

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

MATTHEW S. OLIVA)	
and MARGUERITE D. WILKINS,)	
)	
Plaintiffs,)	TC-MD 050059D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION and JUDGMENT OF DISMISSAL

This matter is before the court on Defendant’s motion to dismiss, filed March 3, 2005, as part of its Answer, requesting that the Complaint be dismissed because the court does not have the jurisdiction to waive penalties.

A case management conference was held on Wednesday, March 23, 2005. Matthew S. Oliva (Oliva) appeared on behalf of Plaintiffs. Kimberly Lougee, Auditor, appeared on behalf of Defendant.

Oliva explained that he was out of the country from January 2003 to August 2004. When he returned, he received a tax document (K-1), notifying him that his investment in a limited liability company generated Oregon source income for tax year 2003. Oliva promptly paid the state income tax liability. Defendant issued its Notice of Tax Assessment, dated September 24, 2004, assessing a 25 percent penalty, interest on underpayment of estimated tax, and interest on unpaid tax.

He requests that all or a portion of the penalty be waived. The court explained that it does not have the authority to waive penalties. The court stated that it would dismiss Plaintiffs’ appeal.

Defendant described its review procedure for penalty waiver requests. Defendant told Oliva that he could direct his written waiver request to the Oregon Department of Revenue, P.O. Box 14560, Salem, Oregon 97309. Now, therefore,

IT IS ADJUDGED that this matter is dismissed.

Dated this ____ day of March 2005.

JILL A. TANNER
PRESIDING MAGISTRATE

This document is final and may not be appealed. ORS 305.514.

**This Document Was Signed by Presiding Magistrate Jill A. Tanner on March 30, 2005 .
The Court Filed this Document on March 30, 2005.**