

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

VILRAY PAPIN BLAIR	)	
and CATHY IRENE BLAIR,	)	
	)	
Plaintiffs,	)	TC-MD 130457C
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION</b>

Plaintiffs filed their Complaint on August 29, 2013, challenging Defendant’s Notice of Deficiency Assessment for the 2012 tax year, and requesting a “refund of [the rural practitioner] tax credit for the 2010 [and] 2011” tax years. Defendant filed its Answer on October 10, 2013, requesting that “[f]or 2012, accept return as filed by restoring the rural heath practitioner credit of \$4,505 as originally claimed under ‘other credits[;]’ [d]ismiss the [2011] appeal because the [P]laintiff[s] did not timely appeal within 120 days from the notice for refund adjustment that was issued on April 30, 2012[; and] [d]ismiss the [2010] appeal because the [P]laintiff[s] didn’t report the tax credit on their 2010 tax return when it was filed.” (Def’s Ans at 2.)

A case management conference was scheduled at 1:30 p.m. on November 6, 2013, to consider Plaintiffs’ appeal. On October 10, 2013, the court sent notice of the scheduled to Plaintiffs at the address Plaintiffs provided to the court. The notice was not returned as undeliverable. The notice advised that if Plaintiffs did not appear, the court might dismiss the appeal.

On November 7, 2013, the court sent Plaintiffs a letter which explained the importance of diligently pursuing an appeal. That letter was not returned as undeliverable. The letter advised

that if Plaintiffs did not provide a written explanation by November 21, 2013, for failure to appear, the court would dismiss the appeal. As of this date, Plaintiffs have not submitted a written response to the court explaining failure to appear at the November 6, 2013, case management conference. As a consequence, the court would normally dismiss the appeal for lack of prosecution. However, Defendant agreed to partial relief as stated in its Answer filed October 10, 2013. After considering the matter, the court finds that partial relief should be granted as recommended by Defendant. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal of the 2010 tax year is dismissed for lack of prosecution.

IT IS FURTHER DECIDED that Plaintiffs' appeal of the 2011 tax year is dismissed for lack of prosecution.

IT IS FURTHER DECIDED that for the 2012 tax year, Defendant shall cancel its Notice of Deficiency Assessment dated July 30, 2013, and allow Plaintiffs a rural health practitioner credit in the amount of \$4,505. Any refund due shall be paid with statutory interest, if any.

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

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DAN ROBINSON  
MAGISTRATE

***If you want to appeal this Final 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 Final Decision or this Final Decision cannot be changed.***

***This Final Decision was signed by Magistrate Dan Robinson on November 27, 2013. The Court filed and entered this Final Decision on November 27, 2013.***