

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

VICTOR G. MONTES)
and MARIBEL GUTIERREZ,)
)
Plaintiffs,) TC-MD 101282C
)
v.)
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant.) **DECISION OF DISMISSAL**

This matter is before the court on Defendant’s Motion to Dismiss on the ground that Plaintiffs failed to appeal within the 90 days required by ORS 305.280(2).¹

A review of Plaintiffs’ materials shows the Notice of Assessment was mailed to Plaintiffs on August 17, 2010. The Complaint was filed on November 22, 2010. This interval is longer than the 90 days required by ORS 305.280(2), which provides:

“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, 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.”

The court is not aware of any circumstances that extend the statutory limit of 90 days. Defendant’s Motion to Dismiss is granted. Now, therefore,

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¹ All references to the Oregon Revised Statutes (ORS) are to 2009.

IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is granted.

The Complaint is dismissed.

Dated this ____ day of April 2011.

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 27, 2011. The Court filed and entered this document on April 27, 2011.