

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

MAURICE W. HOWE,)
)
 Plaintiff,) TC-MD 040725B
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 State of Oregon,)
)
 Defendant.) **DECISION and JUDGMENT**

This matter is before the court on Defendant’s motion to dismiss, contained in its Answer filed May 13, 2004, on the ground that Plaintiff failed to appeal within the 90 days required by ORS 305.280(2)¹.

A review of Plaintiff’s materials shows the Notice of Proposed Adjustment was mailed to Plaintiff June 19, 2003. It became final 30 days later. ORS 305.270. The Complaint was filed April 28, 2004. That interval is longer than the 90 days required by ORS 305.280(2), which provides, in part:

“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, 308A, 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 prevent the statutory limit of 90 days.

Defendant’s motion is granted. Now, therefore,

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¹All references to the Oregon Revised statutes (ORS) are to 2001.
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IT IS ADJUDGED that Defendant's motion to dismiss is allowed. The appeal is dismissed.

Dated this _____ day of October 2004.

JEFF MATTSON
MAGISTRATE

THIS DOCUMENT IS FINAL AND MAY NOT BE APPEALED. ORS 305.514.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON OCTOBER 21, 2004. THE COURT FILED THIS DOCUMENT OCTOBER 21, 2004.