

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

|                              |   |                 |
|------------------------------|---|-----------------|
| JOHN B. COX AND NITA G. COX, | ) |                 |
|                              | ) |                 |
| Plaintiffs,                  | ) | TC-MD 080497B   |
|                              | ) |                 |
| v.                           | ) |                 |
|                              | ) |                 |
| DEPARTMENT OF REVENUE,       | ) |                 |
| State of Oregon,             | ) |                 |
|                              | ) |                 |
| Defendant.                   | ) | <b>DECISION</b> |

On April 15, 2008, Plaintiffs filed their Complaint challenging Defendant’s Notice of Deficiency Assessment for the 2006 tax year. A case management conference was scheduled on November 19, 2008, to consider Plaintiffs’ appeal. On August 14, 2008, notice of the case management conference was sent to Plaintiffs at 212 Saddletrail Drive, Lufkin, TX 75904, an address provided to the court by Plaintiff Nita G. Cox in a telephone call on August 5, 2008. That notice was not returned as undeliverable. Plaintiffs did not appear at the case management conference and there was no explanation for Plaintiffs’ failure to appear.

On November 19, 2008, the court sent Plaintiffs a letter, which explained the importance of diligently pursuing an appeal. That letter was not returned as undeliverable. The letter advised that if Plaintiffs did not provide a written explanation by December 3, 2008, the court would adopt the recommendations of Defendant as contained in its October 29, 2008, letter. Those recommendations included that Plaintiffs’ tax-to-pay would be \$2,912. As of this date, Plaintiffs have not contacted the court. Under such circumstances, the court finds that Defendant’s recommendations shall be adopted. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant’s Notices of Deficiency Assessment, dated September 25, 2007, and March 25, 2008, are upheld;

IT IS FURTHER DECIDED that Defendant shall issue a Notice of Deficiency Assessment for \$811, with statutory penalties and interest; and

IT IS FURTHER DECIDED that the 2006 surplus kicker refund shall be an additional \$209.99 with calculations of penalties and interest to reflect any payments and offsets to the account.

Dated this \_\_\_\_\_ day of December 2008.

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JEFFREY S. MATTSO  
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 December 12, 2008. The court filed and entered this document on December 12, 2008.***