

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

RONALD D. REITZ JR)	
and AMBER M. REITZ,)	
)	
Plaintiffs,)	TC-MD 150292N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL¹

This matter came before the court on its own motion to dismiss this case for lack of prosecution.

On April 24, 2015, Plaintiffs filed their Complaint requesting that the court abate Defendant’s Notice of Deficiency Assessment for the 2013 tax year because the “[i]ncome that is subject of the Deficiency Assessment was earned and taxed in California.” (Compl at 1.) On June 10, 2015, the court placed the case in abeyance pending the processing of Plaintiffs’ 2013 California income tax return. (Or Abey at 1.) The court ordered Plaintiffs to submit a status report every six months. (*Id.* at 2.)

On December 31, 2015, Plaintiffs reported that California was still processing the amended tax return. (Ltr at 1, Dec 31, 2015.) The court did not receive the next six month status report and on July 11, 2016, the court issued an Order requiring Plaintiffs to submit a status report within 14 days. (Or at 1, July 11, 2016.) On July 25, 2016, Plaintiffs reported that that California return had still not been processed. (Ltr at 1, July 25, 2016.) Seven months later, the

¹ This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered April 12, 2017. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

court was again compelled to issue an Order instructing Plaintiffs to file a status report within 14 days. (Or at 1, Feb 1, 2017.) The court did not receive a response to that Order. On February 28, 2017, a member of the court's operations team tried to contact Plaintiffs by phone, but the number Plaintiffs provided to the court was not a working number. On March 2, 2017, the court issued a second Order requesting a status report. (Or at 1, Mar 2, 2017.) That order warned that Plaintiffs failure to respond would result in dismissal of Plaintiffs' appeal. (*Id.*) None of the court's orders were returned as undeliverable.

On March 17, 2017, the court received a letter from Plaintiffs indicating that their 2013 California return had been accepted and that they would use those funds to pay their Oregon tax liability. (Ltr at 1, Mar 17, 2017.) The court issued a letter on March 22, 2017, noting that it appeared that Plaintiffs wished to withdraw their appeal. The letter instructed Plaintiffs to response within 14 days or their appeal would be dismissed. That letter was not returned as undeliverable. As of the date of this Decision, Plaintiffs have not responded to the court's request. As a result, the court concludes the appeal should be dismissed. Now, therefore,

IT IS THE DECISION OF THIS COURT that this appeal is reactivated

IT IS FURTHER DECIDED that Plaintiffs' appeal is dismissed.

Dated this ____ day of May 2017.

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 document was filed and entered on May 2, 2017.