

## TITLE 29

### REVENUE AND TAXATION

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#### Chapter 306

##### 1955 REPLACEMENT PART

#### Administration and Enforcement of Revenue Laws; State Tax Commission

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**STATE TAX COMMISSION; POWERS  
AND DUTIES**

**306.010 State Tax Commission; number of members; qualifications; official seal.** The State Tax Commission shall be composed of three tax commissioners. Each commissioner shall be skilled and expert in matters of taxation and shall devote his entire time to the performance of the duties imposed on the commission. The commission shall adopt and use an official seal.

**306.020 Appointment of commissioners; election of chairman and secretary; apportionment of duties; bond and oath of office.** The Governor shall appoint the tax commissioners. The commissioners shall elect from their number a chairman and secretary and shall divide and apportion the administrative work of the commission. In addition to the work regularly assigned to him, each commissioner shall perform such other duties as may be required by the commission. Each commissioner, before entering upon the discharge of his official duties, shall execute a bond, payable to the State of Oregon, in the penal sum of \$10,000, with sureties approved by the Governor, for the faithful performance of his official duties. Each commissioner shall take and subscribe an oath for the faithful discharge of the duties of his office, which oath shall be indorsed upon his official bond. The bond and oath, when so executed and approved, shall be filed in the office of the Secretary of State. Each commissioner shall be reimbursed for the premium paid on the bond given by him. [Amended by 1953 c.381 §4]

**306.030 Term of office; removal; filling vacancies.** The tax commissioners shall hold office for the term of four years, but may be removed at any time at the pleasure of the appointing authority. If a vacancy occurs in the office of a tax commissioner the appointing authority shall appoint a successor for the unexpired term.

**306.040 Employees; appointment; removal; duties; compensation.** Unless otherwise provided by the State Civil Service Law, the commission may appoint and remove at pleasure such experts, clerks and employees as may be necessary, and shall define their duties and fix their compensation.

**306.050 Salaries of commissioners; traveling expenses.** Unless otherwise provided in ORS 292.317, the salary of each tax com-

missioner shall be fixed by the State Board of Control. Each commissioner and the employees of the commission shall be entitled to receive their necessary traveling expenses while traveling away from the capital on the business of the commission. Such expenses shall be itemized by the person incurring the same, and, when approved by the chairman, shall be paid upon warrant drawn by the Secretary of State upon the State Treasurer out of any funds not otherwise specifically appropriated by law.

**306.060 Place of holding sessions; office and supplies.** The commission shall hold its regular sessions at the State Capitol, and shall be furnished by the Secretary of State with an office at the State Capitol, and necessary printing, in the same manner as other state officers. All necessary office equipment and supplies, required by the commission, shall be purchased from the appropriation made for the salaries and the general and contingent expenses of the commission. The commission may hold sessions at any place in this state when deemed necessary to facilitate the discharge of its business.

**306.070 Regular meetings; meeting of county assessors.** The commission shall meet on the second Wednesday of each month to pass upon all matters properly coming before it for consideration. The commission may call one meeting each year of the several county assessors and may provide for the payment of the necessary traveling expenses of the assessors in attending the meeting.

**306.080 Record of proceedings; quorum; temporary officers.** A record of the proceedings of the State Tax Commission shall be kept in its office at the capital of the state, open to the inspection of the public. A majority of the commission shall constitute a quorum to do business, but a lesser number may meet and adjourn from time to time. In the absence of either the chairman or secretary, the commission shall appoint a temporary chairman or secretary.

**306.090 Supervisory power of commission.** The State Tax Commission shall exercise general supervision of the system of taxation throughout the state, and general supervision and control over the administration of the assessment and tax laws and over county assessors and county boards of equalization in the performance of their duties relating to taxation to the end that all

taxable property is assessed uniformly according to law and equality of taxation according to law is secured.

**306.100 Power to make rules and regulations and prescribe forms.** The State Tax Commission shall:

(1) Make such rules and regulations it deems proper to regulate its own procedure and to effectually carry out the purposes for which it is constituted.

(2) Prescribe all forms of books and blanks used in the assessment and collection of taxes not otherwise prescribed by law and change the forms of blanks and books prescribed by law in case change is necessary.

**306.110 Duty to construe tax laws; instruction of officers acting under tax laws.** The State Tax Commission shall construe the tax and revenue laws of this state whenever requested by any interested person or by any officer acting under such laws and shall instruct such officers as to their duties under such laws. Such officers shall submit all questions arising with them which affect the construction of tax and revenue laws of the state to the commission.

**306.120 Uniform methods of assessment; continuing study of equalization.** The State Tax Commission shall:

(1) Issue regulations, bulletins, manuals, instructions and directions to county assessors, county boards of equalization and tax collectors as to the methods best calculated to secure uniformity according to law, in the system of assessment and collection of taxes.

(2) Carry on a continuing study with the object of equalizing for the purposes of assessment and taxation property values within the counties and between the counties.

