

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

MEBRAHTOM O. ABRAHAM)	
and MUZIT WOLDEMICHAEL,)	
)	
Plaintiffs,)	TC-MD 130042N
)	
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 February 8, 2013, requesting “release of refund” for the 2008 tax year. (Ptf’s Compl at 1.) Plaintiffs did not attach the notice or other document appealed with their Complaint. Defendant filed its Answer on February 21, 2013. In its Answer, Defendant stated that a Notice of Refund Denial for the 2008 tax year was issued on June 8, 2012. (Def’s Ans at 1.) Defendant requests that the Notice of Refund Denial be upheld because, under ORS 314.415(2), “the department may not allow or make a refund after three years from [the time] the return was filed, two years from the time the tax was paid, or three years from the due date of the original return, excluding extensions, whichever is later.” (*Id.*)

A case management conference was held on March 11, 2013. Plaintiff Mebrahtom O. Abraham (Abraham) appeared on behalf of Plaintiffs. Kyle Quiring (Quiring), Tax Auditor, appeared on behalf of Defendant. During the March 11, 2013, conference, Abraham stated that he did not have a copy of Defendant’s Answer. Quiring agreed to send another copy of Defendant’s Answer to Abraham. The parties further agreed to the schedule set forth in the

Journal Entry issued by the court on March 12, 2013. Plaintiffs agreed to file written arguments in response to Defendant's Answer by April 10, 2013. The Journal Entry advised that failure to comply with the deadlines set forth therein might result in dismissal of Plaintiffs' appeal.

Plaintiffs' deadline has passed and the court has not received Plaintiffs' written arguments in response to Defendant's Answer or any further communication from Plaintiffs. Under such circumstances, the court finds that Plaintiffs' appeal 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 April 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 was signed by Magistrate Allison R. Boomer on April 18, 2013. The court filed and entered this Decision on April 18, 2013.