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DEPARTMENT OF JUSTICE

Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

November 30, 1987

Mr. and Mrs. Harris L. Pearson
Route 2, Box 149C
Newberg, Oregon 97132

Re: Request for Public Records Disclosure Order

Dear Mr. and Mrs. Pearson:

This letter responds to your November 23, 1987 petition for an Attorney General's public records disclosure order. Specifically, you ask the Attorney General to direct the Department of Revenue to disclose to you copies of your tax returns and related documents. We respectfully deny your request because we are informed that the Department of Revenue has not denied you a reasonable opportunity to inspect those records.

Based upon information we have received from the Department of Revenue, we find that when you asked to inspect your tax returns and related documentation, the department's representatives told you that those records were not located in the department's offices. The department's representatives told you that the records were located in the state Archives but could be made available for inspection within a few days after the department ordered transmission of the documents from Archives. In fact, the department has ordered that the documents be sent to its offices in order that the records will be available for your inspection.

The Public Records Law requires a custodian of a public record to furnish "proper and reasonable opportunities" for inspection of public records not exempt from disclosure. When, as in this case, documents sought to be inspected are in a

storage facility outside an agency's office, the law allows the agency a "reasonable" amount of time to gather the records for disclosure. When, as in this case, a reasonable amount of time for obtaining possession of the documents has not yet passed, the agency has not denied an inspection request. The Attorney General has no authority to order inspection until an agency has denied an inspection request. Therefore, your petition is denied.

We do note, however, that the Department of Revenue will make the records that are the subject of your petition available for your inspection as soon as reasonably possible. We are informed that the documentation will be available for your inspection on or after November 30, 1987.

Respectfully submitted,

James E. Mountain Jr.

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

JEM:cm
cc: Bob Rogers, Department of Revenue
Elizabeth Stockdale, Assistant Attorney General
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