

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

OSCAR A. CROSLIN and GLORIA J. BAS,)	
)	
Plaintiffs,)	TC-MD 041091A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

At issue is Plaintiffs' liability for personal income taxes for the 2002 tax year. Plaintiffs appeared and presented their case. Defendant participated through a member of its staff.

I. STATEMENT OF FACTS

Plaintiffs filed a joint return for the 2002 tax year showing no taxable income and no tax due. Defendant investigated and discovered that Plaintiffs received more than \$85,000 in wages. Treating that figure as gross income, Defendant found a deficiency after allowing a standard deduction with a status of married filing jointly, and two exemptions. That deficiency was subsequently taken to assessment.

In this process, Defendant shared with Plaintiffs its perception that their return, as filed, was a frivolous return according to ORS 316.992.¹ Defendant specifically warned Plaintiffs of the penalties for understating income and filing a frivolous return. Defendant's warnings included copies of the relevant statutes. Defendant gave Plaintiffs a window of opportunity to file an accurate return. Plaintiffs let their return stand.

The court has carefully reviewed the materials Plaintiffs proffered in support of their position. Plaintiffs' filing construes Defendant's acts as extortion, kidnaping, and identity theft.

¹All references to the Oregon Revised Statutes (ORS) are to 2001.

The papers describe any imposition of income tax as unconstitutional. The State of Oregon is asserted to have no jurisdiction. Plaintiffs declare that they did not volunteer to participate in any tax program, and so have no wages, and that they are nonresident aliens holding a foreign estate under the Internal Revenue Code.

II. ANALYSIS

There are no magic words that one can say to escape responsibility for state taxation. Reciting portions of statutes and case law does not produce a spell that makes one invisible to taxing authorities. The plain fact of the matter is that Oregon has had an income tax since 1929. That income tax is imposed on wages. Plaintiffs, like other wage earners in this state, have to see a portion of those wages go as tax to pay for the services that government provides. This has been the consistent position of this court, most recently set out in *Dept. of Rev. v. Clark*, 17 OTR 218 (2003).

If anything stands out in this appeal, it is how patient Defendant has been with Plaintiffs. Plaintiffs were given an opportunity to abandon their position and join the great bulk of citizens who responsibly pay their taxes. In exchange, Defendant was willing to forgo the penalty for filing a frivolous return. Plaintiffs did not take advantage of that opportunity. That behavior is not surprising. Keeping all of your paycheck for yourself is a seductive notion. It is hard to subsequently admit it was a mistake. It is usually even harder to find the money Defendant demands as due. Appealing to this court seems an easy option. However, the court would be less than candid if it did not offer the observation that individuals making Plaintiffs' arguments have never been successful on appeal, and often find themselves burdened at the conclusion of the litigation with paying Defendant damages and attorney fees.

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Defendant's deficiency was calculated correctly. That deficiency was perfected in an assessment. The appeal is denied.

III. CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that the sums sought by Defendant as tax, interest, and penalty are correct.

Dated this _____ day of February 2005.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON FEBRUARY 22, 2005 . THE COURT FILED THIS DOCUMENT ON FEBRUARY 22, 2005.

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.