

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

VICTORIA REYNOLDS,)	
)	
Plaintiff,)	TC-MD 180240N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL¹

This matter came before the court on Defendant’s motion to dismiss Plaintiff’s appeal as untimely, contained in its Answer, filed June 14, 2018.

Plaintiff appeals Defendant’s Notice of Proposed Refund Adjustment and Offset for the 2015 tax year, which was mailed to Plaintiff on May 3, 2016. ORS 305.280(2)², provides the applicable time period for filing an appeal:

“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.”

A notice of proposed adjustment becomes final after 30 days if no written objection or conference request is made. *See* ORS 305.270(5)(b), (4)(b). Neither party alleges that Plaintiff timely made a written objection or conference request. Thus, Plaintiff’s Notice of Proposed

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¹ This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered August 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).

² The court’s references to the Oregon Revised Statutes (ORS) are to 2015.

Refund Adjustment became final on June 2, 2016. Plaintiff's appeal was not filed until May 2018, which is more than 90 days after the notice became final.

Plaintiff also included with her materials a Notice of Amended Return Denial from Defendant, dated May 9, 2017. To the extent that Plaintiff appeals that notice, an appeal under ORS 305.275 must be filed within 90 days of the act, omission, order or determination became known to the taxpayer. ORS 305.280(1). The court is not aware of any authority extending that deadline and Plaintiff presented no further information to the court. Defendant's motion to dismiss is granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's motion to dismiss is granted. Plaintiff's appeal is dismissed.

Dated this ____ day of August 2018.

ALLISON R. BOOMER
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 Allison R. Boomer and entered on August 31, 2018.