

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

BRITTANY ANN HAYES,)	
)	
Plaintiff,)	TC-MD 150420D
)	
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 November 24, 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 came before the court on Defendant’s Motion to Dismiss, filed September 30, 2015. Plaintiff filed her Complaint on September 11, 2015, appealing Defendant’s Notice of Proposed Adjustment and/or Distribution (Notice), dated April 29, 2015. Defendant moved to dismiss Plaintiff’s Complaint as untimely. At the case management conference, held by telephone on October 19, 2015, Plaintiff agreed to submit a written response to Defendant’s Motion to Dismiss, postmarked by November 18, 2015. The court has not received Plaintiff’s response to Defendant’s Motion to Dismiss.

Under ORS 305.280(2),¹ an appeal to this court from a proposed adjustment must be filed “within 90 days after the date the notice of adjustment is final.” Where—as here—a notice of proposed adjustment does not result in a deficiency, it becomes final after 30 days if the taxpayer

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¹ The court’s references to the Oregon Revised Statutes (ORS) are to 2013.

has neither requested a conference nor filed a written objection with the Department of Revenue. ORS 305.270(5)(b), (4)(b).

Here, Plaintiff has not alleged that she filed a written objection or requested a conference with Defendant within 30 days of the date of its Notice. That Notice therefore became final on May 29, 2015, and Plaintiff's deadline to appeal to this court was August 27, 2015. Plaintiff's Complaint, filed September 11, 2015, was untimely. Now, therefore,

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

Dated this ____ day of December 2015.

RICHARD DAVIS
MAGISTRATE

If you want to appeal this Final 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 Final Decision or this Final Decision cannot be changed. TCR-MD 19 B.

This document was filed and entered on December 15, 2015.