

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

AMBER J BLISS CALDERON)	
and CESAR H CALDERON VILLATORO,)	
)	
Plaintiffs,)	TC-MD 150037C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL

This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered March 12, 2015. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* TCR-MD 16 C(1).

This matter is before the court on Defendant’s Motion to Dismiss, filed February 20, 2015, on the ground that Plaintiffs’ appeal was untimely under ORS 305.280(2).

The Notice of Proposed Adjustment and/or Distribution was mailed to Plaintiffs on October 7, 2014. (Compl at 2.) Plaintiffs filed their Complaint on February 7, 2015. (Compl at 47.) That interval is longer than the 90 days required by ORS 305.280(2)¹, which provides, in relevant part:

“An appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final.”

Under ORS 305.270(5)(b), Plaintiffs’ notice became “final after the period for requesting a conference or filing written objections [] expired.” ORS 305.270(4)(b) provides that a taxpayer may submit to the Department of Revenue written objections and request a conference “within

¹ The court’s references to the Oregon Revised Statutes (ORS) are to 2013.

30 days of the date of the notice of proposed adjustment[.]” The 30 day deadline for filing written objections or requesting a conference was November 6, 2014. *See* ORS 305.270(4)(b). Plaintiffs did not file objections or request a conference. Therefore, the notice of adjustment became final on November 6, 2014. *See* ORS 305.270(5)(b). Plaintiffs had 90 days from November 6, 2014, to file their appeal to this court. *See* ORS 305.280(2).

The 90-day deadline for appealing to this court was the February 4, 2015. Plaintiffs filed their appeal to this court February 7, 2015. Plaintiffs missed the statutory appeal deadline by three days. The court is not aware of any circumstances that extend the statutory limit of 90 days. Defendant’s Motion to Dismiss is granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant’s Motion to Dismiss is granted.

The Complaint is dismissed.

Dated this ____ day of April 2015.

ALLISON R. BOOMER
MAGISTRATE

If you want to appeal this Final Decision of Dismissal, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your complaint must be submitted within 60 days after the date of the final decision of dismissal or this Final Decision of Dismissal cannot be changed. TCR-MD 19 B.

This Final Decision of Dismissal was signed by Magistrate Allison R. Boomer on March 31, 2015. The Court filed and entered this Final Decision of Dismissal on March 31, 2015.