

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

WESLEY E. ROUSHALL	)	
and MARGARET C. ROUSHALL,	)	
	)	
Plaintiffs,	)	TC-MD 101175B
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>DECISION</b>

Plaintiffs appealed the Notice of Deficiency Assessment for the 2009 tax year issued by Defendant on September 14, 2010. Plaintiffs requested a refund of “\$886 in taxes due them for tax year 2009” and a refund of the “\$75 appeal fee.” (Ptf’s Compl at 3.) A case management conference was held in this matter on February 8, 2011. Dave Tragethon appeared on behalf of Plaintiffs. Kevin Cole (Cole) appeared on behalf of Defendant. At that conference, the parties agreed that Plaintiffs would provide additional information and documents to Defendant, that Defendant would file written recommendations by March 4, 2011, and that Plaintiffs would file a written response to those recommendations by March 18, 2011. Those dates were memorialized in a Journal Entry issued February 8, 2011, which warned Plaintiffs that “failure to fulfill the agreement set out in [the] Journal Entry [would] result in dismissal of this appeal.”

On March 3, 2011, Cole filed a Status Report stating that, “[b]ased on the information provided the Defendant recommends the Notice of Deficiency Assessment be cancelled in full and allow the Plaintiff a refund of \$886 as originally requested.” As of the date of this Decision, the court has received no further communication from Plaintiffs. Under such circumstances, the court will grant the relief recommended by Cole in his Status Report of March 3, 2011.

Plaintiffs also requested in their Complaint that the court refund the \$75 fee paid to file this appeal. ORS 305.490(1) (2009) states that “Plaintiffs or petitioners filing a complaint or petition in the tax court shall pay a filing fee at the time of filing for each complaint or petition[.]” There is no provision in the statutes or court rules for a refund of that fee.

Accordingly, Plaintiffs request must be denied. Now, therefore,

IT IS DECIDED that for tax year 2009, Defendant shall revise its Notice of Deficiency Assessment, dated September 14, 2010, to reflect a refund due of \$886 with statutory interest, if any; and

IT IS FURTHER DECIDED that Plaintiffs request for a refund of the \$75 fee is denied.

Dated this \_\_\_\_ day of April 2011.

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ALLISON R. BOOMER  
MAGISTRATE PRO TEMPORE

***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 Pro Tempore Allison R. Boomer on April 6, 2011. The Court filed and entered this document on April 6, 2011.***