

Requested by Representative BARNHART

**PROPOSED AMENDMENTS TO
HOUSE BILL 2087**

1 On page 1 of the printed bill, line 2, after “provisions;” insert “and” and
2 after “ORS” delete the rest of the line and delete line 3 and insert “305.155,
3 305.860 and 305.875.”.

4 Delete lines 5 through 27 and delete pages 2 through 14 and insert:

5 **“SECTION 1.** ORS 305.860 is amended to read:

6 “305.860. (1) The Director of the Department of Revenue shall prepare a
7 statement [*which*] **that** sets forth in simple nontechnical terms:

8 “(a) The rights of a taxpayer and the obligations of the Department of
9 Revenue during an audit;

10 “(b) The procedures by which a taxpayer may appeal any adverse decision
11 of the department, including **decisions related to collections**, informal
12 conferences and judicial appeals;

13 “(c) The procedures for filing and processing refund claims and filing of
14 taxpayer complaints; [*and*]

15 “(d) The procedures [*which*] **that** the department may use in enforcing the
16 provisions of the laws of this state[.]; **and**

17 **“(e) The procedures used by the department for the collection of tax
18 debt.**

19 “(2) The statement prepared in accordance with subsection (1) of this
20 section shall be distributed by the Director of the Department of Revenue
21 to all taxpayers upon request. The director shall inform taxpayers of their

1 rights in a brief explanatory statement included in all billing or collection
2 notices, all notices of assessment or deficiency and all notices of refund ad-
3 justment or denial sent to the taxpayer.

4 **“SECTION 2.** ORS 305.875 is amended to read:

5 “305.875. In any meeting or communication with the Department of Rev-
6 enue, including but not limited to audits, conferences, interviews and any
7 other meeting or communication between the taxpayer and the department,
8 the taxpayer shall have the following rights, unless waived by the taxpayer:

9 “(1) The right to an explanation, by an officer or employee of the de-
10 partment before or during the meeting of:

11 “(a) The audit, conference or meeting process and the taxpayer’s rights
12 under such process; and

13 “(b) The collection process and the taxpayer’s rights under such process.

14 “(2) The right to make an audio recording of any meeting relating to the
15 determination or collection of any tax with the department representative,
16 using the taxpayer’s own equipment, and at the taxpayer’s own expense.

17 “(3) If the department makes an audio recording of the meeting, [*the tax-*
18 *payer has*] the right to advance notice of the recording and a copy of the
19 recording upon request. The taxpayer shall reimburse the department the
20 reasonable cost of the copy.

21 “(4) The right to consult with an attorney, certified public accountant,
22 enrolled agent, or an other person permitted to represent a taxpayer at any
23 meeting before the department, if the taxpayer clearly states to the depart-
24 ment representative at any time during any meeting, that the taxpayer
25 wishes to consult with the person. This subsection does not apply to a
26 meeting initiated by an administrative subpoena.

27 “(5) The right to be represented by anyone who is permitted to represent
28 the taxpayer before the department, as provided under ORS 305.230 and
29 305.245.

30 “(6) The right not to be present, if represented, at the meeting unless

1 subpoenaed by the department pursuant to ORS 305.190, or other laws of this
2 state.

3 “(7) **The right not to be contacted by the department if the taxpayer**
4 **has designated a power of attorney for representation under ORS**
5 **305.230 and has provided notice of that representation and its scope to**
6 **the department. This provision does not apply to notices mailed by the**
7 **department.**

8 “**SECTION 3.** ORS 305.155 is amended to read:

9 “305.155. (1) The Department of Revenue shall cancel an unpaid tax im-
10 posed by laws of the State of Oregon that is collected by the department,
11 including any penalty or interest applicable to the tax, if the department
12 determines that:

13 “(a) The tax has been delinquent for seven or more years;

14 “(b) All reasonable efforts have been made to effect collection;

15 “(c) The taxpayer cannot be located or is dead; and

16 “(d) The tax is wholly uncollectible.

17 “(2) The department shall offer to suspend collection of an unpaid tax
18 imposed by laws of the State of Oregon that is collected by the department,
19 including any penalty or interest applicable to the tax, if the department
20 determines that the individual liable for the debt:

21 “(a) Has income that does not exceed 200 percent of the federal poverty
22 guidelines based on the individual’s household size and household members;

23 “(b) Has less than \$5,000 in assets; and

24 “(c) Has income solely from a source that is exempt from garnishment
25 under ORS chapter 18.

