

IN THE OREGON TAX COURT
REGULAR DIVISION
Income Tax

THEODORE P. MOFFITT,)
)
Plaintiff,) **TC 5284**
v.)
)
DEPARTMENT OF REVENUE,)
State of Oregon,)
)
Defendant.) **ORDER GRANTING DISMISSAL**

This matter comes before the court on Defendant's Motion to Dismiss, filed on December 28, 2016. In its motion, Defendant also requested this court to award frivolous appeal damages on the ground that Plaintiff has no objectively reasonable basis for his appeal to this court. *See* ORS 305.437(1).¹ Plaintiff did not file a response. Neither party requested a hearing. After reviewing the motion and being fully advised of the premises, the court finds that such request should be granted. Now, therefore,

IT IS ORDERED that Defendant's Motion to Dismiss is granted; and

IT IS FURTHER ORDERED that pursuant to the provisions of ORS 305.437, Defendant shall be awarded a money judgment against Plaintiff for damages in the amount of \$1,000 in lieu of any award made by the magistrate.

THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUP ON JANUARY 13, 2017, AND FILED THE SAME DAY. THIS IS A PUBLISHED DOCUMENT.

¹ The court's references to the Oregon Revised Statutes (ORS) are to the 2013 edition.