

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

EFRAIN G. RUIZ-GALICIA,)	
)	
Plaintiff,)	TC-MD 100768D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiff appeals self-assessed state income tax for tax year 2005 and Defendant’s Notices of Proposed Refund Adjustment, dated July 23, 2009, denying Plaintiff’s amended returns requesting state income tax refunds for tax years 2006 and 2007.

A case management conference was held September 1, 2010. Plaintiff appeared through his interpreter. Tami Powers (Powers), Tax Auditor, appeared on behalf of Defendant. During the conference, Powers stated that Defendant made no adjustments to Plaintiff’s self-assessed state income tax return for tax year 2005. Plaintiff stated that he is appealing Defendant’s Notice of Tax Assessment, dated September 18, 2006, notifying Plaintiff that he filed his tax return after the original due date and without full payment. Defendant’s Notice of Tax Assessment requests payment of the self-assessed tax. There is no action of Defendant to appeal. Plaintiff’s filed return stated the state income tax liability due; Plaintiff must pay that self-assessed tax liability.

For tax years 2006 and 2007, Plaintiff filed amended state income tax returns, requesting refunds. According to Defendant’s Notice of Proposed Refund Adjustment, Defendant requested additional information from Plaintiff on March 2, 2009, and again on May 15, 2009. After Plaintiff did not respond, Defendant denied Plaintiff’s refund claims. Defendant’s Answer, filed June 16, 2010, states that Plaintiff’s appeal of Defendant’s denials was not timely filed.

Defendant's Answer quotes ORS 305.280(2), in part: "An appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final." (Def's Answer at 1.) Defendant's notices of adjustment were final on July 23, 2009. Plaintiff's Complaint was filed May 10, 2010, a date beyond the statutory 90 day period allowed by ORS 305.280(2).

Because there is no appealable action for tax year 2005 and Plaintiff's appeal for tax years 2006 and 2007 is beyond the statutory period allowed for filing an appeal, Plaintiff requested information about how to set up a payment plan with Defendant. The name and telephone number of the Revenue Agent assigned to Plaintiff's account was provided by Defendant's representative. Plaintiff was informed by the court that his Complaint would be dismissed for the reasons set forth above. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is dismissed.

Dated this ____ day of September 2010.

JILL A. TANNER
PRESIDING 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 document was signed by Presiding Magistrate Jill A. Tanner on September 22, 2010. The Court filed and entered this document on September 22, 2010.