

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

CAMILLE PURDIN)	
and MICHAEL PURDIN,)	
)	
Plaintiffs,)	TC-MD 120216D
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

On April 5, 2012, Plaintiffs filed a Complaint challenging Defendant’s denial of their “water workers exemption” for tax years 2008, 2009, and 2010, as reflected in Defendant’s Notices of Deficiency Assessment, dated January 18, 2012. (Ptf’s Second Amend Compl at 1; Ptf’s First Amend Compl at 2-4.) The court held a case management conference on July 18, 2012, to discuss Plaintiffs’ appeal.

On July 19, 2012, the court issued a Journal Entry instructing Plaintiffs to submit additional documentation to Defendant, following which Defendant was to file written recommendations. (Journal Entry at 1.) Furthermore, the Journal Entry instructed Plaintiffs to file a response to Defendant’s recommendations no later than 14 days from the date of those recommendations. (*Id.*) The Journal Entry advised that Plaintiffs’ failure to comply with the deadline set forth therein might result in dismissal of Plaintiffs’ appeal. (*Id.*)

Defendant submitted its recommendation on August 31, 2012, advising the court that, based upon Plaintiffs’ additional documentation, Defendant “agrees that 51% of [Plaintiff Michael Purdin’s] wages for the calendar year 2008 should be excluded from the Oregon column of the 2008 Nonresident return.” (Def’s Status Report at 1.) However, Defendant stated that

“Defendant disagrees that sufficient documentation has been provided to support [Plaintiffs’ requested relief] for the years 2009 and 2010.” (*Id.*) As a result, Defendant requested “partial abatement” of Defendant’s assessment for the 2008 tax year and asked the court to uphold the assessments for tax years 2009 and 2010. (*Id.*)

Plaintiffs’ deadline to respond to Defendant’s recommendations has now passed and the court has not received a response or any further communication from Plaintiffs. Under such circumstances, the court would ordinarily dismiss this case for lack of prosecution due to Plaintiffs’ failure to respond. However, in its recommendations, Defendant states that it agrees Plaintiffs are entitled to partial relief. Specifically, Defendant states “that 51% of [Plaintiff Michael Purdin’s] wages for the calendar year 2008 should be excluded from the Oregon column of the 2008 Nonresident return.” (Def’s Status Report at 1.) Even though Plaintiffs have failed to respond, the court will grant Defendant’s recommended partial relief. Now, therefore,

IT IS THE DECISION OF THIS COURT that, for tax year 2008, Defendant shall revise its Notice of Deficiency Assessment, dated January 18, 2012, to reflect the exclusion of 51 percent of Plaintiff Michael Purdin’s wages from the Oregon column of Plaintiffs’ 2008 Nonresident return. Penalty and interest shall be adjusted accordingly.

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IT IS FURTHER DECIDED that, for tax years 2009 and 2010, Plaintiffs' appeal is dismissed.

Dated this ____ day of September 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 Decision was signed by Presiding Magistrate Jill A. Tanner on September 21, 2012. The Court filed and entered this Decision on September 21, 2012.