

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ELAINE F. OLSON-DRUMM,)	
)	
Plaintiff,)	TC-MD 060357A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

A case management conference was held May 18, 2006. Elaine F. Olson-Drumm participated on her own behalf. Laurie Fery represented Defendant. The parties agreed the case would be decided based on written submissions and arguments advanced during the conference.

I. STATEMENT OF FACTS

The issue concerns Plaintiff's claim for Oregon income tax refunds for the tax years 1999 and 2000. Plaintiff did not timely file personal income tax returns by the respective initial due dates of April 17, 2000, and April 16, 2001. Defendant received the Oregon 1999 and 2000 tax year returns on November 16, 2005. Defendant denied the refund claims.

Plaintiff had many extenuating circumstances during the interim periods which impacted her ability to attend to her business affairs. She believed it was in the spring of 2003 when she was again able to focus on her personal and business affairs. Plaintiff also stated she was unaware of the strict filing deadlines; otherwise, she would have attempted to file sooner for those years.

II. COURT'S ANALYSIS

Oregon law requires that claims for refunds be submitted within three years of the due date of the return. *See* ORS 314.415(1).¹

¹All references to the Oregon Revised Statutes (ORS) are to 2003.
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The statute cited above includes the language: “within three years of the due date, excluding extensions * * *.” The due date of the original return starts the period running. Plaintiff’s returns received on November 16, 2005, were more than three years past the due dates.

The Regular Division of the Tax Court recently issued an Opinion on this issue. In *Webb v. Department of Revenue*, TCNo 4731, issued April 27, 2006, it was held that: “* * * state statutes of limitations leave[] taxpayer no state remedy unless the department is estopped from asserting the bar of ORS 314.415(1)(b)(A).” Here, there is no claim of misleading advice by Defendant prior to filing.

Although this finding may appear harsh, it is consistent with other similar cases decided by this court. See *Tirrill v. Department of Revenue*, TC-MD No 040694A (Aug 9, 2004); *Cloutier v. Department of Revenue*, TC-MD No 041047D (Mar 2, 2005).

III. CONCLUSION

IT IS THE DECISION OF THE COURT that the appeal is denied.

Dated this ____ day of June 2006.

JEFFREY S. 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 Jeffrey S. Mattson on June 15, 2006. The Court filed and entered this document on June 15, 2006.