**306.123 Maps and plats for assessors.** The county court or board of county commissioners, on the recommendation of the county assessor, and the State Tax Commission may enter into agreements whereby the commission agrees to furnish to the assessor, at the expense of the county, the services of qualified persons who will aid in preparing and maintaining maps or plats to be used by the assessor in the performance of his duties. [1955 c.232 §1]

**306.125 Property tax appraisal program; record systems for assessors and tax collectors.** (1) The State Tax Commission is authorized to institute programs for the

appraisal of property in counties of the state and to make appraisals for the use of county assessors and boards of equalization in assessing property and reviewing assessment rolls, and may install, and assist in the maintenance of, standardized record systems as prescribed by the commission, in the offices of assessors and tax collectors.

(2) The commission and county courts are authorized to enter into agreements for the sharing of the expenses of such appraisals and installations including salaries and expenses of commission employees engaged therein.

(3) The shares of the counties in the expenses disbursed or to be disbursed by the commission may be paid to the State Tax Commission.

(4) (a) All moneys received by the State Tax Commission under subsection (3) hereof shall be by it immediately turned over to the State Treasurer who shall deposit the moneys in the General Fund to the credit of an account to be known as the Assessment and Taxation County Account, and such account hereby is continuously appropriated for the purposes of this section.

(b) The State Tax Commission may use the moneys to the credit of the Assessment and Taxation County Account, or any part thereof for expenditures in connection with appraisals and installations contracted for, including cash advances for travel and living expenses of employees. Any moneys received in reimbursement of these cash advances shall be deposited in the Assessment and Taxation County Account. Refunds may be made to the counties of unexpended receipts. [1953 c.232 §1]

**306.126 Appraisal of industrial property by commission appraisers.** (1) The State Tax Commission shall provide annually 450 man-days, in the aggregate, of services of qualified appraisal engineers for the various counties in the appraisal of the principal industrial properties situated within such counties. The properties to be appraised shall be determined by the commission after consultation with the county assessors.

(2) The cost of all industrial appraisals made pursuant to this section shall be computed by the State Tax Commission based upon the number of man-days of services rendered, and shall be borne, in proportion to the amount of services received, by the respective counties receiving such services. To assist the counties in budgeting for such

services, the commission shall submit to each county assessor not later than May 1 of each year an estimate of the costs thereof for the following fiscal year.

(3) The available man-days of services may be allocated among the various counties in such proportion as the commission directs, taking into account the ability of the various assessors to perform such industrial appraisals by use of their own personnel and the different amounts of industrial properties situated in the counties, but no exact or proportionate distribution of services is required.

(4) Any county may request, and upon such request the commission may provide, such additional services in the appraisal of industrial properties as the county court or the board of county commissioners, on recommendation of the county assessor, and the commission agree upon, without regard to the 450 man-days limitation of subsection (1) of this section. [1955 c.231 §1]

**306.127 Appraisal of taxable timber and timberland by commission.** (1) In each year during the period 1956 to 1960, inclusive, the State Tax Commission shall appraise, which term for the purposes of this section includes discover, list and evaluate, taxable timber and timberland in the various counties in which the timber and timberland has been, since the year 1950, either reappraised by the State Tax Commission, or reappraised by the county assessor with subsequent approval by the State Tax Commission. Beginning in the year 1961 and in each year thereafter, the State Tax Commission shall appraise taxable timber and timberland in each of the counties.

(2) The appraised value of standing timber determined by the State Tax Commission or a county assessor shall be by a method which takes into consideration the species, quality, volume after allowance for defect and breakage; accessibility to point of conversion; topography of the site and surrounding country; risk of loss due to fire, insects, disease and storms; growing conditions; carrying charges; and total volume of timber in the area and the rate of its depletion.

(3) The commission shall make available for the use of the various county assessors and boards of equalization the results of appraisals within their respective counties made pursuant to this section, which results shall include the true cash value of the ap-

praised timber and timberland and the supporting data necessary to complete the assessment thereof for tax purposes.

(4) The timber and timberlands to be appraised pursuant to this section shall be determined by the commission after consultation with the county assessor and the county court or board of county commissioners, or any of them. [1955 c.230 §1]

**306.128 Allocation among counties of timber appraisal services; agreements for additional services; payment of cost by county.** (1) The State Tax Commission may allocate among the various counties, in such proportion as it directs, the man-days of timber appraisal services which it has available, taking into account the ability of the various assessors to perform such appraisals by use of their own personnel, the different amounts of timber and timberland situated in the counties, the rate of growth and the rate of cutting. No exact or proportionate distribution of services by the commission is required.

(2) Any county, through the assessor and the county court or board of county commissioners, or any of them, may request, and upon such request the commission may provide, such additional services in the appraisal of timber and timberlands as the county court or board of county commissioners, on the recommendation of the county assessor, and the commission agree upon.

