

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

| | | |
|---------------------------|---|-----------------|
| GRANT F. BRENNAN |) | |
| and JEANNETTE Y. BRENNAN, |) | |
| |) | |
| Plaintiffs, |) | TC-MD 050042A |
| |) | |
| v. |) | |
| |) | |
| DEPARTMENT OF REVENUE, |) | |
| State of Oregon, |) | |
| |) | |
| Defendant. |) | DECISION |

Plaintiffs appealed their personal income tax liability for the 2003 tax year. Plaintiffs appeared and made their arguments. Defendant was represented by a member of its staff.

I. STATEMENT OF FACTS

During the 2003 tax year Plaintiffs, unable to make the payments required by their loan agreement, gave up their ownership of rental property. Plaintiffs filed a federal tax return which, on lines 13a and 14, showed both gain on the transaction and recapture of depreciation. Plaintiffs came to the court complaining of the consequence of that declaration to their Oregon liability.

During the course of this appeal, Plaintiffs were given an opportunity to reexamine their situation and file an amended return. Plaintiffs did not file an amended return. Instead, Plaintiffs filed a copy of their Statutory Bargain and Sale Deed and a Form 4797 - Sales of Business Property. That information reinforces the conclusions set out in the return.

II. ANALYSIS

There is nothing for the court to do in this appeal. Plaintiffs filed an Oregon return that set out a tax which was due. Defendant did nothing to adjust the return or increase the tax. That was explained to Plaintiffs, and Plaintiffs were given the opportunity to revise their position.

The information Plaintiffs provided reinforced, rather than revised, the declarations given in their return.

III. CONCLUSION

Defendant has not done anything in this case. Plaintiffs have assessed upon themselves the tax of which they complain. There is no matter for the court to decide.

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

Dated this _____ day of October 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 October 13, 2005 .
The Court filed this document on October 13, 2005.***