

A-Engrossed
House Bill 2334

Ordered by the House February 19
Including House Amendments dated February 19

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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.

Requires affidavit alleging undue hardship to be filed within 30 days after entry of order specially designating complaint for hearing in regular division of Oregon Tax Court. Provides for dismissal of complaint for failure to pay tax, penalty and interest unless plaintiff files affidavit alleging undue hardship.

Applies to complaints filed on or after effective date of Act.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to affidavits alleging undue hardship filed in Oregon Tax Court; creating new provisions;
3 amending ORS 305.419; and prescribing an effective date.

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

5 **SECTION 1.** ORS 305.419 is amended to read:

6 305.419. (1) Except as provided in subsection (3) of this section, in any appeal from an order, act,
7 omission or determination of the Department of Revenue involving a deficiency of taxes imposed
8 upon or measured by net income, the tax assessed, and all penalties and interest due, shall be paid
9 to the department on or before the filing of a complaint with the regular division of the Oregon Tax
10 Court under ORS 305.560 or [*before*] **within 30 days after entry of an order specially designating**
11 a complaint [*specially designated*] for hearing in the regular division under ORS 305.501 [*is heard*].
12 **If a dispute exists as to whether the matter involves a deficiency of taxes imposed upon or**
13 **measured by net income, the tax assessed and all penalties and interest shall be paid within**
14 **30 days after entry of a decision or order finding that the matter involves a deficiency of**
15 **taxes imposed upon or measured by net income.** The complaint shall be filed as a claim for re-
16 fund.

17 (2) Penalty and interest due under subsection (1) of this section are the amounts stated in the
18 order, notice of assessment, notice of refund denial or proposed adjustment under ORS 305.270 by
19 the department from which the appeal is taken.

20 (3) Where payment of the tax, [*penalties*] **penalty** and interest would be an undue hardship,
21 plaintiff may file an affidavit alleging undue hardship [*with the complaint*] **within the time de-**
22 **scribed in subsection (1) of this section. A plaintiff's failure to file an affidavit alleging**
23 **hardship is not grounds for dismissal of the complaint, provided the plaintiff files the affi-**
24 **davit within 30 days after receiving notice of lack of an affidavit alleging undue hardship**
25 **from the court.** If the tax court finds undue hardship, the tax court judge may stay all or any part

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 of the payment of tax, penalty and interest required under subsection (1) of this section. If the tax
2 court judge finds no undue hardship, the tax court judge may grant the plaintiff up to 30 days from
3 the date of determination to pay the [*taxes, penalties*] **tax, penalty** and interest. Failure by the
4 plaintiff to pay the [*taxes, penalties*] **tax, penalty** and interest or to establish undue hardship will
5 be cause for dismissing the complaint.

6 (4) If, in any appeal to the Oregon Tax Court for which payment of tax, penalty and interest
7 assessed is required before filing of a complaint, the tax court orders that all or any part of the
8 amount paid be refunded by the department, the amount so ordered to be refunded shall bear in-
9 terest at the rate established for refunds in ORS 305.220. Interest shall be computed from the date
10 of payment to the department.

11 **SECTION 2. The amendments to ORS 305.419 by section 1 of this 2015 Act apply to com-**
12 **plaints filed on or after the effective date of this 2015 Act.**

13 **SECTION 3. This 2015 Act takes effect on the 91st day after the date on which the 2015**
14 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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