(3) The cost of all timber and timberland appraisals made pursuant to ORS 306.127 and 306.128 shall be computed by the commission based upon the number of man-days of services rendered, and shall be borne, in proportion to the amount of services received, by the respective counties receiving such services. To assist the counties in budgeting for such services, the commission shall submit to each county assessor not later than May 1 of each year an estimate of the costs thereof for the following fiscal year. [1955 c.230 §2]

**306.130 Power as to valuation of property.** The State Tax Commission may do any act or give any order to any county board of equalization or county assessor as to the valuation of any property or class of property which the commission deems necessary so that all taxable property is assessed according to law and equalized between taxpayers, between counties and between taxing units to the end that equality of taxation according to law shall be secured.

**306.140 Enforcement of tax laws.** (1) The State Tax Commission shall see that revenue officers comply with the tax and revenue laws, that all taxes are collected, that complaint is made against any person violating such laws and that penalties prescribed by such laws are enforced.

(2) The commission, or any member thereof, may call upon the district attorney or Attorney General to institute and conduct prosecutions for violations of the laws in respect to the assessment and taxation of property and the collection of public taxes and revenues.

**306.150 Inservice training for assessors and tax collectors.** The State Tax Commission shall carry on at its own expense a program of inservice training for the assessors and tax collectors of the various counties by periodically distributing to them bulletins prepared and published by the commission pertaining to the principles and practices of assessment, apportionment, levy and collection of public taxes; by periodically distributing to them lists of selected readings in the fields of assessment and taxation; and by establishing and conducting such classes of instruction for county assessors and tax collectors in the principles and practices of assessment and collection of public taxes as in the opinion of the commission may be expedient and beneficial to the needs of the state and the advancement of the tax assessing and tax collecting professions.

**306.152 Training session for members of board of equalization.** Once each year the State Tax Commission shall conduct a training session of not more than four days' duration dedicated to the schooling of members of the board of equalization in the functions of boards of equalization. [1955 c.709 §5]

**306.160 Reports from public officers.** The State Tax Commission shall require from any state, county or municipal officer, whose duties pertain to the assessment, apportionment, levy or collection of taxes and public revenues, or the disbursement of public funds, reports and statements in such forms as the commission may prescribe, as to any matter deemed material and relevant to the attainment of uniformity in the assessment and collection of taxes and public revenues.

**306.170 Complaints concerning tax laws; reports and recommendations to Legislative Assembly.** The State Tax Commission:

(1) Shall see that complaints concerning the law may be heard, information as to its effects may be collected and all proper suggestions as to amendments may be made.

(2) Shall report to the Legislative Assembly, at each regular session, the total amount of taxes collected in the state for state, county and municipal purposes, the proceedings of the commission and such other information concerning the public revenues as may be deemed of general interest.

(3) May investigate the tax laws of this and other states and the possible taxable resources of this state for the purpose of recommending to the legislature methods by which a more just and equitable system of taxation may be developed.

(4) Shall recommend to the Legislative Assembly at each regular session such amendments of the Constitution or laws as may seem necessary to remedy injustice or irregularity in taxation, or to facilitate the assessment and collection of public taxes and revenues.

**306.180 Apportionment of moneys received from United States in lieu of taxes.** The State Tax Commission shall apportion annually to the state and counties any moneys received by the state from the United States, or any agency thereof, as payments in lieu of ad valorem property taxes. Such moneys shall be apportioned in the same amounts and to the same governmental divisions as the taxes in lieu of which the payments are made would be apportioned if they were levied.

**306.190 Subpenaing and examining witnesses, books and papers.** (1) The State Tax Commission, or any member thereof in conformity to the resolutions or rules of the commission, may subpoena and examine witnesses, administer oaths and order the production of any books or papers in the hands of any person, company or corporation, whenever necessary in the prosecution of any inquiries deemed necessary or proper in their official capacity.

(2) If any person disobeys any subpoena of the commission, or any member thereof, or refuses to testify when required by the commission, or any member thereof, the commission may apply to the circuit court



for the county in which the person resides or has a place of business for an order to the person to produce the books and papers or attend and testify, or otherwise comply with the demand of the commission. The application to the court shall be by ex parte motion upon which the court shall make an order requiring the person against whom it is directed to appear before the court on such date as the court shall designate in its order and show cause why the person should not comply with the demand of the commission. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which service shall be required to confer jurisdiction upon the court. Upon failure of such person to show cause for noncompliance, the court shall make an order requiring the person to comply with the demand of the commission within such time as the court shall direct. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section shall be in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state. [Amended by 1955 c.610 §3]

**306.200 Witness fees and mileage.** Witnesses testifying before the commission, or any member thereof, shall be allowed the same fees and mileage as allowed in criminal causes in the circuit court. The fees and mileage shall be paid by warrant of the Secretary of State upon the State Treasurer upon the certificate of any member of the commission. However, any county or state officer shall receive his actual necessary traveling expenses only. No tender of witness fees or mileage in advance shall be necessary.

**306.210 Service of process.** The sheriffs of the several counties shall serve all process papers and subpoenas required by the commission, or any member thereof, and return them to the commission.

