

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

CLINTON NELSON,	)	
	)	
Plaintiff,	)	TC-MD 180088R
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION OF DISMISSAL</b> <sup>1</sup>

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).<sup>2</sup>

A review of Plaintiff’s materials shows the Written Objection Determination related to Defendant’s Proposed Refund Adjustment and Offset was mailed to Plaintiff on November 16, 2017. The Complaint was filed on March 14, 2018.<sup>3</sup> 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 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.”

Plaintiff’s response to the Motion appears to show that he had provided documents Defendant has previously requested. However, the issue before the court is whether Plaintiff timely appealed Defendant’s refund adjustment and the subsequent objection determination.

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<sup>1</sup> This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered June 13, 2018. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. See Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

<sup>2</sup> The court’s references to the Oregon Revised Statutes are to 2017.

<sup>3</sup> Plaintiff’s Complaint was postmarked on this date. ORS 305.418(1).

Plaintiff did not provide documents relevant to that inquiry. 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,

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

Dated this \_\_\_\_ day of July 2018.

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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 signed by Magistrate Davis and entered on July 3, 2018.***