

# House Bill 2334

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 **as introduced**.

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 The complaint shall be filed as a claim for refund.

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

16 (3) [*Where payment of the tax, penalties and interest would be an undue hardship, plaintiff may*  
17 *file*] **A plaintiff's failure to pay the tax, penalty and interest within the time prescribed in**  
18 **subsection (1) of this section shall be grounds for dismissing the complaint unless, within 30**  
19 **days after lack of payment is raised in a motion or pleading filed by the department or a**  
20 **notice filed by the court, the taxpayer pays the tax, penalty and interest in full or files an**  
21 **affidavit alleging undue hardship [*with the complaint*].** If the tax court finds undue hardship, the tax  
22 court judge may stay all or any part of the payment of tax, penalty and interest required under  
23 subsection (1) of this section. If the tax court judge finds no undue hardship, the tax court judge  
24 may grant the plaintiff up to 30 days from the date of determination to pay the [*taxes, penalties*] **tax,**  
25 **penalty** and interest. Failure by the plaintiff to pay the [*taxes, penalties*] **tax, penalty** and interest  
26 or to establish undue hardship will be cause for dismissing the complaint.

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

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

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

8

---