

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ROBERT C. DUNLAP,)	
)	
Plaintiff,)	TC-MD 130074N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

Plaintiff filed his Complaint on March 8, 2013, challenging Defendant’s Notice of Proposed Adjustment and/or Distribution (Notice) for the 2012 tax year. The Notice states that Plaintiff’s refund of \$796 was distributed to the “Department of Justice, Division of Child Support.” (Ptf’s Compl at 3.) In his Complaint, Plaintiff asserted that his “account is not delinquent to DOJ. This is an accounting issue.” (*Id.* at 1.) A case management conference was held on April 22, 2013, during which Plaintiff agreed to file a written status report by June 21, 2013, stating whether he received a balance adjustment from the Department of Justice Division of Child Support and, if so, provide a copy to the court and Defendant. On May 16, 2013, Plaintiff telephoned the court and stated that he had reached a resolution with Defendant. A member of the court operations team stated that, if the parties had reached an agreement, Plaintiff could file a signed, written stipulation with the court. As of the date of this Decision, the court has received no further communication from Plaintiff.

On June 27, 2013, Defendant’s authorized representative filed a letter with the court stating that, on May 16, 2013, Plaintiff called her and reported “that the Department of Justice-Child Support Division (DOJ-CSD) had refunded him the disputed offset of \$769 [*sic*]. [She] called DOJ-CSD and confirmed the dispute is settled * * * The agency sent an electronic

transaction on 06/22/13, which adjusted [Plaintiff's] liability balance to zero. [Defendant] will not be refunding the disputed amount.” (Def’s Ltr, Jun 27, 2013.)

Based on Plaintiff’s May 16, 2013, phone call and Defendant’s letter filed June 27, 2013, the court concludes that Plaintiff’s requested refund in the amount of \$796 has been received. In addition to requesting a refund of \$796, Plaintiff requested the “filing fee \$240.00 plus monies lost at work and transport cost \$300.00.” (Ptf’s Compl at 1.) Plaintiff did not cite any authority in support of his request for fees and costs. ORS 305.490(1) (2011) states that “[p]laintiffs or petitioners filing a complaint or petition in the tax court shall pay the filing fee established under ORS 21.135 at the time of filing for each complaint or petition.” Taxpayers may file a Declaration and Application for Waiver of Fee at the time of filing a complaint. There is no provision in the statutes or court rules for a refund of that fee. This court has previously determined that there is no statutory authority for an award of costs and disbursements in the Magistrate Division of the Oregon Tax Court. *See Wihtol v. Multnomah County Assessor*, TC-MD No 120762N (Jan 30, 2013.) Plaintiff’s requests for the fee of \$240 and costs of \$300 are denied. Now, therefore,

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

Dated this ____ day of June 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 June 28, 2013. The court filed and entered this Decision on June 28, 2013.