

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

SUSANNA VEACH,	)	
	)	
Plaintiff,	)	TC-MD 050951D
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiff appeals Defendant’s Notices of Determination and Assessment, dated October 5, 2005, and November 14, 2005, for tax years 1999, 2002, and 2003. Because there is no factual dispute, the parties submitted their motions for summary judgment. Oral argument was scheduled for April 20, 2006; however, it was not held because Plaintiff failed to appear.

**I. STATEMENT OF FACTS**

There is no dispute that Plaintiff received earned income in the form of wages for tax years 1999, 2002, and 2003. (Def’s Answer.) In addition, Plaintiff “received unemployment income in the amount of \$815 in [tax year] 2003.” (Def’s Cross Mot for Summ J at 1.)

Defendant alleges that Plaintiff failed to file income tax returns for tax years 1999, 2002, and 2003. (Def’s Answer.) Plaintiff states that she “sent in my tax forms, or at least mailed them. Whether they arrived is not my responsibility, once they are mailed.” (Ptf’s Ex 2-1.)

Plaintiff alleges that she does not “understand the tax code, because it is so complex \* \* \* Because I don’t understand the law, the state is expecting too much - as is the IRS. The law is therefore unconstitutional for vagueness.” (*Id.*; 2-2.) Further, Plaintiff alleges that “the tax return form itself is a method of entrapment” and “[t]he standard recommendation of hiring a lawyer or tax preparer is the ‘remedy’ that I find to be entrapment.” (Ptf’s Mot for Summ J at 1.) In

response, Defendant cites examples of the “tax help” it offers and concludes that “plaintiff was able to seek help with her taxes if she chose to do so. Instead, she chose to not file any return at all.” (Def’s Cross Mot for Summ J at 1.)

Defendant requests that the court “award damages for a frivolous or groundless appeal under ORS 305.437.” (*Id.*)

## II. ANALYSIS

“A tax is imposed for each taxable year on the entire taxable income of every resident of this state.” ORS 316.037.<sup>1</sup> There is no dispute that Plaintiff is a resident of Oregon and received income in each of the tax years at issue which is subject to taxation.

Plaintiff presents two arguments. First, she alleges she mailed her income tax returns for the tax years at issue and once mailed, she had no responsibility to ensure receipt by the Oregon Department of Revenue (Department). Unfortunately, Plaintiff is not correct. The law requires that her mailing be evidenced by actual receipt of the income tax return by the Department or she must submit evidence in the form of a receipt of mailing or other “competent evidence satisfactory to the addressee.” ORS 305.820(1)(c)(A). As of this date, Plaintiff has failed to provide any evidence of mailing. Further, even if Plaintiff’s returns were lost in the mail, she failed to comply with the statutory requirement of filing a duplicate return “within 30 days after written notification” was “given” to her by the Department. ORS 305.820(1)(c)(B).

Second, Plaintiff alleges that the income tax laws are too complex and to require her to file an income tax return is “expecting too much.” (Ptf’s Ex 2-2.) Further, she concludes that for her to seek assistance is “entrapment, resulting in conviction of racketeering, besides tax evasion.” (Ptf’s Mot for Summ J at 1.)

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<sup>1</sup> Unless otherwise noted, references to the Oregon Revised Statute (ORS) are to tax year 1999. Applicable changes, if any, to the referenced statutes for the tax years at issue are noted.

This court has previously acknowledged “that many of our tax laws are unclear, complex and extremely difficult to consistently administer.” *Thomas v. Dept. of Rev.*, 14 OTR 136, 139 (1997). Nevertheless, “the United States Supreme Court has consistently upheld the validity of income taxes imposed under that same complex, unclear code.” *Id.* at 140. Plaintiff, a resident of Oregon who received taxable income, is required to comply with the income laws of this state. Unfortunately, she did not, and she has not persuaded the court that there is any legal basis to excuse her failure to comply with the laws of this state.

Defendant alleges that Plaintiff’s arguments are frivolous and requests that the court award it damages. The term “frivolous” with respect to a taxpayer’s position is set forth in ORS 305.437(2) (2005) as follows: “a taxpayer’s position is ‘frivolous’ if there was no objectively reasonable basis for asserting the position.” Plaintiff failed to provide any law to support her position that, because she concluded the tax laws were complex, she was not required to file an income tax return. In addition, Plaintiff alleges serious acts such as entrapment and racketeering without evidence to support her allegations. The court finds that Plaintiff’s positions are frivolous and groundless. Defendant is awarded \$750 in damages.

### III. CONCLUSION

Plaintiff failed to submit evidence to support her claim that she mailed her income tax returns to Defendant for tax years 1999, 2002, and 2003. Further, Plaintiff’s arguments for why she has not filed Oregon state income tax returns for any of the tax years under appeal are frivolous and groundless. Now, therefore,

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

IT IS FURTHER DECIDED that Defendant is awarded damages in the amount of \$750.

Dated this \_\_\_\_\_ day of May 2006.

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JILL A. TANNER  
PRESIDING 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 Presiding Magistrate Jill A. Tanner on May 30, 2006. The Court filed and entered this document on May 30, 2006.***