**306.220 Compliance of public officers with assessment and equalization laws and orders of commission.** (1) Every public officer shall comply with any lawful order, rule or regulation of the commission made under ORS 306.090, 306.130, 308.335 and 309.400.

(2) Whenever it appears to the commission that any public officer or employee whose duties relate to the assessment or

equalization of assessments of property for taxation has failed to comply with any law relating to such duties, or the rules of the commission made in pursuance thereof, the commission, after a hearing on the facts, may issue its order directing the public officer or employee to comply with such law or rule.

(3) If such public officer or employee, for a period of 10 days after service on him of the commission's order, neglects or refuses to comply therewith, the commission may apply to a judge of the circuit court of the county in which the public officer holds office for an order, returnable within five days from the date thereof, to compel such public officer or employee to comply with such law or rule, or to show cause why he should not be compelled so to do.

(4) Any order issued by the judge pursuant thereto shall be final.

(5) The remedy provided in this section shall be cumulative and shall not exclude the commission from exercising any power or rights delegated to it.

**306.230 Commissioner accepting gratuity.** No member of the commission shall, directly or indirectly, accept any free pass, frank or gratuity whatever from any person liable to assessment under ORS 308.515.

## **MISCELLANEOUS PROVISIONS**

**306.235 Service of orders of tax commission or boards of equalization.** Orders of county boards of equalization and of the State Tax Commission shall be served by mailing a copy by registered mail to each taxpayer directly affected or his attorney, except that whenever the number of taxpayers whose property is affected by such order exceeds three, the board or commission may, in its discretion, give notice of the order in either of the following ways:

(1) Mail to each taxpayer a notice of the order, which notice shall contain a general statement as to the effect of the order, the classes or types of property affected and a description of the general area affected, as provided by ORS 308.240; or

(2) Cause a notice of the order as described in subsection (1) of this section to be published in some newspaper of general circulation in the county in which the property is located, in two consecutive weekly publications, the first publication to be made within 10 days of the date of the order.

Publication shall be deemed complete five days after the last publication and shall be sufficient service of the order on each and every person whose property is affected. Any period of time within which such person may appeal from the order shall commence running on the day following the completion of publication. [1953 c.708 §8]

**306.240 Application of tax laws within federal areas in state.** Where not inconsistent with the Constitution and laws of the United States, notwithstanding any provision of any other statute of this state, the laws of this state relating to the imposition and collection of taxes shall apply with respect to any property located, any sale, use or transaction occurring, any income arising, or any person residing within any federal area situated within the exterior boundaries of this state.

**306.250 Reciprocal recognition of tax liability; actions in other states for Oregon taxes.** (1) The courts of Oregon shall recognize and enforce the liability for taxes lawfully imposed by the laws of any other state which extends a like comity in respect of the liability for taxes lawfully imposed by the laws of this state. The officials of such other state may bring action in the courts of this state for the collection of such taxes. The certificate of the Secretary of State of such other state that such officials have the authority to collect the taxes sought to be collected by such action shall be conclusive proof of that authority.

(2) The Attorney General of Oregon is empowered to bring action in the courts of other states to collect taxes legally due the State of Oregon.

(3) As used in this section, "taxes" includes:

(a) Tax assessments lawfully made whether they are based upon a return or other disclosure of the taxpayer, upon the information and belief of the taxing authority, or otherwise.

(b) Penalties lawfully imposed pursuant to a taxing statute.

(c) Interest charges lawfully added to the tax liability which constitutes the subject of the action.

**306.260 Refunds to taxpayers by commission.** Whenever it appears to the State Tax Commission from the audit of the returns required by any revenue measure, or

otherwise, that the taxes, penalty or interest paid by a taxpayer or any part thereof, are in excess of those due or legally assessable, the commission is hereby authorized to refund to any taxpayer who has paid the tax, all taxes, interest or penalties in excess of those due or legally assessable, with interest at the rate of six percent a year from and after 30 days from the date of filing claim for refund.

**306.270 Commission paying over funds to treasurer and writing checks for refunds.** In lieu of the procedure provided in certain revenue laws for the retaining of a working balance by the commission from which refunds may be made, the commission may, in accordance with the requirement of the Secretary of State, pay over all funds received under any of the revenue laws to the State Treasurer and write refund checks upon the State Treasurer for refunds authorized by law.

**306.280 Refund of taxes adjudged invalid.** Whenever, in a proceeding involving the validity of any law whereby taxes assessed or imposed have been collected and received by the state, acting through any department or agency thereof, and paid into the state treasury, if the court of last resort holds the law or any part thereof invalid, and the time limited for any further proceeding to sustain the validity of the law, or the part thereof affected, has expired, and if there is no other statute authorizing refund thereof, all taxes collected and paid under the law or part thereof invalidated, in or after the year in which the action attacking the validity of the same was instituted, shall be refunded and repaid in the manner provided in ORS 306.290 to 306.320.

