

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Small Claims

Income Tax

CARL SMOCK,)	
)	
Plaintiff,)	
)	No. 991370E
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT

This matter is before the court on its own motion finding the case is ready for decision.

On November 3, 1999, plaintiff filed his appeal with the court challenging personal income tax assessments for tax years 1992, 1995, 1996, and 1997. The department assessed a tax because plaintiff failed to file returns for these years. On February 25, 2000, plaintiff filed state returns with the court for 1995, 1996, and 1997. On April 4, 2000, the court held a case management conference in the matter. During the conference, Mr. Halter, the department's representative, advised he needed copies of plaintiff's federal returns for 1995 and 1996 before he could complete his review of plaintiff's 1995 and 1996 state returns. He further advised he agreed with plaintiff's return for 1997 and needed plaintiff to file a return for 1992.

At the conclusion of the conference, plaintiff agreed to provide copies of his 1995 and 1996 federal returns and file a 1992 state return by April 26, 2000. (Journal Entry 4/6/00). On April 25, 2000, plaintiff submitted copies of his 1995 and 1996 federal

return information, and he requested an extension of time to file his 1992 state return. By order dated May 3, 2000, the court granted plaintiff's request and gave him until June 6, 2000, to file his 1992 return. Having not received a 1992 return by the required deadline, Mr. Halter filed with the court his recommendation for the various years on June 8, 2000. Plaintiff has not objected to defendant's recommendations nor has he filed a 1992 state return. As a consequence, the court finds this case is ready for decision, and the court accepts the department's recommendations. Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED as follows:

(1) For tax year 1992, plaintiff's appeal is dismissed for lack of prosecution.

The assessment stands;

(2) For tax year 1995, defendant shall revise its Notice of Determination and Assessment, dated August 19, 1999, to reflect a tax-to-pay of \$431, as reflected on plaintiff's return. Penalties and interest shall be revised accordingly;

(3) For tax year 1996, defendant shall cancel its Notice of Determination and Assessment, dated August 19, 1999, and remit or otherwise credit to plaintiff a refund of \$64 (representing the surplus refund of \$354 offset against the tax-to-pay on plaintiff's return of \$290); and

(4) For tax year 1997, defendant shall cancel its Notice of Determination and Assessment, dated August 19, 1999, and remit or otherwise credit to plaintiff a refund of \$655, as reflected on plaintiff's return.

Dated this ____ day of July, 2000.

COYREEN R. WEIDNER
MAGISTRATE

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON
JULY 6, 2000. THE COURT FILED THIS DOCUMENT ON JULY 6, 2000.**