

Chapter 316

Personal Income Tax

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NOTES OF DECISIONS

1. Under former similar statute

It was the duty of the department to seek to distinguish tax evasion from tax avoidance and to use appropriate legal tools to insure that the state obtained the net income taxes intended in the enactment of the chapter. Moser v. Dept of Rev., (1970) 4 OTR 256.

Family transactions were regarded with suspicion. Id.

Sale by taxpayers of timber for less than market value to corporation controlled by taxpayers did not result in a distortion through shifting of income. Id.

ATTY. GEN. OPINIONS: Receiving credit for federal tax payments before and after enactment of Personal Income Tax Act of 1969, (1970) Vol 34, p 1010; use of standard deduction on state and federal returns, (1970) Vol 34, p 1092; taxability of interest on bonds to be issued by Port of Morrow for irrigation system connected with proposed private nuclear power plant, (1971) Vol 35, p 635.

LAW REVIEW CITATIONS: 6 WLJ 515-524.

316.007

CASE CITATIONS: Jonsson v. Dept. of Rev., (1971) 4 OTR 376.

ATTY. GEN. OPINIONS: Use of standard deduction on state and federal returns, (1970) Vol 34, p 1092.

316.012

ATTY. GEN. OPINIONS: Use of standard deduction on state and federal returns, (1970) Vol 34, p 1092.

316.022

ATTY. GEN. OPINIONS: Use of standard deduction on state and federal returns, (1970) Vol 34, p 1092.

316.027

NOTES OF DECISIONS

1. Under former similar statute

Plaintiff was not a resident and taxable in Oregon. Bjork v. State Tax Comm., (1968) 3 OTR 125.

To have acquired an out-of-state domicile, taxpayer must have intended to abandon his Oregon domicile and establish a fixed habitation in another place with the intention to remain there permanently and indefinitely. Hubbell v. State Tax Comm., (1969) 3 OTR 468.

The corporation, not the bar pilot, was the taxpayer. Brown and McAlpin v. Dept. of Rev., (1969) 3 OTR 481.

In general, residence in a state pursuant to a military assignment only did not constitute sufficient evidence of domiciliary intent. Gustafson v. Dept. of Rev., (1969) 3 OTR 505.

Intent to change domicile had to be determined as to each step of the attempted change as taken. Hudspeth v. Dept. of Rev., (1971) 4 OTR 296.

While it was necessary that the person must move with the intention of making the new dwelling place his home, the fact that the first dwelling acquired was temporary does not vitiate the transfer. Id.

FURTHER CITATIONS: Berry v. State Tax Comm., (1964) 1 OTR 524, aff'd, 241 Or 580, 397 P2d 780, 399 P2d 164; Gross v. State Tax Comm., (1964) 2 OTR 8; Grote v. State Tax Comm., (1968) 251 Or 251, 445 P2d 129; Oberhettinger v. Dept. of Rev., (1970) 4 OTR 62; Cress v. Dept. of Rev., (1970) 4 OTR 84.

ATTY. GEN. OPINIONS: Measuring state income tax by federal tax, 1962-64, p 202.

316.062

NOTES OF DECISIONS

1. Under former similar statute

Power of State Tax Commission to substitute its own accounting method for that of the taxpayer did not extend to the power to call something income during a year when it was not income by any accounting method. Kuhns v. State Tax Comm., (1960) 223 Or 547, 355 P2d 249.

Taxpayer was entitled to allocation of a lump sum award by a jury if the proceedings showed damages were part of the award. Grell v. State Tax Comm., (1964) 1 OTR 493.

The amount of a condemnation award allocated for damages to improvements on the remainder was properly applied to the tax basis in the buildings. Wassom v. State Tax Comm., (1965) 241 Or 388, 406 P2d 151, aff'g 1 OTR 468.

A grant from the U.S. Public Health Service was compensation and not excludable as a gift. Straumfjord v. State Tax Comm., (1967) 3 OTR 69.

FURTHER CITATIONS: Dryer v. State Tax Comm., (1963) 1 OTR 208; Merkle v. State Tax Comm., (1966) 2 OTR 283; Hurt v. State Tax Comm., (1967) 2 OTR 494; Bibb v. State Tax Comm., (1967) 3 OTR 60; Adler v. State Tax Comm., (1968) 3 OTR 195.

ATTY. GEN. OPINIONS: Farm cooperative patronage refund certificates as income, 1960-62, p 174; interest on obligations of special districts, 1962-64, p 77.

316.067

ATTY. GEN. OPINIONS: Receiving credit for federal tax payments before and after enactment of Personal Income Tax Act of 1969, (1970) Vol 34, p 1010.

316.102

ATTY. GEN. OPINIONS: Tax credit if for nonpartisan office, (1969) Vol 34, p 905; contributions to political action

committees, (1970) Vol 34, p 1056; contributions for primary election candidates, (1970) Vol 34, p 1126.

316.117

NOTES OF DECISIONS

Nonresident taxpayer, who itemizes personal deductions on his federal income tax return, cannot prorate those items on his Oregon return, but may only deduct those items ascribable to sources of income in Oregon. *Jonsson v. Dept. of Rev.*, (1971) 4 OTR 376.

ATTY. GEN. OPINIONS: Use of standard deduction on state and federal returns, (1970) Vol 34, p 1092.

316.122

CASE CITATIONS: *Jonsson v. Dept. of Rev.*, (1971) 4 OTR 376.

316.127

NOTES OF DECISIONS

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This section is not limited in application to taxpayers who are a married couple, only one of whom is an Oregon resident. *Id.*

ATTY. GEN. OPINIONS: Use of standard deduction on state and federal returns, (1970) Vol 34, p 1092.

316.267

NOTES OF DECISIONS

The income of a trust is not to be considered taxable to the grantor merely because it may be applied to the support of a beneficiary whom the grantor is legally obligated to support. *Cohen v. Dept. of Rev.*, (1971) 4 OTR 270; *Shelley v. Dept. of Rev.*, (1971) 4 OTR 426.