

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ADRIAN DEMETRES LAWRENCE,)	
)	
Plaintiff,)	TC-MD 070631B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s request¹ on the grounds that Plaintiff failed to appeal within the 90 days required by ORS 305.280(2).

Plaintiff admits the Complaint was submitted late. He explained that his child care provider was dilatory in providing receipts and that he earlier misplaced correspondence from Defendant. He claims that caused the filing to be nearly eight months late.

A review of the written materials shows the “Notice of Proposed Adjustment and/or Distribution” was mailed to Plaintiff on August 18, 2006. The Complaint was mailed on July 6, 2007. That interval is longer than the 90 days required by ORS 305.280(2) (2005), which reads in part:

“An appeal under ORS 323.416 or 323.623 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.”

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¹ Defendant included its request in its Answer filed August 3, 2007.

The court is not aware of any circumstances that extend the statutory limit of 90 days.²

Defendant's request is granted. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's request to dismiss is allowed.

The Complaint is dismissed.

Dated this _____ day of December 2007.

JEFFREY S. MATTSON
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 Jeffrey S. Mattson on December 6, 2007. The Court filed and entered this document on December 6, 2007.

² Defendant's Answer states Plaintiff had 120 days to appeal. The notice provides the taxpayer 30 days in which to request a conference with Defendant, at which time the notice becomes final. At this point, the taxpayer has 90 days to appeal to the Tax Court.