

Senate Bill 860

Sponsored by Senator KENNEMER (at the request of Oregon Society of Enrolled Agents)

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 Department of Revenue to cancel unpaid tax and applicable penalty and interest, if at least 20 years have elapsed since date tax was first due and payable.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax statutes of limitations; amending ORS 305.155 and 305.157; and prescribing an effective date.

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

5 **SECTION 1.** ORS 305.155 is amended to read:

6 305.155. (1) The Department of Revenue shall cancel an unpaid tax imposed by laws of the State
7 of Oregon that is collected by the department, including any penalty or interest applicable to the
8 tax, if:

9 (a) The department determines that:

10 [(a)] (A) The tax has been delinquent for seven or more years;

11 [(b)] (B) All reasonable efforts have been made to effect collection;

12 [(c)] (C) The taxpayer cannot be located or is dead; and

13 [(d)] (D) The tax is wholly uncollectible[.]; **or**

14 (b) **At least 20 years have elapsed since the date that the tax was first due and payable.**

15 (2) The department shall offer to suspend collection of an unpaid tax imposed by laws of the
16 State of Oregon that is collected by the department, including any penalty or interest applicable to
17 the tax, if the department determines that the individual liable for the debt:

18 (a) Has income that does not exceed 200 percent of the federal poverty guidelines based on the
19 individual's household size and household members;

20 (b) Has less than \$5,000 in assets; and

21 (c) Has income solely from a source that is exempt from garnishment under ORS chapter 18.

22 (3) The department may cancel any tax imposed by laws of the State of Oregon that is collected
23 by the department or any portion of the tax assessed against a person, including any penalty and
24 interest that has not been collected, if the department determines that the administration and collection costs involved would exceed the amount that can reasonably be expected to be recovered.

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26 (4) When taxes are canceled under subsection (1) or (3) of this section, the department shall
27 make an order canceling the tax, penalties and interest. The order shall be filed in the records of
28 the department. Upon making the order, the department also shall cause to be canceled or released
29 any lien of record of the tax, penalties and interest in the counties that may have been filed and
30 entered therein.

31 (5) When collection of taxes is suspended under subsection (2) of this section:

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 (a) The department shall continue to charge interest on the taxes for which collection has been
 2 suspended.

3 (b) The taxpayer may make voluntary payments of unpaid tax. Voluntary payment of unpaid tax
 4 under this subsection does not affect the taxpayer's eligibility for suspension of collection under this
 5 section or allow the department to resume collection of any unpaid tax.

6 (c) The department may file a lien against the taxpayer's property.

7 (d) The department may resume collection as described in subsection (7) of this section if the
 8 taxpayer incurs additional unpaid tax during the period of suspended collection.

9 (6) Nothing in this section limits the department's authority to offset state or federal payments,
 10 including tax refunds, against unpaid taxes that have been suspended under subsection (2) of this
 11 section.

12 (7)(a) When collection of taxes is suspended under subsection (2) of this section, the department
 13 shall review annually the taxpayer's eligibility for suspension of collection activities and ensure that
 14 the taxpayer continues to meet all requirements listed in subsection (2) of this section.

15 (b) If the department determines that a taxpayer no longer meets the requirements listed in
 16 subsection (2) of this section, the department may resume collection of any unpaid tax. Not less than
 17 30 days before the department resumes collection under this subsection, the department shall pro-
 18 vide written notice to the taxpayer that the taxpayer no longer qualifies for suspension of collection
 19 under this section and that the department will resume collection of the unpaid tax.

20 (8) The department may write off the debt on its accounts under ORS 293.240 for any tax period
 21 for which collection has been suspended under subsection (2) for more than three tax years.

22 (9) The department shall by rule establish policies and procedures for the administration of this
 23 section.

24 **SECTION 2.** ORS 305.157 is amended to read:

25 305.157. (1) The Director of the Department of Revenue by order may extend *[any]* a statutory
 26 period of limitation for taking action on any tax that is collected by the Department of Revenue
 27 when the director determines, in the director's sole discretion, that an action of the Internal Re-
 28 venue Service or a state-declared emergency will impair the ability of Oregon taxpayers or the state
 29 to take the action required within the time prescribed by law. The order may apply retroactively
 30 and extend a period of limitation that, as of the date of the order, has expired.

31 **(2) This section does not apply to a period of limitation prescribed under ORS 305.155**
 32 **(1)(b).**

33 ~~[(2)]~~ (3) The Secretary of State shall publish the order in the bulletin referred to in ORS 183.360.

34 **SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021**
 35 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**