

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

WILLIAM D. FITZGERALD,)
)
 Plaintiff,) TC-MD 110161N
)
 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.

On June 15, 2011, the court sent the parties a Journal Entry memorializing the schedule that the parties agreed upon during a case management conference on June 10, 2011. Defendant agreed to file recommendations by July 18, 2011, and Plaintiff agreed to file a written response to Defendant’s recommendations by August 1, 2011, stating whether the appeal was settled or withdrawn or requesting a trial. The Journal Entry advised that failure to comply with the deadlines set forth therein would result in dismissal of Plaintiff’s appeal.

On July 15, 2011, Defendant filed written recommendations with the court stating that “[b]ecause the provided documentation does not substantiate the EBE in 2007 or the alimony paid in 2008, I recommend that the deficiencies stand.” (Def’s Ltr at 2, Jul 15, 2011.) On August 10, 2011, Plaintiff filed additional documentation with the court; the documents were postmarked August 9, 2011. Plaintiff failed to file a written response to Defendant’s recommendation by the August 1, 2011, deadline agreed upon by the parties. As a consequence, this matter must be dismissed for lack of prosecution. Now, therefore,

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IT IS THE DECISION OF THIS COURT that this matter is dismissed.

Dated this ____ day of August 2011.

ALLISON R. BOOMER
MAGISTRATE PRO TEMPORE

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 Pro Tempore Allison R. Boomer on August 12, 2011. The Court filed and entered this document on August 12, 2011.