

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

VINCE EDWARD BREIDING,)	
)	
Plaintiff,)	TC-MD 160226N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION¹

This matter came before the court on its own motion.

Plaintiff filed his Complaint on May 13, 2016, requesting that the court abate the assessment of 2009 and 2010 taxes. During the case management, held on August 1, 2016, Plaintiff agreed to file his 2009 and 2010 tax returns; Defendant agreed to file written recommendations with the court, and Plaintiff agreed to file a written response to Defendant’s recommendations.

On October 14, 2016, Defendant filed written recommendations acknowledging receipt of Plaintiff’s returns and stating that it “will be accepting the returns with small adjustments.” (Def’s Recommendation at 1.) Plaintiff’s 2009 return showed a refund of \$139, but Defendant stated it cannot issue a refund more than “[three] years from the due date of the return.” (*Id.* at 1, Ex A.) For the 2010 tax year, Plaintiff’s return showed a tax to pay of \$2,819, but Defendant “adjusted the federal tax subtraction and the standard deduction * * * result[ing] in a reduced amount of tax plus statutory penalty and interest.” (*Id.* at 1, Ex B.) For the 2010 tax year, Defendant calculated Plaintiff’s tax to pay to be \$2,572. (*Id.* at Ex D.)

¹ This Final Decision incorporates without change the court’s Decision, entered November 25, 2016. The court did not receive a statement of costs and disbursements within 14 days after its Decision was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

Plaintiff agreed to file a written response to Defendant's recommendations by October 28, 2016. The court did not receive a response from Plaintiff. On November 7, 2016, the court issued an Order requiring Plaintiff to file a written response to Defendant's recommendations. The court warned that Plaintiff's failure to respond would result in the court issuing a written decision adopting Defendant's recommendations. As of the date of this Decision, the court has not received a response or any further communication from Plaintiff. The case is ready for decision. Now, therefore,

IT IS THE DECISION OF THIS COURT that, Plaintiff's 2009 return is accepted as filed, however Defendant cannot issue the refund of \$139.

IT IS FURTHER DECIDED that, for the 2010 tax year, Plaintiff's tax to pay is \$2,572.

Dated this ___ day of December 2016.

ALLISON R. BOOMER
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 12, 2016.