

House Bill 3540

Sponsored by Representative FREEMAN

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**.

Removes exemption for county from filing fees for complaints and petitions filed in Oregon Tax Court.

Requires Department of Revenue to assume supervisory jurisdiction of petition for change or correction if there is no remaining statutory right of appeal, department determines that error on roll is likely as indicated by certain standards and petition meets all other requirements of sufficiency. With respect to petition for change or correction filed by taxpayer, provides that parties shall be deemed to agree to facts indicating likely error if petition includes documentary evidence of relevant fact from county records or county assessor fails to respond to request to state whether assessor agrees with fact relied on by taxpayer in petition.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax disputes; creating new provisions; amending ORS 305.490 and 306.115; and prescrib-
3 ing an effective date.

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

5 **SECTION 1.** ORS 305.490, as amended by section 12, chapter 48, Oregon Laws 2012, is amended
6 to read:

7 305.490. (1)(a) Plaintiffs or petitioners filing a complaint or petition in the tax court shall pay
8 the filing fee established under ORS 21.135 at the time of filing for each complaint or petition.

9 (b) In addition to the fee imposed under paragraph (a) of this subsection, plaintiffs or petitioners
10 filing a complaint under ORS 305.501 (5) shall pay the filing fee established under ORS 21.135 at the
11 time of filing the complaint.

12 (2)(a) [*Neither the State of Oregon, nor any county, school district, municipal corporation or other*
13 *public corporation therein, nor any officer of any such public political division or corporation, appear-*
14 *ing in the representative capacity of the officer of any public political division or corporation, shall*
15 *be*] **The following parties are not** required to pay [*the*] a fee prescribed under this section:

16 **(A) The State of Oregon.**

17 **(B) A school district or other local taxing district within this state, other than a county.**

18 **(C) A municipal corporation or other public corporation within this state.**

19 **(D) An officer of a party listed in subparagraphs (A) to (C) of this paragraph who appears**
20 **in a representative capacity on behalf of the party.**

21 (b) The party entitled to costs and disbursements on [*such*] **an** appeal shall recover from the
22 opponent of the party the amount so paid upon order of the court, as in equity suits in the circuit
23 court.

24 (3)(a) If, in any proceeding before the tax court judge involving taxes upon or measured by net
25 income in which an individual taxpayer is a party, or involving inheritance or estate taxes, the court
26 grants a refund claimed by the executor or taxpayer or denies in part or wholly an additional as-
27 sessment of taxes claimed by the Department of Revenue to be due from the estate or taxpayer, 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 court may allow the taxpayer, in addition to costs and disbursements, the following:

2 (A) Reasonable attorney fees for the proceeding under this subsection and for the prior pro-
 3 ceeding in the matter, if any, before the magistrate; and

4 (B) Reasonable expenses as determined by the court. Expenses include accountant fees and fees
 5 of other experts incurred by the executor or individual taxpayer in preparing for and conducting the
 6 proceeding before the tax court judge and the prior proceeding in the matter, if any, before the
 7 magistrate.

8 (b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the
 9 Department of Revenue in the manner provided by ORS 305.790.

10 (4)(a) If, in any proceeding before the tax court judge involving ad valorem property taxation,
 11 exemptions, special assessments or omitted property, the court finds in favor of the taxpayer, the
 12 court may allow the taxpayer, in addition to costs and disbursements, the following:

13 (A) Reasonable attorney fees for the proceeding under this subsection and for the prior pro-
 14 ceeding in the matter, if any, before the magistrate; and

15 (B) Reasonable expenses as determined by the court. Expenses include fees of experts incurred
 16 by the individual taxpayer in preparing for and conducting the proceeding before the tax court judge
 17 and the prior proceeding in the matter, if any, before the magistrate.

18 (b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the
 19 Department of Revenue in the manner provided by ORS 305.790.

20 (5) All fees and other moneys received or collected by the clerk by virtue of the office of the
 21 clerk shall be paid over to the State Treasurer and shall be held by the clerk in the General Fund
 22 as miscellaneous receipts.

23 **SECTION 2.** ORS 306.115 is amended to read:

24 306.115. (1) The Department of Revenue shall exercise general supervision and control over the
 25 system of property taxation throughout the state. The department may do any act or give any order
 26 to any public officer or employee that the department deems necessary in the administration of the
 27 property tax laws so that all properties are taxed or are exempted from taxation according to the
 28 statutes and Constitutions of the State of Oregon and of the United States. Among other acts or
 29 orders deemed necessary by the department in exercising its supervisory powers, the department
 30 may order the correction of clerical errors, errors in valuation or the correction of any other kind
 31 of error or omission in an assessment or tax roll as provided under subsections (2) to (4) of this
 32 section.

33 (2) The department may order a change or correction to the assessment or tax roll for the cur-
 34 rent tax year applicable to all real or personal property of the same class or in the same area if the
 35 order of the department is mailed not later than October 15 of the current tax year.

36 (3) The department may order a change or correction applicable to a separate assessment of
 37 property to the assessment or tax roll for the current tax year and for either of the two tax years
 38 immediately preceding the current tax year if for the year to which the change or correction is
 39 applicable the department discovers reason to correct the roll which, in its discretion, it deems
 40 necessary to conform the roll to applicable law without regard to any failure to exercise a right of
 41 appeal.

42 (4) Before ordering a change or correction to the assessment or tax roll under subsection (3)
 43 of this section, the department may determine whether any of the conditions specified in subsection
 44 (3) of this section exist in a particular case. If the department determines that one of the conditions
 45 specified does exist, the department shall hold a conference to determine whether to order a change

1 or correction in the roll.

2 **(5)(a) The department shall consider the substantive issue in a petition for a change or**
3 **correction filed pursuant to this section if:**

4 **(A) There is no remaining statutory right of appeal;**

5 **(B) The department determines that an error on the roll is likely as indicated by at least**
6 **one of the following standards:**

7 **(i) The parties to the petition agree to facts indicating likely error; or**

8 **(ii) There is an extraordinary circumstance indicating likely error; and**

9 **(C) The petition meets all other applicable requirements of sufficiency.**

10 **(b) With respect to a petition filed by a taxpayer, for purposes of paragraph (a)(B)(i) of**
11 **this subsection, the parties will be deemed to agree to facts indicating likely error if:**

12 **(A) The taxpayer includes in the petition documentary evidence of a relevant fact from**
13 **the records of the county; or**

14 **(B) The county assessor fails to respond to a request to state whether the assessor**
15 **agrees with a fact relied on by the taxpayer in the petition.**

16 **[(5)] (6) For purposes of this section, “current tax year” means the tax year in which the need**
17 **for the change or correction is brought to the attention of the department.**

18 **[(6)] (7) The remedies provided under this section are in addition to all other remedies provided**
19 **by law.**

20 **SECTION 3. (1) The amendments to ORS 305.490 by section 1 of this 2013 Act apply to**
21 **complaints or petitions filed on or after the effective date of this 2013 Act.**

22 **(2) The amendments to ORS 306.115 by section 2 of this 2013 Act apply to petitions for a**
23 **change or correction with respect to which the Department of Revenue has not made a de-**
24 **termination of supervisory jurisdiction before the effective date of this 2013 Act.**

25 **SECTION 4. This 2013 Act takes effect on the 91st day after the date on which the 2013**
26 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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