

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

RICHARD L. EDWARDS	)	
and MARIA E. EDWARDS,	)	
	)	
Plaintiffs,	)	TC-MD 180361N
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION OF DISMISSAL<sup>1</sup></b>

This matter came before the court on Defendant’s motion to dismiss (motion), filed with its Answer on November 26, 2018. A case management conference was held on December 17, 2018, during which the parties discussed Defendant’s motion. Plaintiffs declined to file a written response to Defendant’s motion. This matter is now ready for decision.

A. *Defendant’s Motion*

Plaintiffs’ Complaint was filed October 29, 2018,<sup>2</sup> challenging Defendant’s Notice of Proposed Refund Adjustment (Notice), dated February 12, 2018. Defendant moved to dismiss Plaintiffs’ Complaint because their time to file an appeal under ORS 305.280(2) expired 120 days from the Notice date on June 12, 2018. (Def Ans at 1.) During the case management conference, Plaintiffs’ representative gave two reasons for Plaintiffs’ delay in receiving the Notice and filing an appeal: first, Richard Edwards is in the Foreign Service and travels frequently; and, second, Plaintiffs’ mailing address on file with Defendant is not their primary

---

<sup>1</sup> This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered December 20, 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> A complaint is deemed filed on the postmark cancellation date shown upon the envelope. ORS 305.418.



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

Plaintiffs' Complaint is dismissed.

Dated this \_\_\_\_ day of January 2019.

---

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 January 8, 2019.***