

Senate Bill 959

Sponsored by Senator JOHNSON (at the request of Sue Aalykke)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits taxpayers who have failed to file personal or mixed personal and real property return to file an application with county assessor for relief from tax penalties. Grants county assessors discretion to decide whether to grant or deny applications. Requires Secretary of State to provide applicants for assumed business names with certain tax information.

A BILL FOR AN ACT

1
2 Relating to taxation; amending ORS 308.290, 308.295, 308.296 and 648.014.

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

4 **SECTION 1.** ORS 308.290 is amended to read:

5 308.290. (1)(a) Every person and the managing agent or officer of any **business**, firm, corporation
6 or association owning, or having in possession or under control taxable personal property shall
7 make a return of the property for ad valorem tax purposes to the assessor of the county in which
8 such property has its situs for taxation. As between a mortgagor and mortgagee or a lessor and
9 lessee, however, the actual owner and the person in possession may agree between them as to who
10 shall make the return and pay the tax, and the election shall be followed by the person in possession
11 of the roll who has notice of the election. Upon the failure of either party to file a personal property
12 tax return on or before March 1 of any year, both parties shall be jointly and severally subject to
13 the provisions of ORS 308.296.

14 (b) Every person and the managing agent or officer of any **business**, firm, corporation or asso-
15 ciation owning or in possession of taxable real property shall make a return of the property for ad
16 valorem tax purposes when so requested by the assessor of the county in which such property is
17 situated.

18 (2)(a) Each return of personal property shall contain a full listing of such property and a state-
19 ment of its real market value, including a separate listing of those items claimed to be exempt as
20 imports or exports. Each statement shall contain a listing of the additions or retirements made since
21 the prior January 1, indicating the book cost and the date of acquisition or retirement. Each return
22 shall contain the name, assumed business name, if any, and address of the owner of the personal
23 property and, if it is a partnership, the name and address of each general partner or, if it is a cor-
24 poration, the name and address of its registered agent.

25 (b) Each return of real property shall contain a full listing of the several items or parts of such
26 property specified by the assessor and a statement exhibiting their real market value. Each return
27 shall contain a listing of the additions and retirements made during the year indicating the book
28 cost, book value of the additions and retirements or the appraised real market value of retirements
29 as specified in the return by the assessor.

30 (c) There shall be annexed to each return the affidavit or affirmation of the person making the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 return that the statements contained in the return are true. All returns shall be in such form as the
2 assessor, with the approval of the Department of Revenue, may prescribe. Prior to December 31
3 preceding the assessment year, the department or assessor shall cause blank forms for the returns
4 to be prepared and distributed by mail, but failure to receive or secure the form shall not relieve
5 the person, managing agent or officer from the obligation of making any return required by this
6 section.

7 (3) All returns shall be filed on or before March 1 of each year, but the assessor, upon written
8 request filed with the assessor prior to that date and for good cause shown in the request, shall
9 allow for an extension of time within which to file the return to April 15. The department shall
10 adopt rules for the granting of extensions under this subsection.

11 (4)(a) In lieu of the returns required under subsection (1)(a) or (b) of this section, every person
12 and the managing agent or officer of any **business**, firm, corporation or association owning or
13 having in possession or under control taxable real and personal property that is either principal
14 industrial property or secondary industrial property as defined by ORS 306.126 (1) and is appraised
15 by the department shall file a combined return of the real and personal property with the depart-
16 ment.

17 (b) The contents and form of the return shall be as prescribed by rule of the department. Any
18 form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that
19 is a part of an industrial property shall be included in a combined return.

20 (c) In order that the assessor may comply with ORS 308.295, the department shall provide a list
21 to the assessor of all combined returns that are required to be filed with the department under this
22 subsection but that were not filed on or before the due date or within the time allowed by an ex-
23 tension.

24 (d) If the department has delegated appraisal of the property to the assessor under ORS 306.126
25 (3), the department shall notify the person otherwise required to file the combined return under this
26 subsection as soon as practicable after the delegation that the combined return is required to be
27 filed with the county assessor.

28 (e) Notwithstanding subsection (1) or (3) of this section, a combined return of real and personal
29 property that is industrial property appraised by the department shall be filed with the department
30 on or before March 1 of the year.

31 (5)(a) Any person required to file a return under subsection (4) of this section may apply to the
32 Department of Revenue for an extension of the time within which to file the return to April 15.
33 An extension granted under this subsection shall continue in effect for each subsequent year unless
34 canceled by the person or revoked by the department. An extension granted under this subsection
35 shall apply to returns required to be filed with either the county assessor or the department. The
36 department shall provide for notification of county assessors of the granting of extensions under this
37 subsection.

38 (b) The Department of Revenue shall, by rule, establish procedures and criteria for the granting
39 of extensions provided for under paragraph (a) of this subsection. The department shall adopt such
40 rules after consultation with an advisory committee selected by the department that represents the
41 interests of county assessors and affected taxpayers.

42 (6) No return shall be controlling on the assessor or on the Department of Revenue in any re-
43 spect in the assessment of any property. On any failure to file the required return, the property shall
44 be listed and evaluated from the best information obtainable from other sources.

