

**Enrolled**  
**House Bill 2334**

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

CHAPTER .....

AN ACT

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

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

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

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

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

(3) Where payment of the tax, *[penalties]* **penalty** and interest would be an undue hardship, plaintiff may file an affidavit alleging undue hardship *[with the complaint]* **within the time described in subsection (1) of this section. A plaintiff's failure to file an affidavit alleging hardship is not grounds for dismissal of the complaint, provided the plaintiff files the affidavit within 30 days after receiving notice of lack of an affidavit alleging undue hardship from the court.** If the tax court finds undue hardship, the tax court judge may stay all or any part of the payment of tax, penalty and interest required under subsection (1) of this section. If the tax court judge finds no undue hardship, the tax court judge may grant the plaintiff up to 30 days from the date of determination to pay the *[taxes, penalties]* **tax, penalty** and interest. Failure by the plaintiff to pay the *[taxes, penalties]* **tax, penalty** and interest or to establish undue hardship will be cause for dismissing the complaint.

(4) If, in any appeal to the Oregon Tax Court for which payment of tax, penalty and interest assessed is required before filing of a complaint, the tax court orders that all or any part of the amount paid be refunded by the department, the amount so ordered to be refunded shall bear in-

terest at the rate established for refunds in ORS 305.220. Interest shall be computed from the date of payment to the department.

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

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

**Passed by House March 30, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate April 20, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2015

**Approved:**

.....M.,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State