

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

| | | |
|------------------------|---|------------------------------------|
| BETHANY A. REED, |) | |
| |) | |
| Plaintiff, |) | TC-MD 150053N |
| |) | |
| v. |) | |
| |) | |
| DEPARTMENT OF REVENUE, |) | |
| State of Oregon, |) | |
| |) | |
| Defendant. |) | FINAL DECISION OF DISMISSAL |

This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered on June 26, 2015. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. See TCR MD 16 C(1).

This matter is before the court on Defendant’s Motion to Dismiss, filed April 21, 2015. Plaintiff filed her Complaint on March 2, 2015, appealing Defendant’s Notice of Refund Denial, dated November 24, 2015, for the 2013 tax year. Defendant moved to dismiss Plaintiff’s appeal as untimely. A telephone case management conference was held on June 8, 2015, at which the parties agreed that Plaintiff would file a written response to Defendant’s Motion to Dismiss, postmarked no later than June 22, 2015. The court’s Journal Entry, issued June 8, 2015, memorialized the parties’ agreement and warned that “Plaintiff’s failure to fulfill the agreement set out in this Journal Entry may result in dismissal of this appeal.” The court has not received Plaintiff’s response to Defendant’s Motion to Dismiss.

“An appeal * * * from any notice of assessment or refund denial issued by the Department of Revenue with respect to a tax imposed under ORS chapter * * * 316 * * * shall be filed within 90 days after the date of the notice.” ORS 305.280(2). The 90th day after the date

of Defendant's Notice of Refund Denial was February 22, 2015. Because that day was a Sunday, Plaintiff's deadline for filing fell on February 23, 2015, which was the next day the court was open. See ORS 174.120(3). Because Plaintiff's Complaint was not filed until March 2, 2015, it was untimely. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is granted. Plaintiff's Complaint is dismissed as untimely.

Dated this ____ day of July 2015.

ALLISON R. BOOMER
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. TCR-MD 19 B.

This document was filed and entered on July 14, 2015.