

Enrolled
House Bill 2236

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Revenue)

CHAPTER

AN ACT

Relating to property tax refunds; creating new provisions; amending ORS 311.806; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 311.806 is amended to read:

311.806. (1) Subject to subsection (2) of this section, the county governing body shall refund, out of the refund reserve account provided in ORS 311.807, or the unsegregated tax collections account provided in ORS 311.385, taxes on property collected by an assessor or tax collector pursuant to a levy of the assessor or of any taxing district or tax levying body or pursuant to ORS 311.255, plus interest [*thereon*] as provided in ORS 311.812, in the following cases:

(a) To the person described in ORS 309.100 (1) and in whose name a petition was filed, whenever a change in the value of property is ordered by a county board of property tax appeals and no appeal is taken or can be taken from the board's order, or whenever ordered by the Oregon Tax Court or the Supreme Court and the order constitutes a final determination of the matter;

(b) To the person who has sought and obtained an order from the Department of Revenue under ORS 306.115, whenever a change in the value of property is ordered by the department and no appeal is taken or can be taken from the order of the department;

(c) To the person who meets the criteria described in ORS 305.275 and in whose name an appeal is filed under ORS 305.275, whenever ordered by the Oregon Tax Court or Supreme Court and the order constitutes a final determination of the matter;

(d) Whenever a change in the value of property is made under ORS 309.115 upon resolution of an appeal and no separate appeal of the value of the property was taken for the year of the change:

(A) To the person in whose name the appeal was filed, for each year after the year for which the appeal was filed in which that person was listed as the owner or an owner or the person in whose name the property was assessed; and

(B) To the owner of record on the tax roll at the time of refund, each year thereafter;

(e) To the owner of record on the tax roll at the time of refund, whenever taxes are collected against real or personal property not within the jurisdiction of the tax levying body;

(f) Except as provided in ORS 310.143, to the owner of record on the tax roll at the time of refund, whenever, through excusable neglect[,] or through an error subject to correction under ORS 311.205, taxes on property are paid in excess of the amount legally chargeable, **limited to** [*thereon, and then only in*] the amount of money collected in excess of the amount actually due; or

(g) Except as provided in ORS 311.808, to the payer of the tax whenever any person pays taxes on the property of another by mistake of any kind.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a refund of taxes may not be allowed or made after six years from the assessment date for the tax year for which the taxes were collected. **A refund under this subsection may be paid only to the extent that a refund under subsection (4) of this section has not been paid.**

(b) A refund of taxes may be allowed or made under subsection (1)(f) or (g) of this section after the period described in paragraph (a) of this subsection if, before the expiration of the period, a written claim for refund of the taxes is filed by the taxpayer with the county governing body.

(c) The county governing body shall order a refund of taxes to be paid as specified in subsection (1) of this section without the filing of a written claim and without regard to the period specified under paragraph (a) of this subsection upon receipt of a copy of an order by the Department of Revenue, the Oregon Tax Court or the Supreme Court that constitutes a final determination that is not subject to appeal.

(3)(a) Upon request of the owner or an owner of any taxable property or the person in whose name the property is assessed, or the owner of record on the tax roll at the time of refund, whichever is applicable, and with the approval of the tax collector, the county governing body may authorize refunds payable under subsection (1)(a) to (e) of this section to be made by crediting the total tax liability account of the requester with the amount of the refund. The total tax liability account is the total amount of tax that has been extended or charged against a particular property tax account as limited by section 11b, Article XI of the Oregon Constitution.

(b) In the case of a refund or credit payable to a single requester that results from an order constituting a final determination of a matter as described under subsection (1)(a), (b) or (c) of this section, a county governing body may elect to pay the refund or apply the credit in equal periodic installments over not more than the five-year period that begins on the date that the order is issued if the amount to be refunded or credited exceeds the lesser of \$250,000 or one-quarter of one percent of the total amount of taxes on property imposed within the county within the limits of section 11b, Article XI of the Oregon Constitution, as listed on the certificate last prepared under ORS 311.105.

(c) If a county governing body elects to pay a refund or credit under the provisions of paragraph (b) of this subsection, and the election will result in a hardship to a requester, the requester may appeal the election to the tax court as provided in ORS 305.404 to 305.560.

(4)(a) The tax collector shall refund taxes paid on a property value, a claim for exemption or a claim for cancellation of a property tax exemption if:

(A) A county board of property tax appeals or the Oregon Tax Court issues a decision that could result in a refund if the decision is upheld on appeal;

(B) The final resolution is pending further appeal; and

(C) The county governing body orders a refund of taxes paid under this subsection.

(b) An order by a county governing body or a recommendation of an assessor or tax collector in regard to this subsection may not be considered in determining matters in controversy on appeal, including property value or tax liability.

(c) Interest may not be paid on any refund under this subsection prior to final resolution of the appeal. If, after taking into account the amount refunded under this subsection, the final resolution of the controversy after appeal results in a refund due, interest shall be determined and paid as provided in ORS 311.812.

(d) If, after taking into account the amount refunded under this subsection, the final resolution of the controversy after appeal results in additional taxes due on the property, the additional taxes shall be billed and collected as provided in ORS 311.513.

[4] (5) Immediately upon payment of the refund and any interest thereon, the tax collector shall make the necessary correcting entries in the records of the office of the tax collector. ORS 294.305 to 294.565 do not apply to refunds made out of the refund reserve account or the unsegregated tax collections account.

[5] (6) A refund is not required under this section for any tax year if the amount of the refund would be \$10 or less. Any amount not refunded under this subsection shall be distributed to taxing districts in the same manner that other taxes are distributed.

[(6)] (7) As used in this section, "owner of record on the tax roll at the time of refund" means the owner or an owner of the property or the person in whose name the property is assessed on the tax roll last certified and delivered to the tax collector under ORS 311.105 and 311.115.

SECTION 2. The amendments to ORS 311.806 by section 1 of this 2007 Act apply to appeals relating to property tax years beginning on or after July 1, 2007, and to property tax appeals pending final resolution on the effective date of this 2007 Act.

SECTION 3. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by House March 7, 2007

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate May 18, 2007

.....
President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

.....
Secretary of State