

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ANN PATCHEN,)	
)	
Plaintiff,)	TC-MD 050955C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the Court on Defendant’s motion to dismiss¹ Plaintiff’s appeal as untimely. The motion was heard by telephone on March 21, 2006. Plaintiff appeared on her own behalf. Defendant Department of Revenue (department) was represented by Nancy Grigorieff (Grigorieff), an auditor and certified public accountant working for the department.

I. STATEMENT OF FACTS

Defendant adjusted Plaintiff’s 2004 Oregon part-year return, resulting in a tax to pay of \$359 versus the \$100 refund Plaintiff requested on her return. Defendant issued a Notice of Assessment on July 19, 2005. Plaintiff’s complaint was filed November 23, 2005.

II. ANALYSIS

Under ORS 305.280(2),² a taxpayer has 90 days from the date of the notice to file an appeal with the Tax Court, Magistrate Division. Plaintiff missed that deadline by approximately one month. Plaintiff’s appeal must therefore be dismissed. Because the appeal is untimely, the court cannot entertain Plaintiff’s concerns regarding the validity of Defendant’s adjustments to her return. Plaintiff has filed a claim with Defendant for “doubtful liability”

¹ Defendant’s motion to dismiss was contained in its Answer, filed December 29, 2005.

² All references to the Oregon Revised Statutes (ORS) are to 2003.

under ORS 305.295(1)(d)(A), a claim which Grigorieff indicated the department would process after the Tax Court appeal is concluded and the assessment becomes final.

III. CONCLUSION

The court concludes that Plaintiff's appeal must be dismissed because she did not file her Complaint within 90 days after the Notice of Assessment was issued. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal is dismissed as untimely.

Dated this _____ day of March 2006.

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 March 30, 2006. The Court filed and entered this document March 30, 2006.