

Enrolled
Senate Bill 959

Sponsored by Senator JOHNSON (at the request of Sue Aalykke)

CHAPTER

AN ACT

Relating to taxation; amending ORS 308.290, 308.295 and 308.296.

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

SECTION 1. ORS 308.290 is amended to read:

308.290. (1)(a) Every person and the managing agent or officer of any **business**, firm, corporation or association owning, or having in possession or under control taxable personal property shall make a return of the property for ad valorem tax purposes to the assessor of the county in which such property has its situs for taxation. As between a mortgagor and mortgagee or a lessor and lessee, however, the actual owner and the person in possession may agree between them as to who shall make the return and pay the tax, and the election shall be followed by the person in possession of the roll who has notice of the election. Upon the failure of either party to file a personal property tax return on or before March 1 of any year, both parties shall be jointly and severally subject to the provisions of ORS 308.296.

(b) Every person and the managing agent or officer of any **business**, firm, corporation or association owning or in possession of taxable real property shall make a return of the property for ad valorem tax purposes when so requested by the assessor of the county in which such property is situated.

(2)(a) Each return of personal property shall contain a full listing of such property and a statement of its real market value, including a separate listing of those items claimed to be exempt as imports or exports. Each statement shall contain a listing of the additions or retirements made since the prior January 1, indicating the book cost and the date of acquisition or retirement. Each return shall contain the name, assumed business name, if any, and address of the owner of the personal property and, if it is a partnership, the name and address of each general partner or, if it is a corporation, the name and address of its registered agent.

(b) Each return of real property shall contain a full listing of the several items or parts of such property specified by the assessor and a statement exhibiting their real market value. Each return shall contain a listing of the additions and retirements made during the year indicating the book cost, book value of the additions and retirements or the appraised real market value of retirements as specified in the return by the assessor.

(c) There shall be annexed to each return the affidavit or affirmation of the person making the return that the statements contained in the return are true. All returns shall be in such form as the assessor, with the approval of the Department of Revenue, may prescribe. Prior to December 31 preceding the assessment year, the department or assessor shall cause blank forms for the returns to be prepared and distributed by mail, but failure to receive or secure the form shall not relieve

the person, managing agent or officer from the obligation of making any return required by this section.

(3) All returns shall be filed on or before March 1 of each year, but the assessor, upon written request filed with the assessor prior to that date and for good cause shown in the request, shall allow for an extension of time within which to file the return to April 15. The department shall adopt rules for the granting of extensions under this subsection.

(4)(a) In lieu of the returns required under subsection (1)(a) or (b) of this section, every person and the managing agent or officer of any **business**, firm, corporation or association owning or having in possession or under control taxable real and personal property that is either principal industrial property or secondary industrial property as defined by ORS 306.126 (1) and is appraised by the department shall file a combined return of the real and personal property with the department.

(b) The contents and form of the return shall be as prescribed by rule of the department. Any form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that is a part of an industrial property shall be included in a combined return.

(c) In order that the assessor may comply with ORS 308.295, the department shall provide a list to the assessor of all combined returns that are required to be filed with the department under this subsection but that were not filed on or before the due date or within the time allowed by an extension.

(d) If the department has delegated appraisal of the property to the assessor under ORS 306.126 (3), the department shall notify the person otherwise required to file the combined return under this subsection as soon as practicable after the delegation that the combined return is required to be filed with the county assessor.

(e) Notwithstanding subsection (1) or (3) of this section, a combined return of real and personal property that is industrial property appraised by the department shall be filed with the department on or before March 1 of the year.

(5)(a) Any person required to file a return under subsection (4) of this section may apply to the Department of Revenue for an extension of the time within which to file the return to April 15. An extension granted under this subsection shall continue in effect for each subsequent year unless canceled by the person or revoked by the department. An extension granted under this subsection shall apply to returns required to be filed with either the county assessor or the department. The department shall provide for notification of county assessors of the granting of extensions under this subsection.

(b) The Department of Revenue shall, by rule, establish procedures and criteria for the granting of extensions provided for under paragraph (a) of this subsection. The department shall adopt such rules after consultation with an advisory committee selected by the department that represents the interests of county assessors and affected taxpayers.

(6) No return shall be controlling on the assessor or on the Department of Revenue in any respect in the assessment of any property. On any failure to file the required return, the property shall be listed and evaluated from the best information obtainable from other sources.

(7)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 shall be confidential records of the office in which such returns are filed.

(b) Notwithstanding paragraph (a) of this subsection, a return described in paragraph (a) of this subsection may be disclosed to:

(A) The Department of Revenue or its representative;

(B) The representatives of the Secretary of State or to an accountant engaged by a county under ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment roll (including adjustments to returns made by the Department of Revenue);

(C) The county tax collector or the tax collector's representative for the purpose of collecting delinquent personal property taxes;

(D) Any reviewing authority to the extent the return being disclosed relates to an appeal brought by a taxpayer;

(E) The Division of Child Support of the Department of Justice or a district attorney to the extent the return being disclosed relates to a case for which the Division of Child Support or the district attorney is providing support enforcement services under ORS 25.080; or

(F) The Legislative Revenue Officer for the purpose of preparation of reports, estimates and analyses required by ORS 173.800 to 173.850.

(c) Notwithstanding paragraph (a) of this subsection:

(A) The Department of Revenue may exchange property tax information with the authorized agents of the federal government and the several states on a reciprocal basis.

