

House Bill 2277

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Revenue)

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 county governing body to apply property tax refund first as credit against amount due of total tax liability account on which tax was assessed, except in certain cases. In such cases, authorizes county governing body to apply refund first as credit against total tax liability account upon request of property owner. Authorizes amount remaining after refund has been applied as credit against total tax liability account on which tax was assessed to be applied, upon request, to any other total tax liability account.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to crediting of property tax refunds; creating new provisions; amending ORS 311.806; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 311.806 is amended to read:

6 311.806. (1) Subject to [*subsection (2)*] **subsections (2) and (3)** of this section, the county gov-
7 erning body shall refund, out of the refund reserve account provided in ORS 311.807, or the unseg-
8 regated tax collections account provided in ORS 311.385, taxes on property collected by an assessor
9 or tax collector pursuant to a levy of the assessor or of any taxing district or tax levying body or
10 pursuant to ORS 311.255, plus interest as provided in ORS 311.812, in the following cases:

11 (a) To the person described in ORS 309.100 (1) and in whose name a petition was filed, whenever
12 a change in the value of property is ordered by a county board of property tax appeals and no ap-
13 peal is taken or can be taken from the board's order, or whenever ordered by the Oregon Tax Court
14 or the Supreme Court and the order constitutes a final determination of the matter;

15 (b) To the person who has sought and obtained an order from the Department of Revenue under
16 ORS 306.115, whenever a change in the value of property is ordered by the department and no ap-
17 peal is taken or can be taken from the order of the department;

18 (c) To the person who meets the criteria described in ORS 305.275 and in whose name an appeal
19 is filed under ORS 305.275, whenever ordered by the Oregon Tax Court or Supreme Court and the
20 order constitutes a final determination of the matter;

21 (d) Whenever a change in the value of property is made under ORS 309.115 upon resolution of
22 an appeal and no separate appeal of the value of the property was taken for the year of the change:

23 (A) To the person in whose name the appeal was filed, for each year after the year for which
24 the appeal was filed in which that person was listed as the owner or an owner or the person in
25 whose name the property was assessed; and

26 (B) To the owner of record on the tax roll at the time of refund, each year thereafter;

27 (e) To the owner of record on the tax roll at the time of refund, whenever taxes are collected
28 against real or personal property not within the jurisdiction of the tax levying body;

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 (f) Except as provided in ORS 310.143, to the owner of record on the tax roll at the time of re-
 2 fund, whenever, through excusable neglect or through an error subject to correction under ORS
 3 311.205, other than ORS 311.205 (1)(b)(A), taxes on property are paid in excess of the amount legally
 4 chargeable, limited to the amount of money collected in excess of the amount actually due;

5 (g) To the person in whose name the appeal was filed under ORS 305.275 if the officer makes a
 6 correction under ORS 311.205 (1)(b)(A) in the tax owed to which the appeal relates;

7 (h) Except as provided in ORS 311.808, to the payer of the tax whenever any person pays taxes
 8 on the property of another by mistake of any kind;

9 (i) To the applicant entitled to proration of taxes under ORS 308.425 resulting in an overpay-
 10 ment of taxes paid; or

11 (j) To the purchaser of business personal property in the circumstances described in ORS 311.642
 12 (4), upon notification of the county governing body by the tax collector who accepted the refundable
 13 compromise payment.

14 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a refund of taxes may be
 15 allowed or made for any year or years not exceeding five years prior to the last certified roll. A
 16 refund under this subsection may be paid only to the extent that a refund under subsection [(4)] (5)
 17 of this section has not been paid.

18 (b) A refund of taxes may be allowed or made under subsection (1)(f) to (i) of this section after
 19 the period described in paragraph (a) of this subsection if, before the expiration of the period, a
 20 written claim for refund of the taxes is filed by the taxpayer with the county governing body.

21 (c) The county governing body shall order a refund of taxes to be paid as specified in subsection
 22 (1) of this section without the filing of a written claim and without regard to the period described
 23 in paragraph (a) of this subsection upon receipt of a copy of an order by the Department of Revenue,
 24 the Oregon Tax Court or the Supreme Court that constitutes a final determination that is not sub-
 25 ject to appeal.

26 [(3)(a) Upon request of the owner or an owner of any taxable property or the person in whose name
 27 the property is assessed, or the owner of record on the tax roll at the time of refund, whichever is ap-
 28 plicable, and with the approval of the tax collector, the county governing body may authorize refunds
 29 payable under subsection (1)(a) to (e) of this section to be made by crediting the total tax liability ac-
 30 count of the requester with the amount of the refund. The total tax liability account is the total amount
 31 of tax that has been extended or charged against a particular property tax account as limited by section
 32 11b, Article XI of the Oregon Constitution.]

