

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

JOHN P. HERIZA )  
and HEATHER K. WOOD, )  
 )  
Plaintiffs, ) TC-MD 130377C  
 )  
v. )  
 )  
DEPARTMENT OF REVENUE, )  
State of Oregon, )  
 )  
Defendant. ) **DECISION OF DISMISSAL**

This matter is before the court on Defendant’s Motion to Dismiss on the ground that Plaintiffs failed to appeal within the 90 days required by statute.

A review of the parties’ materials show the Notice of Proposed Refund Adjustment was mailed to Plaintiffs on April 26, 2012. The Notice of Proposed Refund Adjustment became final on May 26, 2012, (30 days). ORS 305.265(7). Plaintiffs had 90 days from the day the Notice became final to appeal. ORS 305.280(2). Plaintiffs had until August 24, 2012, to appeal once the notice became final. The Complaint was filed on June 7, 2013. That interval is longer than the 90 days required by ORS 305.280(2).

The court is not aware of any circumstances that extend the statutory limit of 90 days. Defendant’s Motion to Dismiss is granted. Now, therefore,

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IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is allowed.

The Complaint is dismissed.

Dated this \_\_\_\_ day of August 2013.

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DAN ROBINSON  
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 Dan Robinson on August 1, 2013. The court filed and entered this Decision on August 1, 2013.***