

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Income Tax

TOD KENAGY ELECTRIC, INC.,)	
)	
Plaintiff,)	No. 980066
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION OF DISMISSAL

This matter is before the court on its own motion to dismiss the above-entitled appeal for want of prosecution by plaintiff.

On May 24, 2001, the court sent plaintiff's representative, Gary P. Compa, a letter asking that he inform the court of the status of the case. The court sent this letter after receiving no response from Mr. Compa to its telephone messages. The letter advised that failure to respond to the court's letter would result in dismissal. The letter stated, in its entirety:

"On July 20, 1998, the court placed the above-referenced case in abeyance based on the parties' representation that a federal appeal was in progress involving the same tax years. In November 1999, the court called to inquire about the status of the federal case. You advised that you were still working with the service and wanted the case to remain in abeyance. On January 25, 2001, the court called again to inquire about the status of the case. You advised the case had been closed for some time and that you would send something to the court to confirm this fact. The court, having not received any communication from you, left a telephone message for you on May 4, 2001, requesting that you return the court's call. Not receiving any response, the court called you on May 17, 2001, and left another message asking you to return the court's call.

"Given the status of this case, the court requests that you advise the court in writing by June 7, 2001, as to how you wish to proceed with this appeal. **If the court does not receive any written communication from you by June 7, 2001, it will dismiss the case for lack of prosecution.**" (Court's Letter 5/24/01).

As of this date, the court has not received any response to its request. Given the status of the case, the court finds the case should be dismissed for want of prosecution.

Now, therefore;

IT IS THE DECISION OF THIS COURT that the above-entitled appeal is reactivated; and

IT IS FURTHER DECIDED that the above-entitled appeal is dismissed.

Dated this _____ day of June, 2001.

COYREEN R. WEIDNER
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. 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 COYREEN R. WEIDNER ON JUNE 25, 2001. THE COURT FILED THIS DOCUMENT ON JUNE 25, 2001.