

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

| | | |
|---------------------------------------|---|-----------------|
| AARON D. TODD and JULIE A. FREDERICK, |) | |
| |) | |
| Plaintiffs, |) | TC-MD 060382B |
| |) | |
| v. |) | |
| |) | |
| DEPARTMENT OF REVENUE, |) | |
| State of Oregon, |) | |
| |) | |
| Defendant. |) | DECISION |

A case management conference was held June 7, 2006. Aaron D. Todd (Todd) participated for Plaintiffs. Laurie Fery represented Defendant. The parties agreed the case would be decided based on written submissions and arguments advanced during the conference. No further written comments were received. The record closed July 5, 2006.

I. STATEMENT OF FACTS

The issue concerns Plaintiffs' claim for Oregon income tax refunds for the tax year 2001. Plaintiffs filed their initial 2001 personal income tax return on September 7, 2002. Defendant received an amended 2001 return on October 6, 2005. Defendant denied that refund claim on January 17, 2006.

Plaintiffs had many extenuating circumstances during those interim periods that impacted their ability to attend to their business affairs. Todd stated he was unaware of the strict filing deadline; otherwise, they would have attempted to file the amended claim in a more timely fashion.

II. COURT'S ANALYSIS

Oregon law requires that claims for refunds be submitted within three years from the time the return was filed. *See* ORS 314.415(2).¹ The original return was filed September 7, 2002,

¹All references to the Oregon Revised Statutes (ORS) are to 2003.

which started the time period running. Plaintiffs' amended return received on October 6, 2005, was more than three years later.

The Regular Division of the Tax Court has issued an Opinion on this issue. In *Webb v. Dept. of Revenue*, 19 OTR 20, 21 (2006) it was held that: "the * * * state statute[] of limitation leaves taxpayer no state remedy unless the department is estopped from asserting the bar of ORS 314.415(1)(b)(A)." Here, Plaintiffs make no claim of misleading advice by Defendant prior to filing of the amended return.

While this finding may appear harsh, it is consistent with other similar cases decided by this court. See *Tirrill v. Dept. of Rev.*, TC-MD No 040694A (August 9, 2004) and *Stubbs v. Dept. of Rev.*, TC-MD No 041047D (March 2, 2005).

III. CONCLUSION

Now, therefore,

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

Dated this ____ day of September 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 September 25, 2006. The Court filed and entered this document on September 25, 2006.