

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

PHONG Q. PHAM)	
and PHUONG MAI NGUYEN,)	
)	
Plaintiffs,)	TC-MD 111157N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiffs filed their Complaint on October 25, 2011, challenging Defendant’s Notices of Deficiency Assessment for the 2009 and 2010 tax years. A case management conference was held on January 23, 2012. During that conference, Plaintiff Phuong Mai Nguyen stated that she sent additional information and documents to Defendant on or around January 18, 2012. The parties agreed to a schedule by which Defendant would review the additional information provided by Plaintiffs and file recommendations. Plaintiffs agreed to state whether Defendant’s recommendations are accepted in full or in part, the appeal is withdrawn, or a trial is requested.

On February 10, 2012, Defendant submitted written Recommendations stating that Plaintiffs “are entitled to an additional six exemptions for tax years 2009 and 2010.” Defendant further stated that “Plaintiffs have not provided copies of SSI income received by Hiep Tien Nguyen for tax years 2009 and 2010. Without that information, I cannot allow the exemption for Hiep in tax years [2009] and 2010.” On March 1, 2012, Plaintiff Phuong Mai Nguyen submitted a “letter of social security payment paid for Hiep Tien Nguyen for the year of 2009-2011” and requested that Defendant “reconsider Hiep Tien Nguyen as [her] dependent.”

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On March 6, 2012, Defendant filed Revised Recommendations stating that, “[b]ased on the copies of the social security statements for tax years 2009 and 2010, Hiep Tien Nguyen supported himself. * * * In addition, since Hiep does not qualify for an IEP or IFSP as discussed in my first recommendation to the court, the exemption for disabled child cannot be allowed either.” Defendant continued to recommend that Plaintiffs be allowed “an additional six dependents for tax years 2009 and 2010.” (Def’s Revised Recommendations at 1.)

On March 7, 2012, the court issued a Journal Entry stating that, by March 21, 2012, Plaintiffs shall file, copy to Defendant, a written response stating whether Defendant’s revised recommendations are accepted or a trial is requested. As of the date of this Decision, the court has received no further communication from Plaintiffs. Under such circumstances, the court would ordinarily dismiss Plaintiffs’ appeal for lack of prosecution. However, Defendant recommends that Plaintiffs be allowed “an additional six dependents for tax years 2009 and 2010.” Now, therefore,

IT IS THE DECISION OF THIS COURT that, for tax years 2009 and 2010, Plaintiffs are entitled to claim six dependent exemptions.

Dated this ____ day of March 2012.

ALLISON R. BOOMER
MAGISTRATE PRO TEMPORE

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 Magistrate Pro Tempore Allison R. Boomer on March 29, 2012. The Court filed and entered this document on March 29, 2012.