

IN THE OREGON TAX COURT
REGULAR DIVISION
Income Tax

CHINA MANUFACTURERS ALLIANCE)
LLC, a California limited liability company;)
and)
CHENG SHIN RUBBER USA, INC., a)
Georgia corporation,)
)
Plaintiffs,) **TC 5240**
v.)
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant.) **ORDER GRANTING DISMISSAL**

This matter is before the court on the motion of Defendant (the department) to dismiss the complaint of Plaintiffs (taxpayers). Neither party has requested a hearing on the motion pursuant to Tax Court Rule (TCR) 14 F(1).

The complaint in this Corporation Excise Tax case seeks a declaratory judgment that they are protected from taxation by the state of Oregon by reason of a federal statute and provisions of the Constitution of the United States.

The complaint was filed after the department began to investigate whether taxpayers had a duty to file tax returns in Oregon. Just prior to formal assessments of tax by the department, taxpayers brought this action.

The Tax Court has the authority to issue declaratory judgments. However, this court has concluded that actions for declaratory relief should not be continued where there are other

procedures available. That is especially true when a procedure available to a plaintiff is to challenge action of the department or other government in the Magistrate Division of this court.

In *Wynne v. Dept. of Rev.*, 342 Or 515, 156 P3d 64 (2007), the Oregon Supreme Court acknowledged the legislative purpose in having tax disputes proceed, in most cases, through the Magistrate Division of this court.

The motion of the department is granted. The motions of taxpayers to strike and for sanctions and the department's request for sanctions are denied.

Counsel for the department is directed to submit a form of judgment. Now, therefore, IT IS ORDERED that Defendant's Motion to Dismiss is granted.

Dated this ____ day of April, 2015.

Henry C. Breithaupt
Judge

***THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUPT ON
APRIL 1, 2015, AND FILED THE SAME DAY. THIS IS A PUBLISHED DOCUMENT.***