

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

JOHANNA M. CHANCE-HOPFER,	)	
	)	
Plaintiff,	)	TC-MD 041113B
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appeals Defendant’s determination that she does not qualify for the Working Family Credit for 2003. A case management conference was convened on February 22, 2005. Johanna Chance-Hopfer participated on her own behalf. Nancy Grigorieff, Auditor, appeared on behalf of Defendant. The parties agreed the appeal would be decided based on written submissions. The record closed May 15, 2005.

I. STATEMENT OF FACTS

Plaintiff has provided full-time care to her granddaughter since November 1999. Plaintiff’s daughter Nichole is unable to contribute in any meaningful manner. There has been no formal adoption by Plaintiff to date, although that option remains under consideration.

Since late 1999, Plaintiff has assumed the critical emotional and financial obligations of raising her granddaughter. On her 2003 income tax return, Plaintiff claimed \$582 for the Working Family Child Care Credit. She also claimed \$127 due for an Earned Income Credit.

On November 8, 2004, Defendant notified Plaintiff that it was denying both credits. Plaintiff appeals Defendant’s adjustments. She claims childcare expenses incurred for her granddaughter should qualify under the statute because she has incurred all necessary costs and responsibilities.

## II. ANALYSIS

As to the Earned Income Credit issue, Defendant’s denial was correct. ORS 315.266(5)<sup>1</sup> states that such a credit “may not exceed the tax liability of the taxpayer \* \* \*.” As such, the claimed credit is “nonrefundable” and not due to Plaintiff. No overpayments of withholding amounts have been incurred by Plaintiff.

Different rules apply to the Working Family Child Care Credit. ORS 315.262 allows certain low-income taxpayers a refundable credit against their Oregon income taxes for the purpose of partially offsetting the taxpayer’s childcare costs. The statute provides, in pertinent part:

“A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 equal to the applicable percentage of the qualified taxpayer’s child care expenses \* \* \*.”

ORS 315.262(2).

The legislature provided definitions for the terms “qualified taxpayer” and “child care expenses.” *See* ORS 315.262(1). Broadly speaking, a “qualified taxpayer” is a taxpayer who meets the income requirements specified in ORS 315.262(1)(d). “Child care expenses” are defined as “costs associated with providing child care to a qualifying child of a qualified taxpayer.” ORS 315.262(1)(b).

It is clear that the legislature intended the Working Family Credit to be available only in limited circumstances. First, the credit is available only to a “qualified taxpayer.” If a taxpayer fails to satisfy the income requirements specified in ORS 315.262(1)(d), the Working Family

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.

Credit is unavailable. Second, the credit is available to offset only those costs specifically identified in the statute. Because the definition of the term “child care expenses” includes only those costs incurred in providing childcare to a qualifying child, the costs of providing childcare to a nonqualifying child are not creditable under ORS 315.262(2).

The critical issue is whether Plaintiff’s granddaughter is a “qualifying child” for purposes of ORS 315.262(2). The statute defines the term “qualifying child” as “*a child of the taxpayer* who is under 13 years of age, or who is a disabled child, as that term is defined in ORS 316.099.” ORS 315.262(1)(e) (emphasis added).

Plaintiff acknowledges that she has not adopted her granddaughter. Oregon’s statutory provisions for the Working Family Credit limit the definition and application to *children* of a taxpayer. The legislature did not expand the definition to include descendants of those children. Furthermore, other cases presented to this court with similar facts have upheld Defendant’s interpretation of ORS 315.262. *See, e.g., Petty v. Dept. of Rev.*, TC-MD No 040982E (Dec 14, 2004).

### III. CONCLUSION

The maintenance and well-being of a grandchild entrusted to a grandparent does not give rise to a valid claim for the Working Family Credit. Any appropriate change lies with the Oregon Legislature. A grandchild does not meet the definition of a “qualifying child” under ORS 315.262(1)(e) because a grandchild is not a “child of the taxpayer.” As a result, Plaintiff’s

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claim that she is entitled to the Working Family Credit for expenses incurred for the care of her granddaughter must be denied. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is denied.

Dated this \_\_\_\_\_ day of August 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 August 11, 2005. The Court filed and entered this document August 11, 2005.***