

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0848

*Affirmed*  
*Overpayment and Penalties*

**PROCEDURAL HISTORY:** On February 25, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$3,018 overpayment, \$452.70 in monetary penalties, and 24 penalty weeks based on unreported work and earnings (decision # 201546). Claimant filed a timely request for hearing. On April 29, 2014, ALJ Murdock conducted a hearing, and on May 6, 2014 issued Hearing Decision 14-UI-16898 affirming the Department's decision. On May 16, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant submitted a copy of her 2012 Federal Tax Return, Form 1040, which was not part of the hearing record. Under OAR 471-041-0090, EAB may consider information not received into evidence at the hearing if the information is relevant and material, and if circumstances beyond a party's reasonable control prevented the party from offering the information at the hearing. It is unclear what relevance claimant's tax return has to EAB's determination. Even if the tax return is relevant, claimant failed to demonstrate any circumstances that prevented her from offering this information as evidence at the hearing. Accordingly, we did not consider claimant's 2012 tax return in reaching this decision.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 14-UI-16898 is affirmed.

Susan Rossiter and Tony Corcoran;  
D. E. Larson and J. S. Cromwell, *pro tempore*, not participating.

**DATE of Service:** May 22, 2014

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and

information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310, or visit the website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: the above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.