

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Cigarette and Tobacco Products Tax

LINDA JOYCE SUMNER,)	
)	
Plaintiff,)	TC-MD 041104A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION and JUDGMENT

Ms. Sumner purchased cigarettes through the Internet. She subsequently learned that, even though she was purchasing the cigarettes from a seller located outside the state, she was still responsible for the tax. Ms. Sumner contacted the Department of Revenue and filed the necessary returns.

Unfortunately, Ms. Sumner did not have the money to pay the amounts set out on the returns as due. Ms. Sumner's income is limited to her Social Security disability benefit of \$654 per month. The Department of Revenue agreed that she could make payments of \$25 per month. As a practical matter, the money to make the payment must come from Ms. Sumner's budget for groceries and medicine. Ms. Sumner explained that her reason for coming to this court is that she is worried about the consequences when she is unable to make the monthly payment to the Department of Revenue.

The court is satisfied that the best thing to do is to leave matters as they stand. The Department of Revenue has made clear to the court that it does not intend to seek criminal sanctions against Ms. Sumner. The agency is willing to let Ms. Sumner pay down her liability in installments. So long as her only income is the stream of payments from Social Security, the

Department of Revenue's collection ability is limited. Although the amount of tax, penalty, and interest is significant, that is the result the legislature had in mind when it passed the law. The conclusion of the court is that the best thing to do is to leave any reduction in the amount Ms. Sumner must pay to the discretion of the Department of Revenue, to be determined in light of the future conduct of Ms. Sumner. Now, therefore,

IT IS ADJUDGED that the court will not disturb the results of the returns as filed, or the parties' agreement to pay this liability in installments.

Dated this ____ day of February 2005.

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

SCOT A. SIDERAS
MAGISTRATE

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