

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

SHANA RACHELLE STULL,)	
)	
Plaintiff,)	TC-MD 070834B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on Defendant’s motion to dismiss (motion), filed November 27, 2007, as part of its Answer, requesting that the Complaint be dismissed.

A case management conference was held on January 29, 2008, to discuss Defendant’s motion. Shana Rachelle Stull appeared on her own behalf. Leah R. Hinton, tax auditor, appeared for Defendant.

A Notice of Proposed Adjustment and/or Distribution (Notice) was mailed to Plaintiff’s address of record on July 20, 2007. It became final 30 days later on August 19, 2007. From that date, Plaintiff had 90 days to bring a timely appeal to this court.

Defendant contends that Plaintiff filed her appeal 92 days after the date of the Notice became final. Plaintiff stated she was occupied with other matters that caused her delay in filing. During the conference, Plaintiff acknowledged that she postmarked her Complaint to the court November 19, 2007, which is more than 90 days after the date the Defendant’s Notice became final. *See* ORS 305.280(2) (2005); *McDowell v. Dept. of Rev.*, TC-MD No 050812C (Nov 28, 2005) (citing ORS 305.280(2) and holding that taxpayer’s appeal filed three days after the statutory deadline must be dismissed).

///

Because Plaintiff acknowledges that the Complaint was filed after the statutory deadline, the court grants Defendant's motion. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this _____ day of May 2008.

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 May 2, 2008. The Court filed and entered this document on May 2, 2008.