

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

JOSE DE LA CRUZ,)	
)	
Plaintiff,)	TC-MD 160019N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION¹

This matter is before the court on Defendant’s Recommendation , filed June 6, 2016, and Plaintiff’s letter in response to Defendant’s Recommendation, filed June 16, 2016.

Plaintiff filed his Complaint on January 15, 2016, appealing Defendant’s assessment of taxes for the 2012, 2013, and 2014 tax years. In its Recommendation, Defendant offered Plaintiff “partial relief,” resulting in a tax-to-pay of \$510 for the 2012 tax year, a tax-to-pay of \$546 for the 2013 tax year, and a tax-to-pay of \$561 for the 2014 tax year. (Recommendation at 1.) In response to Defendant’s Recommendation, Plaintiff’s representative wrote that Plaintiff “can agree to this recommendation and agree[s] to pay” the tax-to-pay amounts identified by Defendant. (Ptf’s Ltr at1, June 16, 2016.)

Plaintiff’s representative also wrote, “I understand the recommendation can’t really address the penalties but we still want to request relief from the penalties.” (*Id.*) ORS 305.145(4) vests Defendant with the discretionary authority to waive penalties it otherwise has the authority to collect. That discretionary authority lies solely with Defendant, not with this court. *Pelett v. Dept. of Rev.*, 11 OTR 364, 365–66 (1990); *see also* ORS 305.560(1)(a).

¹ This Final Decision incorporates without change the court’s Decision, entered June 20, 2016. The court did not receive a statement of costs and disbursements within 14 days after its Decision was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

Plaintiff's request for relief from penalties imposed by Defendant is therefore denied. Now, therefore,

IT IS THE DECISION OF THIS COURT that, based on the agreement of the parties, Plaintiff's tax-to-pay for the 2012 tax year is \$510; Plaintiff's tax-to-pay for the 2013 tax year is \$546; and Plaintiff's tax-to-pay for the 2014 tax year is \$561.

IT IS FURTHER DECIDED that Plaintiff's request for relief from penalties imposed by Defendant is denied.

Dated this ____ day of July 2016.

ALLISON R. BOOMER
MAGISTRATE

If you want to appeal this Final Decision, 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 or this Final Decision cannot be changed. TCR-MD 19 B.

This document was filed and entered on July 11, 2016.