45 (7)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 shall

1 be confidential records of the office in which such returns are filed.

2 (b) Notwithstanding paragraph (a) of this subsection, a return described in paragraph (a) of this
3 subsection may be disclosed to:

4 (A) The Department of Revenue or its representative;

5 (B) The representatives of the Secretary of State or to an accountant engaged by a county under
6 ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment
7 roll (including adjustments to returns made by the Department of Revenue);

8 (C) The county tax collector or the tax collector's representative for the purpose of collecting
9 delinquent personal property taxes;

10 (D) Any reviewing authority to the extent the return being disclosed relates to an appeal
11 brought by a taxpayer;

12 (E) The Division of Child Support of the Department of Justice or a district attorney to the
13 extent the return being disclosed relates to a case for which the Division of Child Support or the
14 district attorney is providing support enforcement services under ORS 25.080; or

15 (F) The Legislative Revenue Officer for the purpose of preparation of reports, estimates and
16 analyses required by ORS 173.800 to 173.850.

17 (c) Notwithstanding paragraph (a) of this subsection:

18 (A) The Department of Revenue may exchange property tax information with the authorized
19 agents of the federal government and the several states on a reciprocal basis.

20 (B) Information regarding the valuation of leased property reported on a property return filed
21 by a lessor under this section may be disclosed to the lessee or other person in possession of the
22 property. Information regarding the valuation of leased property reported on a property return filed
23 by a lessee under this section may be disclosed to the lessor of the property.

24 (8) If the assessed value of any personal property in possession of a lessee is less than the
25 maximum amount of the assessed value of taxable personal property for which ad valorem property
26 taxes may be canceled under ORS 308.250, the person in possession of the roll may disregard an
27 election made under subsection (1) of this section and assess the owner or lessor of the property.

28 **SECTION 2.** ORS 308.295 is amended to read:

29 308.295. (1) Each person, **business**, firm, corporation or association required by ORS 308.290 to
30 file a return, other than a return reporting only taxable personal property, who or which has not
31 filed a return within the time fixed in ORS 308.290 or as extended, is delinquent.

32 (2) A delinquent taxpayer, except a taxpayer described in subsection (3) of this section, is sub-
33 ject to a penalty of \$1 for each \$1,000 (or fraction thereof) of assessed value of the property as de-
34 termined under ORS 308.146, but the penalty may not be less than \$10 or more than \$250.

35 (3) A delinquent taxpayer required by ORS 308.290 to file a return reporting principal or sec-
36 ondary industrial property, as defined in ORS 306.126, is subject to a penalty of \$10 for each \$1,000
37 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the
38 penalty may not be less than \$10 or more than \$5,000.

39 (4) If a delinquency penalty provided in this section is imposed, the tax statement for the year
40 in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice
41 to the taxpayer.

42 (5) Unless the penalty is the subject of an appeal under ORS 311.223, the county board of
43 property tax appeals may, upon application of the taxpayer, waive the liability for all or a portion
44 of the penalty upon a proper showing of good and sufficient cause. However, an application made
45 under this subsection shall not be considered by the board unless filed timely and in the same

1 manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the
2 board under this subsection.

3 (6) If the board waives all or a portion of a penalty already imposed and entered on the roll, the
4 person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll
5 as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be re-
6 funded without interest under ORS 311.806.

7 **(7)(a) Notwithstanding subsection (1) of this section, a taxpayer may qualify to receive**
8 **relief from property tax penalties if the taxpayer:**

9 **(A) Has failed to file a property tax return for one or more consecutive tax years or the**
10 **taxpayer has failed to file a timely property tax return in the current tax year;**

11 **(B) Sets forth a basis for the failure to file a property tax return;**

12 **(C) Has not previously received relief from property tax penalties under this subsection;**
13 **and**

14 **(D) Files an application for relief from property tax penalties that satisfies the require-**
15 **ments of paragraphs (b) and (c) of this subsection.**

16 **(b) A taxpayer may file, with a late filing fee of \$_____, an application for relief from**
17 **late filing penalties with the county assessor not later than 60 days after the date of the**
18 **statement for the year in which the taxpayer is first notified that a tax penalty may be im-**
19 **posed. The late filing fee shall be deposited in the general fund of the county for general**
20 **governmental expenses. If the application is not filed within 60 days after the date of the**
21 **statement, if the application is not accompanied by the late filing fee or if the late filing fee**
22 **is not otherwise paid, the assessor may deny the application without further review of the**
23 **application.**

24 **(c) The application shall include a statement by the taxpayer setting forth the basis for**
25 **relief from tax penalties and a statement under oath or affirmation that the basis in the**
26 **application for relief from property tax penalties is true.**

27 **(d) The county assessor may allow the application for relief from property tax penalties**
28 **if the assessor finds the reasons given by the taxpayer in the application are sufficient to**
29 **excuse the failure to file the property tax returns at issue in the application. If the assessor**
30 **allows the application, the assessor may deny or grant relief from property tax penalties in**
31 **whole or in part. The determination of the assessor whether to grant the application or deny**
32 **the application in whole or in part and whether to permit the taxpayer to pay the owing tax**
33 **penalties, if any, in installments is final. The assessor shall notify the taxpayer of the deci-**
34 **sion.**

35 **(e) Nothing in this subsection affects the obligation of the taxpayer to file property tax**
36 **returns or to pay property taxes owing from the current or delinquent tax years.**

37 **SECTION 3.** ORS 308.296 is amended to read:

38 308.296. (1) Each person, **business**, firm, corporation or association required by ORS 308.290 to
39 file a return reporting only taxable personal property, who or which has not filed a return within
40 the time fixed in ORS 308.290 or as extended, shall be subject to a penalty as provided in this sec-
41 tion.

