

OREGON DEPARTMENT OF REVENUE



PAYMENT COUPON

180-107-006 (Rev. 11-03)

Please correct your name or address if it is wrong

Amount of Payment

Notice Date: 8/24/04

Notice Date: 8/24/04

Reference Number:

Tax Year: 02 DCN: Personal Income Tax

Mail coupon and payment to: Oregon Department of Revenue, PO Box 14725, Salem OR 97309-5018

Tax Year: 02 DCN: 03357130 Personal Income Tax

Form with fields: Amount of Payment, Check Number, Date Payment Mailed

Tear out coupon before mailing

H BAS- 100 02 12 2

PORTLAND OR

Keep this portion for your records

Do not staple check to coupon

Notice of Tax Assessment

Reference #: 100 02 12 2

Since the balance due on our previous Notice of Deficiency has not been paid, we are assessing your liability. The assessment is summarized below and should be paid within 30 days. Please use the payment coupon above to make sure your liability is credited quickly and correctly.

Table with 2 columns: Description (Tax to Pay, Penalty, Interest on Unpaid tax, TOTAL BALANCE DUE) and Amount (6,374.00, 1,620.00, 567.87, \$8,561.87)

This notice doesn't include any other unpaid amounts or any recent payments. Add daily interest from the date of this notice until paid. The yearly interest rate will increase by 4 percent if you do not pay the amount due within 60 days or appeal this notice.

Daily Interest is: \$1.05

-Questions? Call the number above, or, if no number appears, in Salem call 503-378-4988. Inside Oregon, the toll-free number is 1-800-356-4222

TTY (hearing or speech impaired, machine only): 503-945-8617 (Salem) or 1-800-886-7204 (toll-free within Oregon). ADA: Alternative formats available. Call 503-378-4988 (Salem) or 1-800-356-4222 (toll-free within Oregon).

For general tax information, visit www.dor.state.or.us

ASISTENCIA EN ESPAÑOL. LLAME AL 503-945-8618 EN SALEM O LLAME GRATIS AL 1-800-356-4222 EN OREGON.

Ref #:

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Notice date: 8/24/04

Oregon law requires all tax due be paid on or before the due date of the return. This notice includes charges for penalty and/or interest. IF YOU DISAGREE OR ONLY HAVE CONCERNS ABOUT THE PAYMENTS MADE OR THE PENALTY AND/OR INTEREST CHARGES, PLEASE CONTACT THE DEPARTMENT OF REVENUE, 955 CENTER STREET NE, SALEM, OR 97301-2555. IT IS POSSIBLE THAT AN ADJUSTMENT CAN BE MADE WITHOUT HAVING TO FILE AN APPEAL.

If you have other disagreements or concerns, you may file an appeal.

Oregon law entitles you to fair, professional, prompt, and courteous treatment. For information concerning your rights in the audit, appeals, and collection process, call or write for the brochure, "Your Rights As An Oregon Taxpayer." Call the department at 503-378-4988 or write: Oregon Department of Revenue, PO Box 14999, Salem, OR 97309-0990.

HOW TO APPEAL A NOTICE OF ASSESSMENT

If you disagree with this Notice of Assessment, you have the right to appeal. You must appeal to the Magistrate Division of the Oregon Tax Court. IF YOU HAVE NOT PAID THE TAX, PENALTY, AND INTEREST ASSESSED, YOUR APPEAL MUST BE MADE WITHIN 90 DAYS FROM THE DATE OF THIS NOTICE.

You need to contact the Magistrate Division to get the forms for filing an appeal. You may write or call:

The Oregon Tax Court  
Magistrate Division  
1163 State Street  
Salem, OR 97301-2563  
503-986-5650 or TTY 503-986-5651

You must send the correct filing fee with the appeal form. The fees are:

- Small Claims case . . . . . \$10  
The tax in dispute must be less than \$5,000. The decision from the Small Claims case is final. You cannot appeal the decision.
- Standard case . . . . . \$25  
The tax in dispute may be any amount. The decision from the standard case may be appealed to the Regular Division of the Oregon Tax Court.

