

Senate Bill 1019

Sponsored by Senator MANNING JR (at the request of Rebekah Dohrman)

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**.

Authorizes magistrate division of tax court to allow prevailing taxpayer reasonable attorney fees and expenses.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to awards of costs in proceedings before the tax court; creating new provisions; amending
3 ORS 305.490; and prescribing an effective date.

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
7 the 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, ap-
13 pearing in the representative capacity of the officer of any public political division or corporation,
14 shall be required to pay the fee prescribed under this section. The party entitled to costs and dis-
15 bursements on such appeal shall recover from the opponent of the party the amount so paid upon
16 order of the court, as in equity suits in the circuit court.

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

23 (A)(i) **If before a tax court magistrate**, reasonable attorney fees for the proceeding under this
24 subsection [*and for the prior proceeding in the matter, if any, before the magistrate*]; and

25 (ii) **If before the tax court judge**, reasonable attorney fees for the proceeding under this
26 subsection, and for the prior proceeding in the matter, if any, before the magistrate unless
27 reasonable attorney fees were allowed for the prior proceeding under sub-subparagraph (i)
28 of this subparagraph; and

29 (B) Reasonable expenses as determined by the court. Expenses include accountant fees and fees
30 of other experts incurred by the executor or individual taxpayer in preparing for and conducting the
31 proceeding **or proceedings, as applicable**, before the tax court [*judge and the prior proceeding in*

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 *the matter, if any, before the magistrate].*

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

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

8 (A)(i) **If before a tax court magistrate**, reasonable attorney fees for the proceeding under this
 9 subsection [*and for the prior proceeding in the matter, if any, before the magistrate*]; and

10 **(ii) If before the tax court judge, reasonable attorney fees for the proceeding under this**
 11 **subsection, and for the prior proceeding in the matter, if any, before the magistrate unless**
 12 **reasonable attorney fees were allowed for the prior proceeding under sub-subparagraph (i)**
 13 **of this subparagraph; and**

14 (B) Reasonable expenses as determined by the court. Expenses include fees of experts incurred
 15 by the individual taxpayer in preparing for and conducting the proceeding **or proceedings, as ap-**
 16 **plicable**, before the tax court [*judge and the prior proceeding in the matter, if any, before the*
 17 *magistrate*].

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

20 (5) All fees and other moneys received or collected by the clerk by virtue of the office of the
 21 clerk shall be paid over to the State Treasurer and shall be held by the clerk in the General Fund
 22 as miscellaneous receipts.

23 **SECTION 2. The amendments to ORS 305.490 by section 1 of this 2017 Act apply to claims**
 24 **filed in the tax court on or after the effective date of this 2017 Act.**

25 **SECTION 3. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 26 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

27