

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

JENNIFER M. KACZYNSKI,)	
)	
Plaintiff,)	TC-MD 111155D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s Motion to Dismiss on the ground that Plaintiff failed to appeal within the 90 days required by ORS 305.280(2).

A case management conference was held February 21, 2012. Plaintiff appeared on her own behalf. Kyle Quiring (Quiring), Tax Auditor, appeared on behalf of Defendant.

A review of the parties’ materials shows the 2009 Notice of Deficiency Assessment was mailed to Plaintiff on January 19, 2011. The Complaint was filed on October 19, 2011. This interval is longer than the 90 days required by ORS 305.280(2) (2009), which provides:

“An appeal under ORS 323.416 * * * 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.”

The court is not aware of any circumstances that extend the statutory limit of 90 days. Defendant’s Motion to Dismiss is granted. Quiring stated that he will send Plaintiff a form to file a doubtful liability request with Defendant.

Plaintiff appealed tax year 2003. Defendant’s Answer, filed February 1, 2012, stated that “Defendant did not adjust or change the Plaintiff’s 2003 Oregon income tax return.” Plaintiff

stated that she is appealing the “financial hardship.” Plaintiff stated that she is now working and will contact Defendant to set up a payment plan. There is no justiciable issue before the court.

Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant’s Motion to Dismiss is allowed.

The Complaint is dismissed.

Dated this ____ day of February 2012.

JILL A. TANNER
PRESIDING MAGISTRATE

If you want to appeal this 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 Decision or this Decision becomes final and cannot be changed.

This document was signed by Presiding Magistrate Jill A. Tanner on February 27, 2012. The Court filed and entered this document on February 27, 2012.