**306.290 Report of taxpayers paying invalid tax; issuance and payment of warrants.** The department or agency of the state charged with the duty of administering the law so invalidated, either wholly or in part, shall prepare a detailed report, listing by name, address and amount of payment each taxpayer who paid an invalid tax under the law. The Secretary of State shall audit the report and issue a warrant in favor of each taxpayer listed therein, in the amount so reported, and shall forward the warrant to the taxpayer at the address shown in the report. The State Treasurer shall pay the warrants from the General Fund in the usual manner when and as pre-

sented. Warrants refunding invalid taxes shall be payable to the taxpayers named in the report required by this section or to their heirs, administrators, executors or assigns.

**306.300 Interest on amount paid.** If an appeal from or petition for certiorari to review a decision of the Supreme Court of Oregon, holding a tax law or any part thereof invalid, is taken to the Supreme Court of the United States and that court does not reverse or modify the decision of the Supreme Court of Oregon, the refund of the invalid taxes shall include interest on the amount paid at the rate of six percent from the date of the last decision of the Supreme Court of Oregon in the matter to the date of filing with the Secretary of State of the report and list of taxpayers entitled to the refunds as required by ORS 306.290.

**306.310 Taxes due prior to year in which suit brought.** Nothing contained in ORS 306.290 to 306.320 authorizes the refunding of any tax collected and paid under an invalidated tax law, or invalidated part thereof, where the tax as provided in such law became due and payable in any year prior to the year in which the suit or action seeking the invalidation of the law or part thereof was instituted.

**306.320 Appropriation.** There hereby is appropriated out of the moneys in the General Fund in the State Treasury, not otherwise appropriated, the amounts necessary to carry out ORS 306.290 to 306.320, not exceeding the amounts paid to and received by the State of Oregon, together with interest thereon as provided in ORS 306.300, under and by virtue of the law or laws, or parts thereof, declared to be invalid.

**306.330 Ratification of assessments, apportionments and collections made under repealed statutes.** All assessments and apportionments thereof made by the State Tax Commission, and all tax collections, under the statutes repealed by section 1, chapter 586, Oregon Laws 1951, hereby are ratified and confirmed. No such assessment, apportionment or tax collection shall be invalidated or set aside for irregularities, omissions or defects, or any defect of such statutes if such assessment, apportionment or collection was made in substantial compliance with the intent of such statutes and of the

provisions of chapter 586, Oregon Laws 1951, which replaced those statutes.

**306.340 Repeal of intangibles income tax law not to affect accrued taxes.** The repeal of the Intangibles Income Tax Act of 1931, as amended, shall not affect the assessment and collection of any tax, penalty or interest accruing prior to January 1, 1939, under the Intangibles Income Tax Act of 1931, as amended, and such amounts shall be assessed and collected in accordance with the provisions of that Act notwithstanding its repeal. [1953 c.310 §2]

**306.350 to 306.400** [Reserved for expansion]

**306.410 Verification of return, statement or document filed under tax laws.** Any return, statement or other document required to be filed under any provision of the laws administered by the State Tax Commission shall contain or be verified by a written declaration that it is made under penalties for false swearing. Such declaration shall be in lieu of any oath otherwise required. [1953 c.211 §1]

**306.420 False return, statement or document prohibited.** No person shall wilfully make and subscribe any return, statement or other document, which contains or is verified by a written declaration that it is made under penalties for false swearing, which he does not believe to be true and correct as to every material matter. [1953 c.211 §2]

**306.430 Costs of corporate income tax and cigarette tax administration paid from commission's appropriation.** For economy and convenience of administration, notwithstanding any provisions of the Corporation Income Tax Act of 1955 of the Forty-eighth Legislative Assembly (ORS chapter 318) and of the cigarette tax imposed by chapter 725, Oregon Laws 1955, all costs lawfully incurred in the administration thereof shall be paid from the State Tax Commission's appropriation and not from the revenues derived from the Corporation Income Tax Act of 1955 of the Forty-eighth Legislative Assembly or from the cigarette tax. [1955 c.772 §2]

**NOTE:** Chapter 725, Oregon Laws 1955, was referred by petition. If approved by the people at the regular general election in 1956, chapter 725, Oregon Laws 1955, will be compiled as ORS chapter 322.

**306.440 to 306.500** [Reserved for expansion]

**REVIEW OF ACTS OR ORDERS  
OF PROPERTY TAX OFFICIALS**

**306.510 Judicial review of commissioner's order to county assessor or board of equalization.** (1) Any taxpayer whose property is affected by an order or direction of the State Tax Commission made to a county assessor or county board of equalization under the authority contained in ORS 306.090 or 306.130, may, within six months after the order or direction has become actually known to the taxpayer, but in any event not more than two years after the order or direction becomes a matter of public record, appeal directly to the circuit court of the county in which the property affected is located. The appeal shall be perfected in the following manner only:

(a) Within the time allowed for appeal the person desiring to appeal shall file with the clerk of the circuit court of the proper county a petition verified by the taxpayer or his attorney, and shall also file a certified copy of the petition with the secretary of the State Tax Commission.

