

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

DANIEL S. HANSHEW,)	
)	
Plaintiff,)	TC-MD 070590E
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s request that the court dismiss the above-entitled appeal because Plaintiff failed to appeal within the 90 days required by ORS 305.280(2).¹ The court discussed the timeliness of the appeal with the parties during the case management conference held August 22, 2007. Jerald Olsen, Certified Public Accountant, appeared on behalf of Plaintiff. Laurie Fery, Auditor, appeared on behalf of Defendant.

Plaintiff agrees Defendant mailed the Notice of Deficiency Assessment February 27, 2007. Plaintiff mailed his Complaint to the court June 12, 2007. That interval is longer than the 90 days required by ORS 305.280(2), which provides that an appeal from a notice of assessment “shall be filed within 90 days after the date of the notice.” (Emphasis added.) ORS 305.265(14) states that assessments “shall be final after the expiration of the appeal period specified in ORS 305.280[.]” (Emphasis added.)

The law provides that, once Defendant mails an assessment notice, the appeal period begins to run. Plaintiff failed to submit his appeal to this court within the 90-day appeal period. As a consequence, the court finds the appeal must be dismissed. Now, therefore,

///

¹ All references to the Oregon Revised Statutes (ORS) are to 2005.

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

Dated this _____ day of August 2007.

COYREEN R. WEIDNER
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 Coyreen R. Weidner on August 27, 2007. The Court filed and entered this document on August 27, 2007.