

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ED CARLSON PAINTING, INC., EDWARD)		
CARLSON, and DONNA CARLSON,)		
)	
Plaintiffs,)		TC-MD 130158N
)	
v.)		
)	
DEPARTMENT OF REVENUE,)		
State of Oregon,)		
)	
Defendant.)		FINAL DECISION

Plaintiffs appeal Defendant’s conference decision, issued March 5, 2013, for the 2009 tax year. (Ptf’s Compl at 5.) A case management conference was held in this matter on July 23, 2013, during which the parties agreed to meet and review additional information provided by Plaintiffs. The parties further agreed that, following their meeting, Defendant would file written recommendations with the court and Plaintiffs would file a written response to Defendant’s recommendations. The parties’ agreement was memorialized in a Journal Entry issued by the court on July 24, 2013, which advised that Plaintiffs’ failure to fulfill the agreement set out in the Journal Entry might result in dismissal of Plaintiffs’ appeal.

On August 20, 2013, Defendant filed its written recommendations. Defendant’s authorized representative “recommend[ed] the following changes to [his] audit adjustments:

- “1. Reduce the phone adjustment of \$3,577 by 60%. [He has] determined that was the percentage of business use.
- “2. Reduce the cell phone and utilities adjustment 100% \$1,324.
- “3. Make no changes to the car and truck audit adjustments.
- “4. Reduce the under-reporting of income adjustment from \$57,739 to \$44,439.
* * * Plaintiff[s] have supported an additional \$13,300 in non-taxable deposits.”

(Def's Ltr at 1, Aug 20, 2013.) Plaintiffs agreed to file a written response to Defendant's recommendations by September 3, 2013, stating whether Defendant's recommendations are accepted in full or in part; the appeal is withdrawn; or trial is requested.

Plaintiffs failed to file a written response by September 3, 2013. The court issued an Order on September 12, 2013, requiring Plaintiffs to file, within 14 days of the court's Order, a signed, stipulated agreement; a written request to withdraw this appeal; or three mutually convenient trial dates. The court's Order warned that Plaintiffs' failure to comply might result in dismissal of Plaintiffs' appeal. As of the date of this Decision, the court has not received Plaintiffs' written response or any further communication from Plaintiffs. Even though Plaintiffs failed to respond to the court's Order, the court accepts Defendant's recommendations and grants Plaintiffs' partial relief as recommended by Defendant. Now, therefore,

IT IS THE DECISION OF THIS COURT that, for the 2009 tax year, Defendant shall revise its conference decision adjustments to reduce its phone adjustment of \$3,577 by 60 percent; remove its cell phone and utilities adjustment of \$1,324; and reduce the under-reported income adjustment from \$57,739 to \$44,439.

Dated this ____ day of October 2013.

ALLISON R. BOOMER
MAGISTRATE

If you want to appeal this Final 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 Final Decision or this Final Decision cannot be changed.

This document was signed by Magistrate Allison R. Boomer on October 8, 2013. The court filed and entered this document on October 8, 2013.