

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Tobacco Tax

MICHAEL J. SMITH,)
)
 Plaintiff,) TC-MD 101085D
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 State of Oregon,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on its own motion to dismiss this case for lack of prosecution.

A case management conference was scheduled at 9:30 a.m. on November 16, 2010, to consider Plaintiff's appeal. On September 27, 2010, the court sent notice of the scheduled case management conference to Plaintiff at 556 S. Bay Road, Toledo, OR 97391, which is the address Plaintiff provided to the court. The notice was not returned as undeliverable.

On November 16, 2010, the court sent Plaintiff a letter which explained the importance of diligently pursuing an appeal. That letter was not returned as undeliverable. The letter advised that if Plaintiff did not provide a written explanation by November 30, 2010, for his failure to appear, the court would dismiss the appeal. As of the date of this Decision, Plaintiff has not contacted the court. Under such circumstances, the court finds the appeal must be dismissed for lack of prosecution. Now, therefore,

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IT IS THE DECISION OF THIS COURT that the Complaint is dismissed.

Dated this ____ day of December 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 December 7, 2010. The Court filed and entered this document on December 7, 2010.