

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

DAVID O. ANDERSEN,)	
)	
Plaintiff,)	TC-MD 160013R
)	
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 February 29, 2016. On March 11, 2016, the court received a letter from Plaintiff requesting information regarding the appeal process. Further information regarding the appeal process, as provided by Tax Court Rule-Magistrate Division (TCR-MD) 19, is appended to this Final Decision of Dismissal below the signature line. 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 (Motion), on the grounds that Plaintiff failed to appeal within the 90 days required by ORS 305.280(2).

Attached to its Motion, Defendant provided a copy of the Notice of Assessment that was mailed to Plaintiff on July 8, 2015. (Def’s Mot at 2.) Plaintiff’s Complaint was deemed filed on January 8, 2016.¹ This interval is longer than the 90 days required by ORS 305.280(2), which 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

¹ ORS 305.418 provides that complaints received by the Oregon Tax Court “shall be deemed filed * * * on the date shown by the post-office cancellation mark stamped upon the envelope containing it[.]”

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.”

In his response, Plaintiff failed to identify any circumstances that would allow the court to extend the deadline. ORS 305.280(3) provides that “an appeal from a notice of assessment of taxes imposed under ORS chapter 314 * * * may be filed within two years after the date the amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.” Plaintiff does not claim to have paid, nor does he provide any evidence that he paid the amount shown on the notice, therefore the two year appeal period is not applicable. Defendant’s Motion to Dismiss is granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant’s Motion to Dismiss is allowed. Plaintiff’s appeal is dismissed.

Dated this ____ day of March 2016.

RICHARD DAVIS
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 March 18, 2016.