

Enrolled
House Bill 2484

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Revenue)

CHAPTER

AN ACT

Relating to extensions for filing certain property tax returns; creating new provisions; amending ORS 308.250, 308.290, 308.295, 308.296 and 308.300; and prescribing an effective date.

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

SECTION 1. ORS 308.290 is amended to read:

308.290. (1)(a) Except as provided in paragraph (b) of this subsection, 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 the 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] 15 of any year, both parties shall be jointly and severally subject to the provisions of ORS 308.296.

(b) Paragraph (a) of this subsection does not apply to personal property exempt from taxation under ORS 307.162.

(2) 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 the property is situated.

(3)(a) Each return of personal property shall contain a full listing of the 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 the property specified by the county 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 a form that the county assessor, with the approval of the Department of Revenue, may prescribe.

(4) All returns shall be filed on or before March [1] 15 of each year[, *but the county assessor or the Department of Revenue may grant an extension of time to April 15 within which to file the return as provided by subsection (6), (7) or (8) of this section.*]

(5)(a) In lieu of the returns required under subsection (1)(a) or (2) 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 in ORS 306.126 (1) and is appraised by the Department of Revenue 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 county 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 county 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 assessor.

(e) Notwithstanding subsection (2) 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] 15 of [*the*] **each** year.

[(6)(a) Any person required to file a return under subsection (5) of this section may apply to the Department of Revenue for an extension of time to April 15, within which to file the return.]

[(b) Extensions granted under this subsection may be based on a finding by the department that:]

[(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or]

[(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the department revokes the extension.]

[(c) An extension granted under this subsection shall apply to returns required to be filed under subsection (5) of this section with either the county assessor or the department.]

[(d) The department shall notify assessors in affected counties when the department grants extensions under this subsection.]

[(7)(a) Except as provided in subsection (6) of this section, any person required to file a return with the county assessor under this section may apply to the assessor for an extension of time to April 15 within which to file the return.]

[(b) Extensions granted under this subsection may be based on a finding by the assessor that:]

[(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or]

[(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the assessor revokes the extension.]

[(8)(a) Any person required to file returns in more than one county may apply to the Department of Revenue for an extension of time to April 15 within which to file the returns. The department may grant extensions to a person required to file returns in more than one county.]

[(b) Extensions granted under this subsection may be based on a finding by the department that:]

[(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or]

[(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the department revokes the extension.]

[(c) Whenever the department grants an extension to a person required to file returns in more than one county, the department shall notify the assessors in the counties affected by the extensions.]

[(9) The Department of Revenue shall, by rule, establish procedures and criteria for granting, denying or revoking extensions under this section after consultation with an advisory committee selected by the department that represents the interests of county assessors and affected taxpayers.]

[(10)] (6) A return is not in any respect controlling on the county assessor or on the Department of Revenue in the assessment of any property. On any failure to file the required return, the property shall be listed and assessed from the best information obtainable from other sources.

[(11)(a)] (7)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

(b) The assessor or the department may forward any return received in error to the department or the county official responsible for appraising the property described in the return.

(c) 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 assessor, the county tax collector, the assessor's representative or the tax collector's representative for the purpose of:

(i) Collecting delinquent real or personal property taxes; or

(ii) Correctly reflecting on the tax roll information reported on returns filed by a business operating in more than one county or transferring property between counties in this state during the tax year;

(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.

(d) 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, or with county assessors, county tax collectors or authorized representatives of assessors or tax collectors.

(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.

[(12)] (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 (2)(a), the person in possession of the roll may disregard

an election made under subsection (1)(a) of this section and assess the owner or lessor of the property.

SECTION 2. ORS 308.250 is amended to read:

308.250. (1) All personal property not exempt from ad valorem taxation or subject to special assessment shall be valued at 100 percent of its real market value, as of January 1, at 1:00 a.m. and shall be assessed at its assessed value determined as provided in ORS 308.146.

(2)(a) If the total assessed value of all taxable personal property required to be reported under ORS 308.290 in any county of any taxpayer is less than \$12,500 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for property required to be reported under ORS 308.290 for that year.

(b) If, in a county with a population of more than 340,000, the total assessed value of all manufactured structures taxable as personal property under ORS 308.875 of any taxpayer is less than \$12,500 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for the manufactured structures for that year.

(3) In any assessment year or years following an assessment year for which taxes are canceled under subsection (2)(a) of this section, the taxpayer may meet the requirements of ORS 308.290 by filing, within the time required [or extended] under ORS 308.290, a verified statement with the county assessor indicating that the total assessed value of all taxable personal property of the taxpayer required to be reported under ORS 308.290 in the county is less than \$12,500. The statement shall contain the name and address of the taxpayer, the information needed to identify the account and other pertinent information, but shall not be required to contain a listing or value of property or property additions or retirements.

(4)(a) For each tax year beginning on or after July 1, 2003, the Department of Revenue shall recompute the maximum amount of the assessed value of taxable personal property in subsection (2)(a) and (b) of this section for which ad valorem property taxes may be canceled under this section. The computation shall be as follows:

(A) Divide the average U.S. City Average Consumer Price Index for the prior calendar year by the average U.S. City Average Consumer Price Index for 2002.

(B) Recompute the maximum amount of assessed value for which taxes may be canceled under subsection (2)(a) or (b) of this section by multiplying \$12,500 by the appropriate indexing factor determined as provided in subparagraph (A) of this paragraph.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) If any change in the maximum amount of assessed value determined under paragraph (a) of this subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of \$500.

SECTION 3. 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] **that** 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)(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) For all of the penalty 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) Unless the taxpayer files a timely application in the same manner as an appeal under ORS 309.100, the board may not consider an application made under this subsection.

(c) An appeal may not be taken 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 4. 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]* **that** 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]* **15**, 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 **after August 1**, 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) For all of the penalty 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) Unless the taxpayer files a timely application in the same manner as an appeal under ORS 309.100, the board may not consider an application made under this subsection.

(c) An appeal may not be taken 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.

SECTION 5. ORS 308.300 is amended to read:

308.300. (1) Except as provided in subsection (2) of this section, any person, managing agent or officer who, with intent to evade taxation, refuses or neglects to make any return required by ORS 308.290 and to file it with the assessor or the Department of Revenue within the time specified[, or *as extended*,] shall be subject to a penalty of \$10 for each day of the continuance of such refusal or neglect. Such penalty may be recovered in a proper action brought in the name of the county in any court of competent jurisdiction or as provided for a penalty for delinquency.

(2) This section does not apply to the failure to file a personal property return.

SECTION 6. The amendments to ORS 308.250, 308.290, 308.295, 308.296 and 308.300 by sections 1 to 5 of this 2015 Act apply to returns required to be filed for property tax years beginning on or after July 1, 2016.

SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House February 25, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate April 15, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State