

House Bill 2642

Sponsored by Representative POST (Presession filed.)

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**.

Requires tax court magistrate to hear taxpayer appeals of collections actions brought by Department of Revenue.

Authorizes tax court to award reasonable attorney fees and expenses to taxpayer in any proceeding before court.

A BILL FOR AN ACT

1
2 Relating to tax court; creating new provisions; and amending ORS 305.501 and 305.790.

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

4 **SECTION 1.** ORS 305.501 is amended to read:

5 305.501. (1) Except as provided in subsection (2) of this section, an appeal to the tax court shall
6 be heard by a tax court magistrate unless specially designated by the tax court judge for hearing
7 in the regular division. **The magistrate shall hear taxpayer appeals of collections actions**
8 **brought by the Department of Revenue.** In any matter arising under the property tax laws and
9 involving a county or county assessor that is designated for hearing in the regular division, the
10 Department of Revenue shall be substituted for the county as a party. The plaintiff or petitioner in
11 the appeal is not required to pay any additional filing fee if the proceeding is specially designated
12 by the tax court judge for hearing in the regular division.

13 (2) A party to the appeal may request mediation, or the tax court on its own motion may assign
14 the matter to mediation. If the mediation does not result in an agreed settlement within 60 days
15 after the end of the mediation session, the appeal shall, absent a showing of good cause for a con-
16 tinuance, be assigned to a magistrate for hearing.

17 (3) The tax court, with the assistance of the State Court Administrator, shall establish proce-
18 dures for magistrate division hearings and mediation.

19 (4)(a) Subject to the rules of practice and procedure established by the tax court, a magistrate
20 is not bound by common law or statutory rules of evidence or by technical or formal rules of pro-
21 cedure, and may conduct the hearing in any manner that will achieve substantial justice. A hearing
22 may be conducted in person or by telephone. Magistrates may confer with each other in order to
23 reach a decision on any matter.

24 (b) All written magistrate decisions shall be mailed to the parties to the appeal and to the De-
25 partment of Revenue within five days after the date of entry of the written decision.

26 (5)(a) Any party dissatisfied with a written decision of a magistrate may appeal the decision to
27 the judge of the tax court by filing a complaint in the regular division of the tax court within 60
28 days after the date of entry of the written decision.

29 (b) If a decision of a magistrate involves any matter arising under the property tax laws and a
30 county was a party to the proceeding before the magistrate, the Department of Revenue may file a

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 notice of appeal whether or not the department had intervened in the proceeding before the
2 magistrate. In such cases, the department shall appear before the tax court judge in any proceeding
3 on appeal.

4 (c) If a decision of a magistrate involves any matter arising under the property tax laws and a
5 party other than a county appeals the decision to the tax court judge, the Department of Revenue
6 shall be the defendant.

7 (d) Appeal to the judge of the tax court is the sole and exclusive remedy for review of a written
8 decision of a magistrate.

9 (6) Appeal of a final decision of a magistrate before the judge of the tax court shall be as pro-
10 vided in ORS 305.425 (1) and 305.570.

11 (7) If no appeal is taken to the tax court judge within 60 days, the decision of the magistrate
12 shall become final. The tax court shall enter a judgment enforcing all final decisions of the
13 magistrate, which judgment shall be binding upon all parties. ORS 305.440 (2) applies to the final
14 determination of any property tax matter.

15 **SECTION 2. Section 3 of this 2021 Act is added to and made a part of ORS 305.404 to**
16 **305.560.**

17 **SECTION 3. The Oregon Tax Court may award reasonable attorney fees and expenses to**
18 **a taxpayer in any proceedings before the court. Payment of attorney fees and expenses under**
19 **this section shall be made by the Department of Revenue in the manner provided by ORS**
20 **305.790.**

21 **SECTION 4.** ORS 305.790 is amended to read:

22 305.790. Payment of any attorney fees or reasonable expenses under ORS 305.447 or 305.490 **or**
23 **section 3 of this 2021 Act** shall be made by the Department of Revenue in the manner provided
24 by law for the payment of income tax refunds.