

## SB 181 A -A9 STAFF MEASURE SUMMARY

### House Committee On Revenue

---

**Prepared By:** Kyle Easton, Economist

**Meeting Dates:** 5/9, 6/1, 6/27, 6/28

---

#### WHAT THE MEASURE DOES:

Requires specified institutions seeking property tax exemption under ORS 307.130 to annually file an information return on or before April 1 preceding each tax year for which exemption is claimed. Specifies that late filing provisions contained in ORS 307.162 apply to the filing of an information return. Specifies contents of information return. Requires reporting institution to include with information return, most recently required and timely filed Form 990 and Form CT-12 of the reporting institution or link to a version of the form that is publicly available on the Internet. Requires institution that files a Form 990-N with the Internal Revenue Service, to file an information return that contains the information set forth on the Form 990-N filed by institution for current tax year instead of Form 990. Requires property to be disqualified from exemption under ORS 307.130 if information contained in information return or initial application for exemption was misleading or false. Imposes additional taxes on disqualified property in an amount equal to the property taxes that would have otherwise been imposed had the property not been exempt for up to the five immediately preceding property tax years, plus interest computed at the rate of one and one-third percent per month. Requires county assessor to provide notice of information return requirements to all reporting institutions whose property has been granted exemption under ORS 307.130 for the 2017-18 property tax year. Provides late filing of information return for initial 2018-19 property tax year. Specifies that information returns are kept as public records. Makes a number of insubstantial statutory modifications to ORS 307.130. Takes effect on 91st day following adjournment sine die.

#### ISSUES DISCUSSED:

5/9/2017

- Measure and information return requirement applies only to exemption under ORS 307.130
  - Organizations qualifying for exemption under different statute are not subject to information return requirement (e.g. - Fraternal organizations, religious organizations)
- Intent of return information being collected and how assessors are expected or expecting to use the information
- Example of organizations attempting to receive exemption that may be questionable
- Legislative Counsel opinion regarding Oregon Grange being a fraternal organization and thus not affected by SB 181
- Meetings of the interim legislative work group
- Value of property tax exemption in terms of forgone property tax revenues
- Other organizations that could or should be required to file an information return
  - In later years, potential of changing information return requirements to something less than annual reporting
- Information return contains information that is publicly available in some instances, but not all
- Information return requirements are based upon parameters of existing law exemption per relevant case law
- Potential for reasonable concern from nonprofit community
- Need for the information return, why assessors cannot seek the information out on their own
- Clawback language and how it compares to other property tax requirements (e.g. - farm/forest deferral, business personal property).

6/27/2017

## SB 181 A -A9 STAFF MEASURE SUMMARY

- Contents of the -A9 amendment, new language added to underlying requirements contained in A-engrossed version
- Process assessor is to follow in instances where information return contains something that assessor considers to be "misleading or false"
- General background of underlying property tax exemption to which information return relates
- Provision of allowing late filings, late filing is allowed each year
- Claw back authority resides with the county assessor per process required in SB 181
- Rationale for institutions that are exempt under ORS 307.130 that are not subject to SB 181 information return requirements
- Information required to be reported on SB 181 information return that is not presently available on the IRS 990
- Collecting information that may inform Legislature in how to refine/reform exemption statute in later years
- Workload of nonprofits in filing required information return, especially in cases where nonprofit owns properties in various counties throughout Oregon
- General discussion of the underlying ORS 307.130 exemption
- New requirement in amendment requiring LRO to report back to Legislature regarding information return
- Current law authority of assessors to request specific information from organizations as part of exemption qualification determination.

### **EFFECT OF AMENDMENT:**

-A9 Upon discovery by the county assessor that any information set forth in information return is misleading or false, in a way that materially affects the eligibility of the property for the exemption, requires assessor to contact the reporting institution and clearly identify the information the county assessor considers misleading or false. Requires reporting institution to respond to county assessor within 30 days by submitting revised information return or claim for exemption. Requires county assessor to determine whether the revised document has cured the identified defect. If reporting institution does not submit revised information return or revised return does not cure identified defect, then property is disqualified for exemption and subject to potential additional tax for up to five immediately preceding property tax years.

Explicitly states that disqualification of property due to information return containing misleading or false information, as determined by assessor, may be appealed to the Oregon Tax Court.

Requires Legislative Revenue Officer to conduct a study of submitted information returns and submit report to interim committees on revenue no later than September 15, 2019.

### **BACKGROUND:**

ORS 307.130 is a relatively broad exemption available to various types of nonprofit institutions including: hospitals and health organizations, social welfare organizations, museums and specified charitable retail stores. To qualify for exemption, organizations must initially apply to the assessor of the county in which the property resides. So long as ownership of all property included in the initial application remains unchanged, a new claim is not required.

Charitable organizations that solicit funds, hold assets, or otherwise do business in Oregon are required to register with the Charitable Activities Section of the Department of Justice (DOJ) and annually file financial reports with the Department. Annual reporting is met by filing DOJ form CT-12.

Form 990 is an annual information return required to be filed with the Internal Revenue Service (IRS) by most organizations exempt from the federal income tax under section 501(a) of the Internal Revenue Code. An organization's gross receipts and total assets determine which form an organization is required to file, the 990 being

**SB 181 A -A9 STAFF MEASURE SUMMARY**

the most comprehensive. Organizations with gross receipts greater than or equal to \$200,000 or total assets greater than or equal to \$500,000 at the end of the tax year are required to file the full 990 return. Various schedules may be required as part of 990 filing depending upon the characteristics of the nonprofit organization. For example, hospitals are required to file Schedule H which includes information specific to hospital organizations. Certain organizations are not required to file annual 990 returns including certain: religious, governmental, political, foreign, or organizations with limited gross receipts. Completed form 990 returns are required to be made publicly available in their entirety.