26 “(3) The department may cancel [*any*] **an unpaid** tax imposed by laws of
27 the State of Oregon that is collected by the department or any portion of the
28 tax assessed against a person, including any penalty and interest that has
29 not been collected, if the department determines that the administration and
30 collection costs involved would exceed the amount that can reasonably be

1 expected to be recovered.

2 “(4) When taxes are canceled under subsection (1) or (3) of this section,
3 the department shall make an order canceling the tax, penalties and interest.
4 The order shall be filed in the records of the department. Upon making the
5 order, the department also shall cause to be canceled or released any lien
6 of record of the tax, penalties and interest in the counties that may have
7 been filed and entered therein.

8 “(5) When collection of taxes is suspended under subsection (2) of this
9 section:

10 “(a) The department shall continue to charge interest on the taxes for
11 which collection has been suspended.

12 “(b) The taxpayer may make voluntary payments of unpaid tax. Volun-
13 tary payment of unpaid tax under this subsection does not affect the
14 taxpayer’s eligibility for suspension of collection under this section or allow
15 the department to resume collection of any unpaid tax.

16 “(c) The department may file a lien against the taxpayer’s property.

17 “(d) The department may resume collection as described in subsection (7)
18 of this section if the taxpayer incurs additional unpaid tax during the period
19 of suspended collection.

20 “(6) Nothing in this section limits the department’s authority to offset
21 state or federal payments, including tax refunds, against unpaid taxes that
22 have been suspended under subsection (2) of this section.

23 “(7)(a) When collection of taxes is suspended under subsection (2) of this
24 section, the department shall review annually the taxpayer’s eligibility for
25 suspension of collection activities and ensure that the taxpayer continues to
26 meet all requirements listed in subsection (2) of this section.

27 “(b) If the department determines that a taxpayer no longer meets the
28 requirements listed in subsection (2) of this section, the department may re-
29 sume collection of any unpaid tax. Not less than 30 days before the depart-
30 ment resumes collection under this subsection, the department shall provide

1 written notice to the taxpayer that the taxpayer no longer qualifies for sus-
2 pension of collection under this section and that the department will resume
3 collection of the unpaid tax.

4 “(8) The department may write off the debt on its accounts under ORS
5 293.240 for any tax period for which collection has been suspended under
6 subsection (2) for more than three tax years.

7 **“(9) The department shall cancel an unpaid tax imposed by laws of**
8 **the State of Oregon, other than a tax deferred under ORS 311.666 to**
9 **311.701, that is collected by the department or any portion of the tax**
10 **assessed against a person, including any penalty and interest that has**
11 **not been collected, if at least 20 years have passed since the date of**
12 **the notice of assessment.**

13 “[9] (10) The department shall by rule establish policies and procedures
14 for the administration of this section.

15 **“SECTION 4. Section 5 of this 2017 Act is added to and made a part**
16 **of ORS chapter 305.**

17 **“SECTION 5. The Department of Revenue shall by rule adopt and**
18 **publish the following:**

19 **“(1) Standards to be used by the department in determining whether**
20 **an agreement to satisfy a tax liability through installment payments**
21 **under ORS 305.890 facilitates collection of the liability. In developing**
22 **the standards described in this subsection the department shall con-**
23 **sider:**

24 **“(a) The collection financial standards promulgated by the Internal**
25 **Revenue Service; and**

26 **“(b) Provision for the allowance to a taxpayer of a reasonable ad-**
27 **ditional amount for special expenses, including the payment of the**
28 **education loans and higher education expenses of the taxpayer and the**
29 **payment of tithes.**

30 **“(2) The standards to be used by the department in granting or de-**

1 **nying:**

2 **“(a) Requests for agreements to satisfy tax liability through in-**
3 **stallment payments under ORS 305.890;**

4 **“(b) Offers of compromise for settlement of debt; or**

5 **“(c) Applications for penalty abatements based on allegations of**
6 **circumstances beyond a taxpayer’s control.**

7 **“(3) Procedures and enumerated grounds by which a taxpayer may**
8 **challenge a recorded distraint warrant, including the procedures by**
9 **which a taxpayer may request release or subordination of a tax lien**
10 **or cancellation of a tax lien upon bankruptcy discharge.”.**

11
