

IN THE OREGON TAX COURT
REGULAR DIVISION
Income Tax

DANIEL E. STEIMLE,)
)
 Plaintiff,) **TC 5277**
 v.)
)
 DEPARTMENT OF REVENUE,)
 State of Oregon,)
)
 Defendant.) **ORDER GRANTING DISMISSAL**

This matter comes before the court on Defendant's Motion to Dismiss. Defendant Department of Revenue (the department) argued that dismissal is warranted because Plaintiff (taxpayer) failed to pay the tax, interest, and penalty on or before filing his complaint in the Regular Division as required by ORS 305.419.

Taxpayer did not contest that he failed to pay the amount due. In addition, taxpayer conceded at the hearing that it would not be an undue hardship to pay the amount due. Rather, taxpayer argued that ORS 305.419 does not apply to this case because the magistrate did not reach the merits of taxpayer's case before dismissing it.

The court concludes that ORS 305.419 does apply to this case. Therefore, taxpayer was required to either allege undue hardship, or pay the tax, interest, and penalty. Counsel for the department is directed to prepare and submit an appropriate form of judgment. Now, therefore,

IT IS ORDERED that Defendant's Motion to Dismiss is granted.

Dated this ___ day of October, 2016.

THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUP ON OCTOBER 25, 2016, AND FILED THE SAME DAY. THIS IS A PUBLISHED DOCUMENT.