

*Urhausen v City of Eugene*

The issue to be decided by the Oregon Supreme Court was whether the City of Eugene's categorization of revenues raised by a local option levy was consistent with the limitations of Measure 5 (1990).

The City Council put a measure on the ballot for a four-year local option tax. The measure was designed to impose a .86/1000 tax rate and raise approximately \$31.5 million. The measure summary stated that 7% of the proceeds would be dedicated to youth services and the remaining 93% was slated to go to Eugene and Bethel school districts for a number of specifically identified school projects. The city categorized 100% of the levy under the general government category. At that time many taxpayers' properties were already under compression in the education category. The levy effectively raised their taxes simply due to the City's general government categorization (in compliance with ORS 310.155).

This actual scenario is probably the best example to use to explain the ruling.

- City passes levy,
- Levy purpose is part education-part general government,
- City must categorize the mixed use into both categories accordingly.

The Tax Court found both (2) and (3) of ORS 310.155 unconstitutional because those provisions did not allow for a split categorization of tax for a mixed use levy. Those subsections require categorization in one category or the other depending on the "sole purpose of the levy" without recognition of the potential for a mixed purpose.

The Oregon Supreme Court affirmed the Tax Court decision and found that revenues for different purposes from a levy must be separately categorized in the category relevant to their intended use and that the all or nothing approach dictated by ORS 310.155(2) and (3) was unconstitutional. The Supreme Court only ruled on ORS 310.155(3) because ORS 310.155(2) was not relevant to the case. However, as the Tax Court discussed, the same concern exists with both paragraphs and the Supreme Court affirmed the tax court opinion.

For mixed use levies, a local government that is certifying a levy for imposition on the property tax roll must categorize in the category or categories appropriate with the end use of those revenues even if it means categorizing a portion of a levy into each of the two categories. This effectively splits the levy into two portions for extension on the tax roll, with each portion treated as a separate levy subject to the limits of its relevant category.