

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

MELODY C. WALTON,	)	
	)	
Plaintiff,	)	TC-MD 130484C
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION OF DISMISSAL</b>

The court entered its Decision of Dismissal in the above-entitled matter on June 4, 2014. The court did not receive a request for an award of costs and disbursements (TCR-MD 19) within 14 days after its Decision of Dismissal was entered. The court’s Final Decision of Dismissal incorporates its Decision of Dismissal without change.

This matter is before the court on its own motion to dismiss the case. Trial was set for June 3, 2014, at the Oregon Tax Court, Salem, Oregon. Nolan A. Geraths, Licensed Tax Consultant, appeared before the court on Plaintiff’s behalf and Aaron Synder, Tax Auditor, represented Defendant. Neither party called any witnesses to testify. Plaintiff’s Exhibits A-I were filed on May 30, 2014. The court excluded Plaintiff’s exhibits because they were not timely exchanged under Tax Court Rule-Magistrate Division (TCR-MD) 10 C. Defendant did not introduce its exhibits. A trial was not convened because there were no exhibits, nor witnesses present and therefore no evidence to be presented.

The court denied Plaintiff’s verbal request to reschedule the trial so that Plaintiff would have an opportunity to timely submit exhibits to the court.

The case involves a challenge by Plaintiff to Defendant’s change in her filing status from head of household to married filing separately. (Ptf’s Compl at 3-4, 7.) The outcome of

Plaintiff's appeal hinges on state of mind and relevant circumstances governed by the Internal Revenue Code and applicable regulations. Plaintiff, as the party seeking affirmative relief, has the burden of proof to establish her case by a preponderance of the evidence. ORS 305.427 (2011). Without exhibits, or witnesses, Plaintiff is unable to meet her burden of proof. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter must be, and is hereby, dismissed.

Dated this \_\_\_\_ day of June 2014.

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DAN ROBINSON  
MAGISTRATE

***If you want to appeal this Final Decision of Dismissal, 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 Final Decision of Dismissal or this Final Decision of Dismissal cannot be changed.***

***This document was signed by Magistrate Dan Robinson on June 24, 2014. The court filed and entered this document on June 24, 2014.***