

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

ANNE M. CLARE,	)	
	)	
Plaintiff,	)	TC-MD 160221R
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION<sup>1</sup></b>

This matter is before the court on Plaintiff’s oral agreement, made at the case management conference held telephonically on June 30, 2016, to accept the partial relief offered by Defendant in its Answer. Plaintiff’s Complaint appealed Defendant’s Notice of Deficiency for the 2014 tax year. Defendant’s Answer agreed to adjust Plaintiff’s 2014 Oregon income tax return to result in a net income tax of \$1,112.

At the case management conference, Plaintiff requested the recovery of her filing fee and the court informed her that her request must be filed within 14 days of entry of the court’s decision, as required by the Tax Court Rule–Magistrate Division (TCR-MD) 16 C(1). The court’s Decision was entered June 30, 2016, and Plaintiff’s letter requesting recovery of her filing fee was filed July 8, 2016.

Although this court has discretion under TCR-MD 16 A and B to award costs—including the filing fee—to a prevailing party, “where taxpayers fail to timely and properly file returns \* \* \* this court may decline to award costs even if taxpayers ultimately prevail in their appeal.”

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<sup>1</sup> This Final Decision incorporates the court’s Decision, entered June 30, 2016, and contains additional analysis pertaining to Plaintiff’s statement of costs and disbursements, July 8, 2016.

*Wihitol v. Multnomah County Assessor*, TC-MD 120762N, WL 274126 at \*5 (Or Tax M Div, Jan 24, 2014).

In this case, Plaintiff admitted that it was an error in her return that lead to Defendant's audit and her appeal. Only after filing the Complaint did Plaintiff supply the information that was the basis for the parties' agreement to partial relief. Because this appeal was made necessary by Plaintiff's own error, the court declines to award her filing fee. Now, therefore,

IT IS THE DECISION OF THIS COURT that, based on the agreement of the parties, Defendant shall adjust Plaintiff's 2014 Oregon income tax return to result in a net income tax of \$1,112.

IT IS FURTHER DECIDED that Plaintiff's request for an award of her filing fee is denied.

Dated this \_\_\_\_ day of July, 2016.

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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 July 21, 2016.***