

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

MARK BAUGHN)	
and JANET HATFIELD BAUGHN,)	
)	
Plaintiffs,)	TC-MD 150338C
)	
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 July 23, 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 on the ground that Plaintiffs failed to appeal within the 90 days required by ORS 305.280(2).

The Notice of Proposed Refund Adjustment (Notice) was mailed to Plaintiffs on January 7, 2015. The Complaint was filed on May 22, 2015.

Defendant’s Notice became final 30 days after it was issued because Plaintiffs failed to file written objections or request a conference within the 30-day deadline set out in ORS 305.270(4)(b) (allowing a taxpayer 30 days to “advise the department in writing of objections to the refund adjustment and * * * request a conference with the department”). Under ORS 305.270(5)(b), “[i]f no written objections are made, the notice of any proposed adjustment shall be final after the period for requesting a conference or filing written objections has expired.”

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As stated above, Plaintiffs did not file written objections or request a conference within 30 days of Defendant's Notice.

ORS 305.280(2) provides:

“An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318, 321 or this chapter, or collected pursuant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final.”

(Emphasis added.)

The deadline for filing written objections or requesting a conference was February 6, 2015.¹ ORS 305.270(4)(b), (5)(b). Plaintiffs' then had 90 days to appeal Defendant's Notice to this court as provided in ORS 305.280(2). The 90-day deadline from the date the Notice became final was May 7, 2015. As indicated above, Plaintiffs did not file their appeal until May 22, 2015. Plaintiffs missed the deadline for appealing to this court.

The court is not aware of any circumstances that extend the statutory limit of 90 days. Defendant's Motion to Dismiss is granted. Now, therefore,

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¹ Defendant's Notice was issued January 7, 2015. Thirty days from that date was February 6, 2015.

IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is granted.

The Complaint is dismissed.

Dated this ____ day of August 2015.

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.
TCR-MD 19 B.***

This document was filed and entered on August 11, 2015.