

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT

Income Tax

STEPHEN THOMPSON and MEGAN)	
KIRKPATRICK,)	
)	
Plaintiffs,)	No. 991448C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION

Plaintiffs appealed defendant's assessment for 1995, which asserted a tax due of \$684 plus interest of \$237.23. Following the initial case management conference plaintiffs had their tax preparer, Mr. Brent Robbins, prepare and file an amended part-year return, which reported a refund due in the amount of \$767.¹

Defendant's representative, Ms. Carey, reviewed and accepted the part-year return. Ms. Carey recommended that the assessment be canceled. The court is accepting that recommendation.

ORS 314.415 bars the issuance of a refund when the original return claiming the refund is filed more than three years after the due date. Plaintiffs' 1995 return was due April 15, 1996. See ORS 314.385(1) and IRC Section 6072. Plaintiffs filed their return in calendar year 2000, well after the April 15, 1999, deadline. Under these circumstances, Oregon law precludes the issuance of the refund. Plaintiffs' tax preparer, Mr. Robbins,

¹ Mr. Robbins is not officially representing plaintiffs in this appeal, as there has been no authorization form submitted to the court.

indicated to the court that he felt plaintiffs would accept the auditor's recommendation. Mr. Robbins was to confer with plaintiffs and notify the court. The court has not received written confirmation of that acceptance by plaintiffs.

IT IS THE DECISION OF THE COURT that defendant's assessment for state income taxes for 1995, issued November 1, 1999, is canceled in full. Plaintiffs have no outstanding tax liability for 1995. The refund reported on the amended part-year return is denied under ORS 314.415.

Dated this _____ day of July, 2000.

DAN ROBINSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97310. 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 DAN ROBINSON ON JULY 3, 2000. THE COURT FILED THIS DOCUMENT ON JULY 3, 2000.