(b) The petition shall set forth a complete description of the property affected by the order or direction and a detailed statement of (i) all objections to the order or direction, (ii) the specific relief requested and (iii) all facts and propositions of law relied upon for reversal or modification of the order or direction.

(c) The petition shall be entitled in the name of the person filing the same as petitioner and the commissioners of the State Tax Commission as respondents. No responsive pleading shall be required of the respondents.

(d) Within 20 days after receipt of the copy of the petition, the commission shall file with the county clerk a certified copy of the order or direction from which the taxpayer is appealing, unless a copy has been filed previously. The circuit court shall then have jurisdiction of the matter.

(2) Appeals shall be heard and determined by the court in a summary manner as a suit in equity, except as provided in this section. The court may affirm the order or direction of the commission or may reverse, modify or remand it to the commission. In case of reversal, modification or remanding, the court shall make special findings indicating clearly all respects in which the commission's order is erroneous.

(3) The provisions of ORS 306.560 to

306.580 shall be applicable to appeals taken pursuant to this section. [1953 c.708 §1]

**306.515 Review by commission of order of county board of equalization.** (1) The county assessor in any case, or a taxpayer who is aggrieved by any order of the county board of equalization, may, within 30 days after a copy of the board's order or notice of the order has been sent to the taxpayer or publication of notice of the order has been completed, appeal from the order of the board by filing with the secretary of the State Tax Commission a petition for review of the action of the board and by filing two copies thereof with the county clerk who shall direct the county sheriff to serve one copy on the taxpayer or the county assessor, as the case may be. Service by the county sheriff shall be made as in the case of a circuit court summons. Any other person desiring to appear before the commission shall, upon application to the commission and the granting of permission therefrom and within 30 days after the date of service of the petition for review on the taxpayer or county assessor, file a petition verified by the oath of the petitioner or his attorney, with the secretary of the commission and file three copies with the county clerk who shall transmit one copy by registered mail to the taxpayer and serve one copy on the county assessor.

(2) The petition for review shall be verified by the oath of the taxpayer or his attorney or by the county assessor, as the case may be, and shall contain a complete description of all property affected by the board's order and a detailed statement of:

(a) All facts relating to the assessment and valuation of the property and all other facts relied upon for the relief requested;

(b) All objections made to the order of the board of equalization;

(c) The specific relief requested; and

(d) All propositions of law to be asserted by the petitioner.

(3) Within five days of the filing in his office of copies of the petition for review, the county clerk shall transmit to the commission by registered mail a certified copy of the minutes of the proceedings of the board of equalization which culminated in the order appealed from, all evidence taken in connection therewith, and a certification of the dates of mailing of the order or notice of the order of the board of equalization or

dates of publication of notice of the order, as the case may be. [1953 c.708 §2]

**306.520 Review by commission of act or omission of county assessor or tax collector.** Any taxpayer aggrieved by an act or omission of a county assessor or tax collector which affects his property and for which there is no other statutory remedy may, within six months after the act or omission becomes actually known to the taxpayer but in any event not more than two years after such act or omission becomes a matter of public record, appeal to the State Tax Commission by filing a petition for review and by filing copies thereof as provided in subsection (1) of ORS 306.515. Service shall be made by the county clerk upon the county assessor or tax collector, as the case may be. The petition shall be verified by the oath of the taxpayer, shall contain a complete description of the property and a detailed statement of:

- (1) All facts relating to the act or omission and all other facts relied upon for the relief requested;
- (2) The specific relief requested; and
- (3) All propositions of law to be asserted by the taxpayer. [1953 c.708 §3]

**306.525 Hearing of petition for review under ORS 306.515 or 306.520; notice.** Within 60 days after receipt by the State Tax Commission of a petition for review pursuant to ORS 306.515 or 306.520, the commission shall fix and give notice by registered mail to the taxpayer, the county assessor, the county tax collector and to all other persons given permission to appear, as the case may be, of a time and place for hearing. [1953 c.708 §4]

**306.530 Hearing procedure.** (1) The State Tax Commission may direct the hearing to be held before all three commissioners, before the commissioner in charge of the Assessment and Taxation Division or before a person authorized by the commissioner in charge of said division to hold such a hearing. The person or persons before whom the hearing is held is referred to in this section and ORS 306.535 as the "hearing officer." The commission may adopt rules and regulations governing the conduct of the hearing or, if no rules or regulations are adopted the hearing officer may provide by order during the hearing, or otherwise, the procedure to be followed, so as to permit and secure a full, fair and orderly hearing and permit all

relevant evidence to be received. The hearing officer may administer oaths, certify to official acts, issue notices in the name of the commission, issue subpoenas under his hand, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony, and take and receive testimony and evidence, conduct hearings and investigations.

(2) The commission shall keep a full official record of all proceedings and all evidence taken or offered therein. Exhibits and testimony shall be a part of the official record.

(3) The commission shall not be bound by common law or statutory rules of evidence. The hearing officer shall admit all evidence having reasonable probative value, but shall exclude unduly repetitious testimony.