PAYING YOUR LIABILITY:

You can pay your liability at any step of the appeal process. Payment doesn't mean you agree with this notice. Payment stops more interest from being charged on your liability. IF YOU PAY, YOU CAN APPEAL ANY TIME WITHIN TWO YEARS FROM THE DATE YOU PAY THE TAX, PENALTY, AND INTEREST SHOWN ON THIS NOTICE. You must appeal to the Magistrate Division of the Oregon Tax Court as explained above.

NOTE: You can use VISA or MasterCard to pay an assessment. Call 503-378-4988 for information.

PENALTY AND INTEREST:

Appealing will not stop interest from being charged on the tax you owe. If you appeal and you owe less tax, the penalty and interest charges will be reduced.

IF YOU DISAGREE ONLY WITH THE PENALTY AND/OR INTEREST CHARGES OR YOU HAVE CONCERNS ABOUT THE PAYMENTS, PLEASE WRITE TO OREGON DEPARTMENT OF REVENUE, 955 CENTER STREET NE, SALEM, OR 97301-2555. WE MAY BE ABLE TO ADJUST THE CHARGES WITHOUT YOU HAVING TO FILE AN APPEAL.

IF YOU DO NOT APPEAL ON TIME, YOUR APPEAL RIGHTS EXPIRE AND THE ADJUSTMENTS ARE FINAL.



# Oregon

Theodore R. Kulongoski, Governor

Department of Revenue

955 Center St NE  
Salem, OR 97301-2555

August 24, 2004

Portland OR

## Tax Year 2002-033

This letter contains my decision concerning your appeal to the Notice of Deficiency dated October 24, 2003. A telephone conference was held August 17, 2004 with Oscar Croslin. At issue was the department's determination that wages constitute income.

While it is technically true that the Internal Revenue Service Revenue Code does not define taxable income, gross income, from which taxable income is derived, is defined in IRC § 61 Judge Byers in *Clark v. Department of Revenue* (15 OTR 209, 2000) explains why wages are taxable:

ORS 316.037(1)(a) [FN1] provides in part that:

"A tax is imposed for each taxable year on the entire taxable income of every resident of this state." (Taxpayer is a resident.)

ORS 316.022(6) defines taxable income as:

" 'Taxable income' means the taxable income as defined in subsection (a) or (b), section 63 of the Internal Revenue Code, with such additions, subtractions and adjustments as are prescribed by this chapter."

Internal Revenue Code (IRC) § 63(a) (1996) states in part that:

" '[T]axable income' means gross income minus the deductions allowed by this chapter \* \* \*."

IRC § 61(a) states in part:

"Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) \* \* \*"

"(1) Compensation for services, including fees, commissions, fringe benefits, and similar items."

The above are the statutory provisions that subject taxpayer's earnings, which are "compensation for services" rendered to his employer, to income tax by the state of Oregon.

ORS 316.167(1) provides in part:

"Every employer at the time of the payment of wages to any employee shall deduct and retain from such wages an amount determined, at the employer's election, either (a) by a 'percentage method' withholding table or (b) by wage withholding tables, prepared and furnished under the rules and regulations of the department. \* \* \*"

ORS 316.162(2) states:

" 'Wages' means remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash \* \* \*." (With some exceptions not applicable here.)

██████████  
August 24, 2004  
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It is my decision that wages are taxable income and that the adjustment is correct. I am assessing your account and issuing a Notice of Assessment, mailed under separate cover. The Notice explains how to continue your appeal to the Magistrate Division of the Oregon Tax Court within 90 days from the date of the notice.



Barbara Y Stoenner, Conference Officer  
Personal Tax and Compliance Division  
Phone 503-945-8481

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(SEDM) Website***

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