(B) Information regarding the valuation of leased property reported on a property return filed by a lessor under this section may be disclosed to the lessee or other person in possession of the property. Information regarding the valuation of leased property reported on a property return filed by a lessee under this section may be disclosed to the lessor of the property.

(8) If the assessed value of any personal property in possession of a lessee is less than the maximum amount of the assessed value of taxable personal property for which ad valorem property taxes may be canceled under ORS 308.250, the person in possession of the roll may disregard an election made under subsection (1) of this section and assess the owner or lessor of the property.

SECTION 2. ORS 308.295 is amended to read:

308.295. (1) Each person, **business**, firm, corporation or association required by ORS 308.290 to file a return, other than a return reporting only taxable personal property, who or which has not filed a return within the time fixed in ORS 308.290 or as extended, is delinquent.

(2) A delinquent taxpayer, except a taxpayer described in subsection (3) of this section, is subject to a penalty of \$1 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the penalty may not be less than \$10 or more than \$250.

(3) A delinquent taxpayer required by ORS 308.290 to file a return reporting principal or secondary industrial property, as defined in ORS 306.126, is subject to a penalty of \$10 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the penalty may not be less than \$10 or more than \$5,000.

(4) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(5) Unless the penalty is the subject of an appeal under ORS 311.223, the county board of property tax appeals may, upon application of the taxpayer, waive the liability for all or a portion of the penalty upon a proper showing of good and sufficient cause. However, an application made under this subsection shall not be considered by the board unless filed timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the board under this subsection.

(6) If the board waives all or a portion of a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be refunded without interest under ORS 311.806.

(7)(a) Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties under this subsection if the taxpayer:

(A) Has never filed a personal property tax return in this state;

(B) Has failed to file a property tax return for one or more consecutive years;

(C) Has not previously received relief from property tax late filing penalties under this subsection; and

(D) Files an application for relief from property tax late filing penalties that satisfies the requirements of paragraph (b) of this subsection.

(b) An application for relief from property tax late filing penalties shall include a statement by the taxpayer setting forth the basis for relief from property tax late filing penalties and a statement under oath or affirmation that the basis for relief from property tax late filing penalties as stated in the application is true.

(c) **The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reasons given by the taxpayer in the application are sufficient to excuse the failure to file the property tax returns at issue in the application. If the assessor allows the application, the assessor may deny or grant relief from property tax late filing penalties in whole or in part. The determination of the assessor whether to grant the application or deny the application in whole or in part and whether to permit the taxpayer to pay the owing tax penalties, if any, in installments is final. The assessor shall notify the taxpayer of the decision.**

(d) **Nothing in this subsection affects the obligation of the taxpayer to file property tax returns or to pay property taxes owing from the current or delinquent tax years.**

SECTION 3. ORS 308.296 is amended to read:

308.296. (1) Each person, **business**, firm, corporation or association required by ORS 308.290 to file a return reporting only taxable personal property, who or which has not filed a return within the time fixed in ORS 308.290 or as extended, shall be subject to a penalty as provided in this section.

(2) A taxpayer who files a return to which this section applies after March 1, or after April 15, if the taxpayer received an extension, but on or before June 1, is subject to a penalty equal to five percent of the tax attributable to the taxable personal property of the taxpayer.

(3) A taxpayer who files a return to which this section applies after June 1, but on or before August 1, is subject to a penalty equal to 25 percent of the tax attributable to the taxable personal property of the taxpayer.

(4) After August 1, a taxpayer who files a return to which this section applies or who fails to file a return shall be subject to a penalty equal to 50 percent of the tax attributable to the taxable personal property of the taxpayer.

(5) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(6)(a) Unless the penalty is the subject of an appeal under ORS 311.223, the county board of property tax appeals, upon application of the taxpayer, may waive the liability:

(A) For all or a portion of the penalty upon a proper showing of good and sufficient cause; or

(B) If the year for which the return was filed was both the first year that a return was required to be filed by the taxpayer and the first year for which the taxpayer filed a return.

(b) An application made under this subsection shall not be considered by the board unless filed timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the board under this subsection.

(7) If the board waives all or a portion of a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be refunded without interest under ORS 311.806.

(8)(a) Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties under this subsection if the taxpayer:

(A) Has never filed a personal property tax return in this state;

(B) Has failed to file a property tax return for one or more consecutive years;

(C) Has not previously received relief from property tax late filing penalties under this subsection; and

(D) Files an application for relief from property tax late filing penalties that satisfies the requirements of paragraph (b) of this subsection.

(b) An application for relief from property tax late filing penalties shall include a statement by the taxpayer setting forth the basis for relief from property tax late filing penalties and a statement under oath or affirmation that the basis for relief from property tax late filing penalties as stated in the application is true.

(c) The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reasons given by the taxpayer in the application are sufficient to excuse the failure to file the property tax returns at issue in the application. If the assessor allows the application, the assessor may deny or grant relief from property tax late filing penalties in whole or in part. The determination of the assessor whether to grant the application or deny the application in whole or in part and whether to permit the taxpayer to pay the owing tax penalties, if any, in installments is final. The assessor shall notify the taxpayer of the decision.

(d) Nothing in this subsection affects the obligation of the taxpayer to file property tax returns or to pay property taxes owing from the current or delinquent tax years.

Passed by Senate June 12, 2007

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Secretary of Senate

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President of Senate

Passed by House June 20, 2007

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Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State