(4) In case any person fails to obey any subpoena to appear before the hearing officer or refuses to testify or to produce books, accounts, papers, records, documents or testimony, the commission may institute contempt proceedings in the circuit court of the county in which the hearing is held, and upon a showing by the commission of the issuance of the subpoena to appear or order to produce or to testify and the failure of the person to obey, and upon the failure of the person to show cause why he should not have obeyed, the court shall find the person guilty of contempt and shall punish him as provided in ORS 33.020. This remedy shall be cumulative and shall not exclude the commission from exercising any power or rights otherwise delegated to it.

(5) The hearing shall be held at the offices of the State Tax Commission at Salem, Oregon, and may, within the discretion of the commission, be held at different places in the State of Oregon, as designated by the commission. The hearing may be adjourned and continued from time to time and place to place as ordered by the commission. At the conclusion of the hearing the hearing officer shall declare the taking of evidence concluded, and thereafter no additional evidence shall be received except upon the order of the commission itself, and a reasonable opportunity of the opposing party to cross-examine any witnesses with reference to said additional evidence and otherwise rebut and meet such additional evidence shall be given.

(6) Nothing contained in this section shall preclude the informal disposition of a

controversy by stipulation, agreed settlement, consent orders or default. [1953 c.708 §5]

**306.535 Findings of fact and conclusions of law; order of commission.** (1) After completion of the hearing and within a reasonable time thereafter, the hearing officer shall adopt findings of fact and conclusions of law upon the evidence received. The findings of fact shall consist of a concise and separate statement of the ultimate conclusions upon each contested issue of fact without recital of evidence. In the event that the hearing is not conducted by the entire commission, a summary of the evidence prepared by the hearing officer, together with his recommendations and findings of facts and conclusions of law shall be reviewed by the entire commission and either adopted or modified. The commission shall thereafter make its order. The order shall state the date it shall become effective and shall be filed with the commission.

(2) Subject to judicial review by the circuit court and the Supreme Court, the hearing shall determine finally all questions of law and fact arising under the tax laws of the State of Oregon. The order of the commission shall become binding upon the taxpayer, all county officers and all other persons affected thereby until reversed or modified upon review by the circuit court. If no review is taken in the circuit court all officers having charge of the rolls on which the assessments involved in the order of the commission appear shall correct the same in accordance with the commission's order and taxes shall be refunded or additional taxes collected by the proper officers. [1953 c.708 §6]

**306.540 Rehearing.** (1) Within 20 days after an order has been made by the State Tax Commission following a hearing, any party thereto may make application for rehearing of any matter determined therein, and the commission, in its discretion, may grant a rehearing. Petitions for rehearing shall be governed by such rules as the commission may establish.

(2) No petition for rehearing shall excuse any party against whom an order has been made from complying therewith, nor shall it postpone the enforcement thereof without the special order of the commission.

(3) In case a rehearing is granted the proceedings shall conform as nearly as may

be to the proceedings in an original hearing, except as the commission may otherwise direct.

(4) If after the rehearing it appears to the commission that the original order is in any respect erroneous, the commission may reverse, change or modify it accordingly. An order made after rehearing which reverses, changes or modifies the original order shall be subject to the same provisions as an original order. [1953 c.708 §7]

**306.545 Petition for judicial review of commission's order.** Any taxpayer aggrieved by and directly affected by an order of the State Tax Commission made pursuant to ORS 306.535 shall be entitled to judicial review of the order. The proceedings for review shall be instituted in the circuit court of the county in which the property affected is located, and shall be perfected in the following manner only:

(1) Within 20 days after a copy of the commission's order or notice thereof has been served or published by the commission, as provided in subsection (1) of ORS 306.535 and in ORS 306.235, the taxpayer shall file a petition for review with the secretary of the commission and shall file a copy with the clerk of the circuit court of the county in which the review is to be made.

(2) Within 20 days after filing his petition the taxpayer shall file with the clerk of the circuit court of the proper county a certified copy of the petition to the county board of equalization and of the order of the board, if any, a certified copy of the order of the commission, a certified transcript of the entire record of proceedings before the commission and the exhibits introduced therein. The circuit court shall then have jurisdiction of the matter; however, prior thereto the court shall have jurisdiction for the purpose of extending the time for filing if a motion for extension is filed with the clerk of the court within the said 20-day period. By stipulation of all parties to the review proceedings, the record may be shortened by eliminating any portion unnecessary to the understanding and determination of the matters to be reviewed. Any party, other than the commission and the county assessor, refusing to stipulate to limit the record may be taxed by the court for the additional costs. All objections relating to the record as filed must be raised by motion prior to the review by the circuit court.

(3) The petition shall state the nature of the petitioner's interest, the facts showing how the petitioner is aggrieved and directly affected by the commission's order, and the ground or grounds upon which the petitioner contends the order should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person filing the same as petitioner and the commissioners of the State Tax Commission as respondents. No responsive pleading shall be required of the respondents.

(4) The court, in its discretion, may permit other interested persons to intervene by filing a petition as provided in subsection (1) of this section.

