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DEPARTMENT OF JUSTICE

Justice Building
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Telephone: (503) 378-4400

September 13, 1989

David W. Pinski
Faye I. Pinski
8212 S.E. Clackamas Rd.
Milwaukie, OR 97267

Re: **Petition for Public Records Disclosure Order; Oregon Department of Revenue Records**

Dear Mr. and Mrs. Pinski:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on September 7, 1989, asks the Attorney General to direct the Oregon Department of Revenue (DOR) to disclose the following records:

> "1. Rules for the hearing, any manuals or written instructions, that will help us prepare for a hearing before the Oregon Department of Revenue.
>
> "2. All documents, and pieces of paper used to calculate the numbers appearing on the computer generated Notice of Determination and Assessment forms, heretofor attached Exhibits A & B.
>
> "3. The signed returns and signed assessment records to support the computer generated Notice of Determination and Assessment forms, heretofor attached Exhibits A & B.
>
> "4. The Federal determination of personal income tax liability used to calculate the Oregon personal income tax liability.

"5. All manuals, written instructions, facts and law. You are using to make the determination that we are persons required, and taxpayers as promulgated in the Oregon Revised Statutes.

"6. Oregon Individual Master Files. These are computer generated forms, telling all information you have stored in your computer on David W. Pinski and Faye I. Pinski. Any manuals or written instructions needed to interpret these master files.

"7. Subdelegation of authority letters, or forms on file with the Oregon Department of Revenue for the Following people under:

a. Robert B. Geltz, Deputy Director.
b. James D. Manary, Administrator of Collection Division.
c. George H. Weber, Administrator of the Assessment and Appraisal Division.
d. James D. Manary, Administrator of the Audit Division.
e. Donald Papke, Administrator of the Administrative Services Division.
f. W. Scott Phinney, Hearings Referee, Supervisor.
g. Jim Wilcox, Supervisor of the Valuation Section.
h. Bruce Laudon, Supervisor of the Support Section of the Collection Division.
i. Richard A. Martinez, Supervisor of the Personnel Section."

The DOR failed to provide you with the records requested. For the reasons stated below, we grant your petition concerning the documents requested in paragraphs 1, 2, 5, 6, and 7.f. above, and deny the remainder.

The DOR has informed this office that it treated your June 24, 1989, letter as a request for a hearing on the notices of determination and assessment attached to your request as Exhibits A & B. An auditor is preparing a response to your request. That response should be complete within the next two to three weeks. We also understand that DOR plans a separate mailing, likely to occur today, that will directly respond to your request for documents. The auditor will provide you cost information for reproduction of the records requested in paragraphs 1 and 5 above. The auditor also will provide copies

of the documents requested in paragraph 2. To the extent computerized records relating to either of you (paragraph 6) exist, printed copies of those records and instructions for reading them will be made available.

With respect to the request for documents listed in paragraph 7, the DOR already has provided you with its PAP 110-004, which identifies all employes of the DOR who have authority delegated by the Director of the DOR. If your request relates to letters of delegation of authority by the persons listed in paragraph 7 to other employes of the DOR, the DOR has advised us that no such documents exist, with the possible exception of the Hearings Referee Supervisor (paragraph 7.f.). If such a document exists, the auditor will provide it.

The other documents that you have requested do not exist in the Department of Revenue's files. The Department of Revenue has informed this office that the assessment of personal income tax against you was based on information the DOR obtained that you had received wages during the 1986 tax year. In determining that you had Oregon income tax liability, the DOR did not rely upon any written determination by the Internal Revenue Service that you had federal personal income tax liability, or upon any signed returns or signed assessment records. Therefore, we respectfully deny your petition to compel disclosure of such documents.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

cc: Chuck Hamm, DOR Disclosure Officer
255 Revenue Building
Salem, OR 97310

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