

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

NOELL WEBB,	)	
	)	
Plaintiff,	)	TC-MD 041053B
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION</b>

A case management conference was held December 10, 2004. Noell Webb participated on her own behalf. Amy Stalnaker represented Defendant. The parties were given the opportunity to present additional written arguments. Nothing further was received.

I. STATEMENT OF FACTS

The issue concerns Plaintiff's claim for an Oregon income tax refund for the 2000 tax year. Plaintiff did not timely file a 2000 personal income tax return by the initial due date of April 15, 2001. Instead, she obtained an extension for federal tax purposes that allowed her until October 15, 2001, to file a federal form 1040. Defendant received the Oregon 2000 tax year return on July 24, 2004. Defendant denied the refund claim.

II. ANALYSIS

Oregon law requires that claims for refunds be submitted within three years of the due date of the return. ORS 314.415(1)(b)(A).<sup>1</sup> Defendant contends the beginning counting point is the original due date of April 15, 2001. Defendant argues that the federal extension date of October 15, 2001 controls and starts the running of the three-year window.

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<sup>1</sup>All references to the Oregon Revised Statutes (ORS) are to 2003.

The statute cited above includes the language: “within three years of the due date, *excluding extensions \* \* \**” (emphasis added). The due date of the original return starts the open period running. Plaintiff’s return, received on July 24, 2004, was more than three years past that time.

While this finding may appear somewhat arbitrary, it is consistent with other similar cases decided by this court. *Tirrill v. Dept. of Revenue*, TC-MD No 040694A (Aug 9, 2004) and *Stubbs v. Department of Revenue*, TC-MD No 041047D (Mar 2, 2005).

#### CONCLUSION

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this \_\_\_\_ day of April 2005.

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JEFF MATTSON  
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 Jeff Mattson April 13, 2005. The court filed this document April 13, 2005.**