

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

JAMES SEAMUS CORBETT	)	
and BRENDA M. CORBETT,	)	
	)	
Plaintiffs,	)	TC-MD 111301C
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION OF DISMISSAL</b>

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

A review of Plaintiffs’ materials shows the Notice of Deficiency and Assessment was mailed to Plaintiffs on June 28, 2011. The Complaint was filed on December 29, 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, 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. Denzile E. Hanke, Licensed Tax Consultant, appeared on behalf of Plaintiffs at the case management conference held on March 26, 2012. During that case management conference, Plaintiffs conceded their appeal to the Magistrate Division was beyond the statutory limit. Plaintiffs stated they would pursue Doubtful Liability relief. Defendant’s Motion to Dismiss is granted. Now, therefore,

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IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is granted.

The Complaint is dismissed.

Dated this \_\_\_\_ day of April 2012.

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DAN ROBINSON  
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 Magistrate Dan Robinson on April 4, 2012. The Court filed and entered this document on April 4, 2012.***