

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

TOBY KYLE NAUGHT,)	
)	
Plaintiff,)	TC-MD 110133N
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on its own motion to dismiss this case for lack of prosecution.

A case management conference was held in this matter on May 18, 2011, during which the parties agreed to a schedule by which to exchange and review information. On May 20, 2011, the court sent the parties a Journal Entry memorializing the deadlines agreed upon by the parties. That Journal Entry warned that Plaintiff's failure to comply with the deadlines set forth therein would result in dismissal of Plaintiff's appeal.

As agreed upon by the parties, Defendant filed written recommendations on June 22, 2011. Defendant stated that "Plaintiff provided a Record of Account from the IRS and a cancelled check in the amount of \$2,439 written out to the United States Treasury on July 28, 2009." (Def's Recommendation at 1.) Defendant requested that "the Notice of Assessment of Deficiency dated March 15, 2011[,] be upheld. The cancelled check provided proved that Plaintiff paid the IRS, not the Oregon Department of Revenue." (*Id.*)

As stated in the May 20, 2011, Journal Entry, Plaintiff was to respond in writing to Defendant's Recommendation, stating whether "Defendant's recommendations are accepted in full or in part; Plaintiff's appeal is withdrawn; or a trial is requested." As of the date of this

Decision, the court has received no further communication from Plaintiff. As a consequence, the court finds this matter should be dismissed for lack of prosecution. Now, therefore,

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

Dated this ____ day of July 2011.

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 July 20, 2011. The Court filed and entered this document on July 20, 2011.