

Senate Bill 121

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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 judicial review of declaratory rulings issued by Department of Revenue. Allows department to charge fee for issuance of ruling. Allows ruling to be made public if identifying information is redacted. Provides that party objecting to proposed redactions may obtain protective order using existing Oregon Tax Court process.

Applies to petitions submitted on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to declaratory rulings issued by Department of Revenue; creating new provisions; amending
3 ORS 305.105 and 305.560; and prescribing an effective date.

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

5 **SECTION 1.** ORS 305.105 is amended to read:

6 305.105. **(1)(a)** The Department of Revenue in its discretion may, on petition by any interested
7 person, issue a declaratory ruling with respect to the applicability to any person, property or state
8 of facts of any rule or statute enforceable by it. The department shall prescribe by rule the form,
9 content and procedure for submission, consideration and disposition of such petitions. [*Full oppor-*
10 *tunity for hearing shall be afforded to interested parties.*] **The person submitting the petition may**
11 **withdraw the petition prior to the issuance of the ruling.**

12 **(b)** A declaratory ruling shall bind the department and all parties to the proceedings on the
13 state of facts alleged, unless [*it*] **the declaratory ruling** is altered or set aside by a court. [*A ruling*
14 *shall be subject to review in the Oregon Tax Court and Supreme Court in the manner provided by ORS*
15 *305.445.*] **in a subsequent appeal of any notice, act, omission, order or determination that is**
16 **appealable under ORS 305.275 or 305.280. If a taxpayer appeals to the Oregon Tax Court from**
17 **a notice, act, omission, order or determination that is appealable under ORS 305.275 or**
18 **305.280 and that is based on the declaratory ruling, and the taxpayer contests the applica-**
19 **bility of the rule or statute as determined in the declaratory ruling, no party is bound by the**
20 **declaratory ruling.**

21 **(2)** The department may charge and collect a fee, established by rule, for responding to
22 a petition for a declaratory ruling. The fee may not exceed a reasonable estimate of the
23 actual cost to the department of responding to the request.

24 **(3)(a)** Notwithstanding ORS 314.835 or any other law restricting the disclosure of tax-
25 payer particulars from a return or other taxpayer information made confidential by law, the
26 department may disclose a declaratory ruling to the general public if identifying or sensitive
27 information, including trade secrets or proprietary information that may provide a basis for
28 the ruling, is redacted.

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) A party that objects to the department's proposed redactions to a declaratory ruling**
 2 **may file a complaint with the magistrate division of the Oregon Tax Court seeking a pro-**
 3 **protective order as provided in ORS 305.430 (3) and (4). The complaint must be filed within 30**
 4 **days of the department's issuance of the proposed redactions.**

5 **(c) The department shall adopt rules regarding the form, time and manner in which a**
 6 **party to a declaratory ruling may request redactions of information and review proposed**
 7 **redactions prior to publication of the declaratory ruling.**

8 **(4) A declaratory ruling may not be cited as precedent.**

9 **SECTION 2.** ORS 305.560 is amended to read:

10 305.560. (1)(a) Except for an order, or portion thereof, denying the discretionary waiver of pen-
 11 alty or interest by the Department of Revenue **or a declaratory ruling under ORS 305.105**, an
 12 appeal under ORS 305.275 may be taken by filing a complaint with the clerk of the Oregon Tax
 13 Court at its principal office at Salem, Oregon, within the time required under ORS 305.280.

14 (b) The clerk of the tax court shall serve copies of all complaints and petitions on the Depart-
 15 ment of Revenue. Service upon the department shall be accomplished by the clerk of the tax court
 16 filing the copy of the complaint with the Director of the Department of Revenue. Except as other-
 17 wise provided by law, other service shall be accomplished as provided in the rules of practice and
 18 procedure promulgated by the tax court.

19 (c)(A) The complaint shall be entitled in the name of the person filing the same as plaintiff and
 20 the Department of Revenue, county, taxpayer or other person or entity as defendant. If the com-
 21 plaint relates to value of property for ad valorem property tax purposes and the county has made
 22 the appraisal, the complaint shall be entitled in the name of the person filing the same as plaintiff
 23 and the county assessor as defendant.

24 (B) If any, a copy of the order of the department or board of property tax appeals shall be at-
 25 tached to the complaint.

26 (2) The complaint shall state the nature of the plaintiff's interest, the facts showing how the
 27 plaintiff is aggrieved and directly affected by the order, act, omission or determination and the
 28 grounds upon which the plaintiff contends the order, act, omission or determination should be re-
 29 versed or modified. A responsive pleading shall be required of the defendant.

30 (3) In any case in which the taxpayer is not the appealing party, a copy of the complaint shall
 31 be served upon the taxpayer by the appealing party by certified mail within the period for filing an
 32 appeal, and an affidavit showing such service shall be filed with the clerk of the tax court. A copy
 33 of the order of the department, if any, shall be attached to the complaint. The taxpayer shall have
 34 the right to appear and be heard.

35 (4)(a) At any time in the course of any appeal before the tax court, the department may inter-
 36 vene as a matter of right. A copy of any order or judgment issued by the tax court in any case in
 37 which the department is an intervenor shall be served upon the department in the manner provided
 38 in subsection (1)(b) of this section.

39 (b) The tax court, in its discretion, may permit other interested persons to intervene by filing
 40 a complaint in such manner and under such conditions as the court may deem appropriate.

41 **SECTION 3. The amendments to ORS 305.105 and 305.560 by sections 1 and 2 of this 2021**
 42 **Act apply to petitions for declaratory rulings submitted on or after the effective date of this**
 43 **2021 Act.**

44 **SECTION 4. This 2021 Act takes effect on the 91st day after the date on which the 2021**
 45 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

