated at the time they were made.

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II. ANALYSIS

The Department of Revenue's position is consistent with ORS 316.159¹ and ORS 316.680. Without a demonstration as to how the contributions were treated at the time they were made, there can be no subtraction from the income subsequently taxed at the time of Oregon residency.

III. CONCLUSION

The evidence in this case is consistent with the Department of Revenue's adjustment of Ms. Hinman's return. Now, therefore,

IT IS ADJUDGED that the appeal is denied.

Dated this _____ day of May 2005.

SCOT A. SIDERAS
MAGISTRATE

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

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON MAY 19, 2005. THE COURT FILED THIS DOCUMENT ON MAY 19, 2005.

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