

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

ROBERT B. WIEGAND)	
and JOANNE M. WIEGAND,)	
)	
Plaintiffs,)	TC-MD 080119D
)	
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 March 12, 2008, as part of its Answer, requesting that the Complaint be dismissed.

A case management conference was held on Wednesday, April 9, 2008, to discuss Defendant’s motion. Robert Wiegand (Plaintiff) appeared on behalf of Plaintiffs. Nancy Grigorieff, Certified Public Accountant and Tax Auditor, appeared on behalf of Defendant.

Defendant stated that Plaintiffs filed their appeal 91 days after the date of the Notice of Refund Denial (Notice), dated November 13, 2007. During the conference, Plaintiff acknowledged that Plaintiffs postmarked their Complaint February 12, 2008, which is 91 days after the date of Defendant’s Notice. *See* ORS 305.280(2) (2007); *McDowell v. Dept. of Rev.*, TC-MD No 050812C (November 28, 2005) (citing ORS 305.280(2) and holding that taxpayer’s appeal filed three days after the statutory deadline must be dismissed).

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Because Plaintiff acknowledges that their 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 April 2008.

JILL A. TANNER
PRESIDING 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 Presiding Magistrate Jill A. Tanner on April 16, 2008. The Court filed and entered this document on April 16, 2008.