

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

MARIA Y. CASTELLANOS,)	
)	
Plaintiff,)	TC-MD 100935C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s motion to dismiss (motion), included in its Answer filed with the court July 12, 2010. In support of its request for dismissal, Defendant asserts that Plaintiff’s appeal to this court was not timely filed.

The court held a hearing on the motion by telephone September 28, 2010. Plaintiff appeared on her own behalf with the assistance of a Spanish-speaking interpreter. Defendant was represented by Faith Derickson, an auditor with the Department of Revenue.

A review of Plaintiff’s materials shows the Notice of Proposed Adjustment and/or Distribution (notice) was mailed to Plaintiff on October 29, 2009. (Ptf’s Compl at 2.) The notice became final 30 days after it was issued because Plaintiff did not file a written objection with Defendant. *See generally* ORS 305.270(4)(b), (5)(b)¹. Plaintiff then had 90 days from the date the notice became final to file an appeal with this court. ORS 305.280(2) (providing in part that “[a]n appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final.”) Plaintiff’s appeal to the court was postmarked June 10, 2010, more than 90 days after the deadline for filing the appeal. Accordingly, Defendant’s motion is granted. Now, therefore,

¹ All references to Oregon Revised Statutes (ORS) are to 2007.

IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is granted and Plaintiff's Complaint is dismissed.

Dated this ____ day of October 2010.

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 document was signed by Magistrate Dan Robinson on October 12, 2010. The Court filed and entered this document on October 12, 2010.