

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

JORGE L. VAZQUEZ,)	
)	
Plaintiff,)	No. 020801E
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant's motion to dismiss, filed as part of its Answer on June 5, 2002. The court discussed Defendant's motion with the parties during the case management conference held September 18, 2002. Jorge L. Vazquez appeared on his own behalf. Mike Halter, Auditor, appeared on behalf of Defendant.

Plaintiff appeals Defendant's Notice of Tax Assessment, dated November 29, 2001, for the 2000 tax year. Plaintiff filed his Complaint with this court on May 2, 2002. Defendant claims Plaintiff's appeal should be dismissed because he failed to file his appeal within the statutorily required 90-day period.

ORS 305.280(2)¹ provides that an appeal to this court from a notice of assessment "*shall* be filed within 90 days after the date of the notice." (Emphasis added.) Plaintiff admittedly failed to file his appeal within the required time period. As a consequence, the court finds Defendant's motion to dismiss must be granted.² Now, therefore,

IT IS THE DECISION OF THIS COURT that the above-entitled matter be

¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

² The court notes that, at the case management conference, the parties discussed having Plaintiff pursue relief at the Department of Revenue through its doubtful liability program. Plaintiff has already submitted the doubtful liability form and, as discussed, needs to submit additional information before Defendant can determine whether it should cancel or reduce the assessment.

dismissed.

Dated this _____ day of September, 2002.

COYREEN R. WEIDNER
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. 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 COYREEN R. WEIDNER ON SEPTEMBER 30, 2002. THE COURT FILED THIS DOCUMENT ON SEPTEMBER 30, 2002.