

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

TIMOTHY A. HAND and PATRICIA D. HAND,)
)
)
Plaintiffs,)
) TC-MD 060576B
v.)
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant.) **DECISION**

Plaintiffs appeal Defendant's determination that they do not qualify for the Working Family Credit (WFC) for 2005. A case management conference was convened on October 17, 2006. Timothy A. Hand and Patricia D. Hand participated on their own behalf. Robert Motley, Auditor, appeared on behalf of Defendant. The parties agreed the appeal would be decided based on written submissions. The record closed December 20, 2006.

The critical issue is whether, under ORS 315.262(1)(a),¹ both Plaintiffs were gainfully employed, seeking employment, or attending school during 2005.

I. STATEMENT OF FACTS

During 2005, Plaintiffs incurred expenses for child care. Patricia Hand is employed full-time. Timothy Hand is disabled; he is not able to work nor does he attend school.

On their 2005 income tax return, Plaintiffs claimed \$1,208 for the Working Family Credit. On June 20, 2006, Defendant notified Plaintiff that it was denying the credit and adjusting the return accordingly. Plaintiffs appeal Defendant's adjustment.

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

II. ANALYSIS

ORS 315.262 allows certain low-income taxpayers a refundable credit against their Oregon income taxes for the purpose of partially offsetting the taxpayer's childcare costs. The statute provides, in pertinent part:

"A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 equal to the applicable percentage of the qualified taxpayer's child care expenses * * *."

ORS 315.262(2).

The legislature provided definitions for the terms "qualified taxpayer" and "child care expenses." *See* ORS 315.262(1). It is clear that the legislature intended the WFC to be available only in limited circumstances. ORS 315.262(1)(a) has its focus on " * * * care provided to a qualifying child of the taxpayer for the purpose of allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-time or part-time basis."

The agency's accompanying Administrative Rule, OAR 150-315.262(b)(C), states that the WFC is not available where one spouse is not employed, seeking employment, or attending school. It is undisputed that, for reasons beyond his control, Timothy Hand was unable to work during 2005. He did not attend any school.

Oregon's statutory provisions for the WFC limit the definition and application to a certain class of households. The legislature did not expand that definition to include all households of limited incomes. Cases presented to this court with similar facts have upheld Defendant's interpretation of ORS 315.262. *See, e.g., Ellsworth v. Dept. of Rev.*, TC-MD No 050649A (Jan 4, 2006); *Crouch v. Dept. of Rev.*, TC-MD No 050903A (Apr 13, 2006).

Although many individuals may need the credit, the legislature had the ability to set out limits as to who may, and may not, receive the benefit. *See Radford v. Dept. of Rev.*, TC-MD No 040864E (Sept 13, 2004). That is a similar instance of where the legislature's choice

restricts the benefits to a certain set of taxpayers. Any expansion of that defined set must rest with future legislation.

III. CONCLUSION

Neither Plaintiff meets the definition necessary for the WFC qualifications. As a result, Plaintiffs' claim that they entitled to the Working Family Credit for expenses incurred must be denied. Now, therefore,

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

Dated this _____ day of January 2007.

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 January 22, 2007. The Court filed and entered this document on January 22, 2007.