42 (2) A taxpayer who files a return to which this section applies after March 1, or after April 15,
43 if the taxpayer received an extension, but on or before June 1, is subject to a penalty equal to five
44 percent of the tax attributable to the taxable personal property of the taxpayer.

45 (3) A taxpayer who files a return to which this section applies after June 1, but on or before

1 August 1, is subject to a penalty equal to 25 percent of the tax attributable to the taxable personal
 2 property of the taxpayer.

3 (4) After August 1, a taxpayer who files a return to which this section applies or who fails to
 4 file a return shall be subject to a penalty equal to 50 percent of the tax attributable to the taxable
 5 personal property of the taxpayer.

6 (5) If a delinquency penalty provided in this section is imposed, the tax statement for the year
 7 in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice
 8 to the taxpayer.

9 (6)(a) Unless the penalty is the subject of an appeal under ORS 311.223, the county board of
 10 property tax appeals, upon application of the taxpayer, may waive the liability:

11 (A) For all or a portion of the penalty upon a proper showing of good and sufficient cause; or

12 (B) If the year for which the return was filed was both the first year that a return was required
 13 to be filed by the taxpayer and the first year for which the taxpayer filed a return.

14 (b) An application made under this subsection shall not be considered by the board unless filed
 15 timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the
 16 determination of the board under this subsection.

17 (7) If the board waives all or a portion of a penalty already imposed and entered on the roll, the
 18 person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll
 19 as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be re-
 20 funded without interest under ORS 311.806.

21 **(8)(a) Notwithstanding subsection (1) of this section, a taxpayer may qualify to receive**
 22 **relief from property tax penalties if the taxpayer:**

23 **(A) Has failed to file a property tax return for one or more consecutive tax years or the**
 24 **taxpayer has failed to file a timely property tax return in the current tax year;**

25 **(B) Sets forth a basis for the failure to file a property tax return;**

26 **(C) Has not previously received relief from property tax penalties under this subsection;**
 27 **and**

28 **(D) Files an application for relief from property tax penalties that satisfies the require-**
 29 **ments of paragraphs (b) and (c) of this subsection.**

30 **(b) A taxpayer may file, with a late filing fee of \$_____, an application for relief from**
 31 **late filing penalties with the county assessor not later than 60 days after the date of the**
 32 **statement for the year in which the taxpayer is first notified that a tax penalty may be im-**
 33 **posed. The late filing fee shall be deposited in the general fund of the county for general**
 34 **governmental expenses. If the application is not filed within 60 days after the date of the**
 35 **statement, if the application is not accompanied by the late filing fee or if the late filing fee**
 36 **is not otherwise paid, the assessor may deny the application without further review of the**
 37 **application.**

38 **(c) The application shall include a statement by the taxpayer setting forth the basis for**
 39 **relief from tax penalties and a statement under oath or affirmation that the basis in the**
 40 **application for relief from property tax penalties is true.**

41 **(d) The county assessor may allow the application for relief from property tax penalties**
 42 **if the assessor finds the reasons given by the taxpayer in the application are sufficient to**
 43 **excuse the failure to file the property tax returns at issue in the application. If the assessor**
 44 **allows the application, the assessor may deny or grant relief from property tax penalties in**
 45 **whole or in part. The determination of the assessor whether to grant the application or deny**

1 **the application in whole or in part and whether to permit the taxpayer to pay the owing tax**
2 **penalties, if any, in installments is final. The assessor shall notify the taxpayer of the deci-**
3 **sion.**

4 **(e) Nothing in this subsection affects the obligation of the taxpayer to file property tax**
5 **returns or to pay property taxes owing from the current or delinquent tax years.**

6 **SECTION 4.** ORS 648.014 is amended to read:

7 648.014. (1) Upon request, the Secretary of State may furnish forms for documents required or
8 permitted to be filed by this chapter.

9 (2) The Secretary of State may by rule require the use of the forms.

10 **(3)(a) The Secretary of State shall provide applicants for assumed business names the**
11 **following information:**

12 **(A) That an applicant should determine or consult with an attorney or accountant to**
13 **assist the applicant in determining tax obligations relating to the business.**

14 **(B) That resources for finding information regarding state and federal taxation are**
15 **available for businesses and the location of state and federal resources or information that**
16 **may be accessible to the applicant.**

17 **(b) The Secretary of State may satisfy the requirements of this subsection by publishing**
18 **the information in a booklet readily available to the public or by publishing the information**
19 **on the Secretary of State's Internet website.**

20