

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

REBECCA A. HALL,	)	
	)	
Plaintiff,	)	TC-MD 080102C
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION OF DISMISSAL</b>

This matter is before the court on Defendant’s request for dismissal<sup>1</sup> on the ground that Plaintiff failed to appeal within the 90 days required by ORS 305.280.

A review of Plaintiff’s materials show that the Notices of Deficiency Assessment (notice) for tax years 2001 and 2003 were mailed to Plaintiff on October 17, 2005. The assessment notice for 2002 was issued April 26, 2005. The Complaint appealing all three tax years was filed on February 11, 2008. That interval is longer than the 90 days required by ORS 305.280(2),<sup>2</sup> which provides in relevant part that “[a]n appeal \* \* \* from any notice of assessment \* \* \* shall be filed within 90 days after the date of the notice.” Plaintiff intends to pursue innocent spouse relief through the Department of Revenue (department) as provided in ORS 316.369. If the department’s decision on that claim is unfavorable, Plaintiff may appeal that decision to this court within 90 days of the date of the denial per OAR 150-316.369(7).<sup>3</sup>

On the facts before it, the court finds Defendant’s request should be granted. Now, therefore,

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<sup>1</sup> Defendant’s request is contained in its Answer filed February 29, 2008.

<sup>2</sup> All references to the Oregon Revised Statutes (ORS) are to 2007.

<sup>3</sup> All references to the Oregon Administrative Rules (OAR) are to 2007.

IT IS THE DECISION OF THIS COURT that Defendant's request for dismissal is granted. The Complaint is dismissed.

Dated this \_\_\_\_\_ day of April 2008.

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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 on April 8, 2008. The Court filed and entered this document on April 8, 2008.***