(5) All proceedings for review shall be given precedence over all other civil cases except those given an equal preference by statute. [1953 c.708 §9; 1955 c.264 §1]

**306.550 Application for leave to present additional evidence before commission.** If before the date set for hearing in the circuit court application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceedings before the commission, or if it shall appear that the appellant was not represented by counsel before the commission, the court may order that the additional evidence be taken before the commission upon such terms as the court may deem proper. The commission may thereafter modify its order by reason of the additional evidence and shall file with the reviewing court the additional evidence together with any modified order. [1953 c.708 §10]

**306.555 Judicial review.** (1) The review shall be conducted by the circuit court without a jury and shall be confined to the record before the court, except that in cases of alleged irregularities in procedure before the commission, testimony thereon may be taken in the court. The findings and order of the commission shall carry a prima facie presumption of validity, and the court may affirm the order of the commission, or may reverse, modify or remand it if the substantial rights of the petitioner have been prejudiced.

(2) In case of modification, reversal or

remanding by the circuit court, the court shall make special findings based upon evidence in the record indicating clearly all respects in which the commission's order is erroneous. [1953 c.708 §11]

**306.560 Review as a stay of tax levy or collection; effect of payment of taxes pending review.** No proceeding for levying and collection of taxes on any property shall be stayed by reason of the taking or pendency of any appeal from or review of an order of the State Tax Commission or of the order of the reviewing circuit court. Payment of taxes while review is pending shall not operate as a waiver of the review or of a right to refunding of any taxes found to be excessively charged or assessed. [1953 c.708 §12]

**306.565 Costs and disbursements.** The provisions of law governing costs and disbursements shall be applicable upon appeal or review, and the reasonable cost of preparing the transcript of the record of proceedings before the commission shall be assessed as part of the statutory court costs. [1953 c.708 §13]

**306.570 Appeal to Supreme Court.** Any party to the proceedings in the circuit court, including the State Tax Commission, may secure a review of the order of the circuit court by appeal to the Supreme Court. The appeal shall be taken in the manner provided by law for appeals from the circuit court in other civil cases, except that the time for serving and filing the notice of appeal shall be limited to 30 days from the entry of the order of the circuit court. [1953 c.708 §15]

**306.575 Action taken upon final determination.** The decision of the circuit court shall be binding on all parties until changed, if at all, by the decision of the Supreme Court. Upon the final determination in the matter, all officers having charge of the rolls on which the assessments involved in such proceeding appear shall correct the same in accordance with such determination, and taxes shall be refunded or additional taxes collected by the proper officers. If no appeal is perfected to the Supreme Court, the decision of the circuit court shall constitute a final determination of the matter. [1953 c.708 §14]

**306.580 Remedies as exclusive.** The remedies provided for in ORS 306.510 to



306.575 and 306.710 shall be exclusive and no taxpayer or county officer shall maintain any suit, action or special proceeding in any court of this state with respect to the assessment and taxation of property or the collection of any tax thereon on any grounds, including fraud, where it shall appear that such remedies were available to him. [1953 c.708 §17]

306.585 to 306.700 [Reserved for expansion]

### DECLARATORY RULINGS BY TAX COMMISSION RESPECTING REGULATIONS

**306.710 Declaratory rulings by tax commission respecting regulations.** The State Tax Commission may, on petition by any interested person, issue a declaratory ruling with respect to the validity or applicability to any person, property or state of facts of any rule or regulation promulgated by it. The commission shall prescribe by rule the form, content and procedure for submission, consideration and disposition of such petitions. Full opportunity for hearing shall be afforded to interested parties. A declaratory ruling shall bind the commission and all parties to the proceedings on the state of facts alleged, unless it is altered or set aside by a court. A ruling shall be subject to review in the circuit court in the manner provided by ORS 306.545, 306.550 and 306.555. [1953 c.708 §16]

**306.720 to 306.980** [Reserved for expansion]

### PENALTIES

#### 306.990 Penalties.

(1) Any person who wilfully presents or furnishes to the commission, or any member thereof, any statement which they may require under ORS 306.160, which statement is false or fraudulent, is guilty of perjury and upon conviction shall be punished as provided by law therefor.

(2) Any person who gives testimony before the commission, or any member thereof, which is false or fraudulent, is guilty of perjury and upon conviction shall be punished as provided by law therefor.

(3) Any member of the commission who violates ORS 306.230 is guilty of a misdemeanor and the judgment of conviction shall of itself work a forfeiture of the office held by such member.

(4) Any public officer who neglects or refuses to perform any of the duties imposed on him by law as to the assessment, levying or collection of taxes shall be punished, upon conviction, by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding one year.

(5) Violation of ORS 306.420 is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment for not more than one year in the county jail, or both. [Subsection (6) enacted as 1953 c.211 §3; amended by 1955 c.610 §4]

### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.  
Done at Salem, Oregon,  
on October 15, 1955.

Sam R. Haley  
Legislative Counsel