

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

JOHN H. OTTING and LOIS E. OTTING, )  
 )  
 Plaintiffs, ) TC-MD 050049C  
 )  
 v. )  
 )  
 DEPARTMENT OF REVENUE, )  
 State of Oregon, )  
 )  
 Defendant. ) **DECISION OF DISMISSAL**

This matter is before the court on Defendant's Motion to Dismiss on the ground that Plaintiffs failed to appeal within the 90 days required by ORS 305.280(2).<sup>1</sup> The Department of Revenue issued a Conference Officer's Decision on October 5, 2004. The Complaint was filed on January 28, 2005. That interval is longer than the 90 days required by ORS 305.280(2).

The court is not aware of any circumstances that prevents the statutory limit of 90 days. Defendant's motion is granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is allowed. The Complaint is dismissed.

Dated this \_\_\_\_\_ day of August 2005.

---

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 August 3, 2005. The Court filed and entered this document August 3, 2005.***

---

<sup>1</sup> References to the Oregon Revised Statutes (ORS) are to 2003.