

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

MARIA RODRIGUEZ,)
)
 Plaintiff,) TC-MD 130235C
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 State of Oregon,)
)
 Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on Defendant’s Motion to Dismiss filed May 6, 2013 (Motion), on the ground that Defendant has abated the assessments from which Plaintiff appealed.

Plaintiff’s Complaint, filed April 18, 2013, appealed Defendant’s Notice of Liability dated March 28, 2013 (Notice). Under that Notice, Defendant held Plaintiff liable for certain withholding tax debts assessed to a corporation. Plaintiff attached to her Complaint a copy of an amendment to the corporation’s articles, filed with the Secretary of State, showing that Plaintiff had previously divested herself of all shares in the corporation.

In its Motion, Defendant alleges that the assessments shown in its Notice have now been abated. Attached to its Motion is a Release of Liable Entity dated May 7, 2013, which states that Defendant “reviewed additional information” and determined that Plaintiff was “not responsible for the above withholding tax debt.”

Plaintiff’s Complaint also contains a request that her “processing fee” be “reimburse[d].” While the extent of the court’s authority to refund filing fees remains undefined, here the filing

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fee is not refundable because the matter could have been resolved without an appeal if Plaintiff had provided Defendant with additional information. *See Bell v. Dept. of Rev.*, TC No 5089 (Aug 7, 2012); *Sebastian v. Dept. of Rev.*, TC-MD No 130034C (Apr 4, 2013).

Because Defendant has abated the assessments from which Plaintiff appealed and because Plaintiff's filing fee is not refundable, the court concludes the appeal should be dismissed. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter is dismissed.

Dated this ____ day of May 2013.

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 May 8, 2013. The Court filed and entered this document on May 8, 2013.