

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

GUSTAV ANDERSON,)	
)	
Plaintiff,)	TC-MD 041087A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiff's personal income tax liability for the 2002 tax year is at issue. Plaintiff appeared and presented his case. Laurie Fery, of Defendant's staff, presented its case.

I. STATEMENT OF FACTS

A case management conference to consider this matter was held at 11:00 a.m. on January 13, 2005. Plaintiff explained that he appealed in order to understand how Defendant seeks a different amount due from him than the sum he reported on his return.

Defendant explained that it was seeking the tax that Plaintiff had reported on his return, with an adjustment to account for the Social Security tax withheld from wages that Plaintiff claimed on Line 14 of his return, plus the additional penalty and interest.¹ Defendant's 2002 return was filed on July 26, 2004. The payment for the 2002 tax year was applied to taxes due for other years. Failure to file assessments had also been issued against Plaintiff for the 2000 and 2001 tax years. This led to the failure to file penalty under ORS 305.992.²

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¹The subtraction on Line 14 is for Social Security retirement income. The court notes this adjustment was done in the context of a Notice of Deficiency that was not, strictly speaking, before the court. It is included to reflect the content of the discussions at the case management conference.

²All references to the Oregon Revised Statutes (ORS) are to 2003.

During the course of this proceeding, Plaintiff expressed surprise, especially as to the news that returns had not been timely filed. The court suspended further proceedings so that Plaintiff might digest the news, assemble proofs of any points that make his case, speak with Defendant's revenue agent, and contact the court. Plaintiff was given 30 days for this process. Plaintiff has not subsequently contacted the court.

II. ANALYSIS

In the context of this case, it is perhaps not surprising that Plaintiff has not contacted the court following the case management conference. Defendant is seeking the tax reported by Plaintiff, with the correction for the erroneous treatment of Social Security contributions, and the imposition of the penalty for the late filing of a series of returns. If Plaintiff did not discover facts contrary to the presentation at the case management conference, there is nothing for the court to act upon. As matters now stand, there is nothing to justify carrying this appeal any further.

III. CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is dismissed.

Dated this _____ day of April 2005.

SCOT A. SIDERAS
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 Scot A. Sideras on April 13, 2005 . The Court Filed this Document on April 13, 2005.