

House Bill 2953

Sponsored by Representative PARRISH; Representative NEARMAN

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**.

Eliminates filing fees for complaints, petitions, answers and other first appearances in Oregon Tax Court.

Requires award of attorney fees, costs, disbursements and reasonable expenses when taxpayer or executor prevails in certain proceedings involving taxes.

A BILL FOR AN ACT

1
2 Relating to court proceedings involving taxes; creating new provisions; and amending ORS 305.447
3 and 305.490.

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

5 **SECTION 1.** ORS 305.490 is amended to read:

6 305.490. [(1)(a) *Plaintiffs or petitioners filing a complaint or petition in the tax court shall pay the*
7 *filing fee established under ORS 21.135 at the time of filing for each complaint or petition.*]

8 [(b) *In addition to the fee imposed under paragraph (a) of this subsection, plaintiffs or petitioners*
9 *filing a complaint under ORS 305.501 (5) shall pay the filing fee established under ORS 21.135 at the*
10 *time of filing the complaint.*]

11 [(2) *Neither the State of Oregon, nor any county, school district, municipal corporation or other*
12 *public corporation therein, nor any officer of any such public political division or corporation, appear-*
13 *ing in the representative capacity of the officer of any public political division or corporation, shall be*
14 *required to pay the fee prescribed under this section. The party entitled to costs and disbursements on*
15 *such appeal shall recover from the opponent of the party the amount so paid upon order of the court,*
16 *as in equity suits in the circuit court.*]

17 **(1) The tax court may not collect a filing fee from any party filing a complaint, petition,**
18 **answer or other first appearance in the tax court.**

19 [(3)(a)] **(2)(a)** If, in any proceeding before the tax court judge involving taxes upon or measured
20 by net income in which an individual taxpayer is a party, or involving inheritance or estate taxes,
21 the court grants a refund claimed by the executor or taxpayer or denies in part or wholly an addi-
22 tional assessment of taxes claimed by the Department of Revenue to be due from the estate or tax-
23 payer, the court [may] **shall** allow the taxpayer, in addition to costs and disbursements, the
24 following:

25 (A) Reasonable attorney fees for the proceeding under this subsection and for the prior pro-
26 ceeding in the matter, if any, before the magistrate; and

27 (B) Reasonable expenses as determined by the court. Expenses include accountant fees and fees
28 of other experts incurred by the executor or individual taxpayer in preparing for and conducting the
29 proceeding before the tax court judge and the prior proceeding in the matter, if any, before the
30 magistrate.

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 (b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the
2 Department of Revenue in the manner provided by ORS 305.790.

3 [(4)(a)] **(3)(a)** If, in any proceeding before the tax court judge involving ad valorem property
4 taxation, exemptions, special assessments or omitted property, the court finds in favor of the tax-
5 payer, the court [may] **shall** allow the taxpayer, in addition to costs and disbursements, the follow-
6 ing:

7 (A) Reasonable attorney fees for the proceeding under this subsection and for the prior pro-
8 ceeding in the matter, if any, before the magistrate; and

9 (B) Reasonable expenses as determined by the court. Expenses include fees of experts incurred
10 by the individual taxpayer in preparing for and conducting the proceeding before the tax court judge
11 and the prior proceeding in the matter, if any, before the magistrate.

12 (b) Payment of attorney fees or reasonable expenses under this subsection shall be made by the
13 Department of Revenue in the manner provided by ORS 305.790.

14 [(5)] **(4)** All fees and other moneys received or collected by the clerk by virtue of the office of
15 the clerk shall be paid over to the State Treasurer and shall be held by the clerk in the General
16 Fund as miscellaneous receipts.

17 **SECTION 2.** ORS 305.447 is amended to read:

18 305.447. If, in an appeal under ORS 305.445 involving taxes upon or measured by net income in
19 which an individual taxpayer is a party, the court grants the refund claimed by the taxpayer or
20 denies the additional assessment of taxes claimed by the Department of Revenue to be due from the
21 taxpayer, the court [may] **shall** allow the taxpayer:

22 (1) Reasonable attorney fees for the appeal under ORS 305.445 and for any prior proceeding in
23 the matter before the tax court; and

24 (2) Reasonable expenses as determined by the court in addition to costs and disbursements. Ex-
25 penses include accountant fees and fees for other experts incurred by the taxpayer in preparing for
26 and conducting the appeal under this section and any prior proceeding in the matter before the tax
27 court.

28 **SECTION 3. (1) ORS 305.490 (1), as amended by section 1 of this 2017 Act, applies to**
29 **complaints, petitions, answers and other first appearances filed on or after the effective date**
30 **of this 2017 Act.**

31 **(2) The amendments to ORS 305.447 and 305.490 by sections 1 and 2 of this 2017 Act apply**
32 **to grants of refunds, denials of additional assessment of taxes and findings in favor of a**
33 **taxpayer on or after the effective date of this 2017 Act.**

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