



Department of County Management

MULTNOMAH COUNTY OREGON

Finance & Risk Management Division

501 SE Hawthorne Blvd, Suite 531

Portland, Oregon 97214-3501

(503) 988-5016 phone

(503) 988-6939 fax

January 6, 2010

TO: Multnomah County Board of Commissioners

FROM: Mindy Harris *MAA*
Multnomah County Personal Income Tax Administrator

RE: Multnomah County Personal Income Tax Appeal of
Ray L. Paul and Laura E. Paul
Account # 26484847045 & 26484847054
Tax years 2003, 2004 and 2005

Issue

Mr. and Mrs. Paul (Appellants) did not file Multnomah County Personal Income Tax (ITAX) returns for the years listed above. Is the Administrator correct in assessing the ITAX on the appellants as full-year County Residents and taxing them on 100% of their Oregon Taxable Income as reported to the Oregon Department of Revenue for all three years?

Facts

For income tax purposes, the Appellants have filed as full-year residents of the State of Oregon for the 2003, 2004 and 2005 tax year. During the years of the ITAX, the Appellants used a Newport, OR mailing address on their federal and Oregon income tax returns. Per Oregon Department of Revenue records, the Appellants changed their address from 6141 S.W. Orchid Dr. by filing their 2003 Oregon income tax return from Newport, OR. They changed their address back to Orchid Dr. in May, 2008. Their 2942 square-foot home at 6141 S.W. Orchid Dr. in Multnomah County was purchased in 1985, and the Multnomah County property tax records have never been updated to reflect an owners' change of mailing address. As far back as 1994, throughout the duration of the tax and through the November 2008 general election, the Appellants were registered voters in Multnomah County. According to Multnomah County Elections Office, they consistently voted, and continue to vote, as Multnomah County residents. The Appellants also used their S.W. Orchid Dr. address to register and renew their Oregon driver's licenses throughout the duration of the tax. In addition, their son obtained his Oregon driver's license in 2007 at the age of 17 at the Orchid Dr. address.

Discussion

It is the belief of the Appellants that they should not have to pay the ITAX, as they are were not residents of Multnomah County, having lived at their beach home in Newport, Oregon during the years 2003 through 2005. Mr. Paul states that they now live in Port Ludlow, WA, and the Portland and Newport homes are now secondary or vacation homes. As verification of residency for the years in question, the Appellants have submitted only copies of their state and federal income tax returns showing the Newport, OR address. Upon request from the County that the Appellants document the schools attended by the children during the years of the tax, the attorney for Appellants' indicated that based upon his assessment of the Appellants' age they did not have school age children.

The Appellants are currently registered and have voted in Multnomah County. Voting records indicate that both Appellants have consistently voted in Multnomah County from 1994 through the presidential election in 2008. In order to vote as a Multnomah County resident, a signed declaration must be made that the voter is domiciled in Multnomah County. The Appellants also maintain the Multnomah County address as their legal address for purposes of their Oregon Driver's licenses. As far as the status of the children, during the years of the tax the son, Stuart was in middle and high school, being born on August 29, 1990. (When Stuart was 17, he obtained his Oregon driver's license at the Orchid Dr. address.) The daughter, Claire, would have been in grade school, as her birth date is March 27, 1994. As of today, the Appellants are 68 (Ray) and 54 (Laura). It should also be noted that both children were listed as dependents on the 2003 through 2005 federal and tax returns.

One additional fact was obtained from the copies of the 2003 through 2005 tax returns provided: **all** of the *substantial* charitable contributions made throughout the three years of the ITAX were made to organizations in the Portland-Metro area, including their church. No charitable organizations in Newport, or anywhere else on the Oregon coast were part of the itemizations.

According to Oregon Law (Oregon Revised Statute 316.027), which is specifically adopted into the ITAX Administrative Rules, individuals may have many residences but only one legal domicile. Once a domicile is established, it is never lost until all of the following happen: you intend to abandon the old domicile, and you intend to acquire a new specific domicile and you are physically present in the new domicile.

Section 11-620 of the ITAX Administrative Rules states that Multnomah Adjusted Income shall be defined as "Oregon taxable income less the income exemption allowed by this chapter". Section 11-622 states that Multnomah Taxable Income shall be defined as "Multnomah Adjusted Income after any proration for residency outside of Multnomah County". Full-year County residents must pay the tax based on 100% of their Oregon Taxable Income.

Conclusion

The Appellants are full-year Multnomah County Residents. They have not legally abandoned Multnomah County as their county of residence as is required to change domicile. Voting records as well as driver's license registration verify this. In addition, the significant contributions made to a church within the Portland-Metro area support the fact that the Appellants were present during the years in question.

The Appellants have not raised any legal arguments that would dispute the taxation as Multnomah County residents other than to state they lived in Newport as evidenced by the address on their tax returns. However, they took none of the steps required by law to establish that residence as their legal domicile, nor have they provided evidence of their children's' school attendance as requested by the County Attorney.

Multnomah County has not violated the legal rights of the Appellants by assessing the ITAX on all income of a Multnomah County resident.