

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

ROBERT E. BOGUE	)	
and LESLIE R. RITNER-BOGUE,	)	
	)	
Plaintiffs,	)	TC-MD 130390C
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs filed their Complaint on June 18, 2013, challenging Defendant’s Notice of Proposed Adjustment and/or Distribution for the 2012 tax year. Plaintiffs requested “[r]eimbursement of \$2,514.37, which was taken from [Robert Bogue’s] 2012 tax refund of \$3,065.00, to pay towards the balance owed to the State of Oregon by Leslie for PERS over payment reconciliation.” (Ptf’s Compl at 1-2.) Defendant filed its Answer on July 19, 2013, stating:

“Defendant requests that this case be dismissed since the request for apportionment has been processed. Mr. Bogue’s portion of the offsetting refund of \$2,514.37 is 89.7% or \$2,107.97. [Defendant] will mail this refund check to Mr. Bogue, on 07/22/13. Ms. Ritner-Bogue’s portion of 13.3% or \$406.40, has been applied toward her debt. From the original proposed refund of \$3,065, a refund for the remaining \$550.63 was issued jointly to the Plaintiffs on 04/15/13.”

(Def’s Ans at 1.)

A telephonic case management conference was scheduled for August 14, 2013, at 11:15 a.m. Plaintiffs failed to appear for that proceeding. On August 14, 2013, the court sent Plaintiffs a letter instructing Plaintiffs to file a written response by August 28, 2013, explaining in writing why they were unavailable for the August 14, 2013, case management conference. The August 14, 2013, letter advised that failure to comply would result in dismissal of Plaintiffs’ appeal. In response to the court’s letter, the

Plaintiffs called the court. A member of the court operations team requested Plaintiffs put their response to the court's letter in writing to the court and to copy Defendant. As of the date of this decision, the court has not received Plaintiffs' written response to the court's August 14, 2013, letter or any further communication from Plaintiffs. As a consequence, the court would normally dismiss the appeal for lack of prosecution. However, Defendant has agreed to partial relief as stated in its Answer filed July 19, 2013. After considering the matter, the court finds that relief should be granted as recommended by Defendant. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant shall cancel its Notice of Proposed Adjustment and/or Distribution for the 2012 tax year and issue or otherwise credit to Plaintiff Robert Bogue a refund of \$2,107.97 with statutory interest, if any.

IT IS FURTHER DECIDED that Defendant shall cancel its Notice of Proposed Adjustment and/or Distribution for the 2012 tax year and credit to Plaintiff Leslie Ritner-Bogue an amount of \$406.40 to her Oregon PERS retirement system liability collected by Defendant and distributed to PERS.

IT IS FURTHER DECIDED that Defendant shall issue or otherwise credit to Robert Bogue and Leslie Ritner-Bogue jointly a refund of \$550.63, with interest, if any.

Dated this \_\_\_\_ day of September 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 September 5, 2013. The Court filed and entered this Decision on September 5, 2013.***