33 **(3)(a) Before refunding taxes in a case described in subsection (1)(a) to (g) or (j) of this**
 34 **section, or under ORS 311.465, 311.815 or 311.821, the county governing body shall credit with**
 35 **the amount of the refund any amount due, as determined in accordance with ORS 311.505,**
 36 **of the total tax liability account of the person to which the refund is owed. Any amount re-**
 37 **maining after crediting the total tax liability account shall be paid as specified in subsection**
 38 **(1) of this section, paragraph (b)(B) of this subsection or ORS 311.465, 311.815 or 311.821, as**
 39 **applicable.**

40 **(b) Upon request of the owner or an owner of any taxable property or the person in**
 41 **whose name the property is assessed, or the owner of record on the tax roll at the time of**
 42 **refund, whichever is applicable, and with the approval of the tax collector, the county gov-**
 43 **erning body may authorize:**

44 **(A) Refunds payable under subsection (1)(h) or (i) of this section to be made by crediting**
 45 **with the amount of the refund the total tax liability account of the requester.**

1 **(B) After the total tax liability account of the property on which the tax is assessed has**
 2 **been satisfied, refunds payable under subsection (1) of this section to be made by crediting**
 3 **with the remaining amount of the refund any other total tax liability account.**

4 [(b)] **(4)(a)** In the case of a refund or credit payable to a single requester that results from an
 5 order constituting a final determination of a matter as described under subsection (1)(a), (b) or (c)
 6 of this section, a county governing body may elect to pay the refund or apply the credit in equal
 7 periodic installments over not more than the five-year period that begins on the date that the order
 8 is issued if the amount to be refunded or credited exceeds the lesser of \$250,000 or one-quarter of
 9 one percent of the total amount of taxes on property imposed within the county within the limits
 10 of [section 11b,] Article XI, **section 11b**, of the Oregon Constitution, as listed on the certificate last
 11 prepared under ORS 311.105.

12 [(c)] **(b)** If a county governing body elects to pay a refund or credit under the provisions of
 13 paragraph [(b)] **(a)** of this subsection, and the election will result in a hardship to a requester, the
 14 requester may appeal the election to the tax court as provided in ORS 305.404 to 305.560.

15 [(4)(a)] **(5)(a)** The tax collector shall refund taxes paid on a property value, a claim for ex-
 16 emption or a claim for cancellation of a property tax if:

17 (A) A county board of property tax appeals or the Oregon Tax Court issues a decision that could
 18 result in a refund if the decision is upheld on appeal;

19 (B) The final resolution is pending further appeal; and

20 (C) The county governing body orders a refund of taxes paid under this subsection.

21 (b) An order by a county governing body or a recommendation of an assessor or tax collector
 22 in regard to this subsection may not be considered in determining matters in controversy on appeal,
 23 including property value or tax liability.

24 (c) Interest may not be paid on any refund under this subsection prior to final resolution of the
 25 appeal. If, after taking into account the amount refunded under this subsection, the final resolution
 26 of the controversy after appeal results in a refund due, interest shall be determined and paid as
 27 provided in ORS 311.812.

28 (d) If, after taking into account the amount refunded under this subsection, the final resolution
 29 of the controversy after appeal results in additional taxes due on the property, the additional taxes
 30 shall be billed and collected as provided in ORS 311.513.

31 [(5)] **(6)** Immediately upon payment of the refund and any interest thereon, the tax collector shall
 32 make the necessary correcting entries in the records of the office of the tax collector. ORS 294.305
 33 to 294.565 do not apply to refunds made out of the refund reserve account or the unsegregated tax
 34 collections account.

35 [(6)] **(7)** A refund is not required under this section for any tax year if the amount of the refund
 36 would be \$10 or less. Any amount not refunded under this subsection shall be distributed to taxing
 37 districts in the same manner that other taxes are distributed.

38 [(7)] **(8)** As used in this section[,]:

39 **(a)** “Owner of record on the tax roll at the time of refund” means the owner or an owner of the
 40 property or the person in whose name the property is assessed on the tax roll last certified and
 41 delivered to the tax collector under ORS 311.105 and 311.115.

42 **(b)** “**Total tax liability account**” means the total amount of tax that has been extended
 43 or charged against a particular property tax account as limited by Article XI, section 11b,
 44 of the Oregon Constitution.

45 **SECTION 2.** The amendments to ORS 311.806 by section 1 of this 2017 Act apply to re-

1 **funds payable on or after the effective date of this 2017 Act.**

2 **SECTION 3. This 2017 Act takes effect on the 91st day after the date on which the 2017**
3 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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