

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

JAMES E. MEYER)	
and DEBORAH A. MEYER,)	
)	
Plaintiffs,)	TC-MD 120770N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

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

Plaintiffs filed their Complaint on October 9, 2012, challenging Defendant’s Notices of Proposed Refund Adjustment (Notices) for the 2007 and 2008 tax years. On November 8, 2012, Defendant filed its Answer requesting that the court uphold its Notices for both tax years. Defendant stated that Plaintiffs’ request for refunds for the 2007 and 2008 tax years were denied because Plaintiffs’ requests were not timely under ORS 314.415(2)(a). (Def’s Ans at 1.)

A case management conference was held on November 26, 2012, during which the parties discussed Plaintiffs’ appeal. Plaintiffs’ bookkeeper appeared with Plaintiffs at the conference and agreed to file an Authorization to Represent form. As of the date of this Decision, the court has not received an Authorization to Represent form from Plaintiffs’ bookkeeper. During the November 26, 2012, conference, the parties further agreed that Plaintiffs would file a written response to Defendant’s Answer by January 15, 2013, and Defendant would file a written reply to Plaintiffs’ response by February 15, 2013. The court issued a Journal Entry on November 27, 2012, memorializing the parties’ agreed-upon deadlines.

The court did not receive a written response from Plaintiffs by January 15, 2013. On January 22, 2013, the court sent the parties a Journal Entry instructing Plaintiffs to file a written response to Defendant's Answer within 14 days. The Journal Entry advised that failure to comply with the deadlines set forth therein would result in dismissal of Plaintiffs' appeal.

Plaintiffs' deadline has passed and the court has not received the Plaintiffs' written response or any further communication from Plaintiffs. As a consequence, the court finds this matter should be dismissed for lack of prosecution. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter is dismissed.

Dated this ____ day of February 2013 .

ALLISON R. BOOMER
MAGISTRATE

If you want to appeal this 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 Decision or this Decision becomes final and cannot be changed.

This Decision of Dismissal was signed by Magistrate Allison R. Boomer on February 8, 2013. The Court filed and entered this Decision of Dismissal on February 8, 2013.