

# TITLE 29

## REVENUE AND TAXATION

<b>Chapter</b>	<b>305</b>	<b>General Administration, Enforcement and Adjudication of Revenue Laws</b>
	306.	Property Taxation Generally
	307.	Property Subject to Taxation
	308.	Assessment of Property for Taxation
	309.	Equalization of Property Taxes
	310.	Levy of Property Taxes
	311.	Collection and Refund of Property Taxes
	312.	Foreclosure of Property Tax Liens
	314.	Income Taxation Generally
	316.	Personal Income Tax Act of 1953
	317.	Corporation Excise Tax
	318.	Corporation Income Tax
	319.	Motor Vehicle and Aircraft Fuel Taxes
	320.	Privilege Taxes
	321.	Timber Taxes

---

### Chapter 305

#### 1961 REPLACEMENT PART

### General Administration, Enforcement and Adjudication of Revenue Laws

	<b>STATE TAX COMMISSION</b>		
305.010	State Tax Commission; number and qualifications of members; capacity as party; official seal	305.110	Duty to construe tax laws; instruction of officers acting under tax laws
305.020	Appointment of commissioners; election of chairman and secretary; apportionment of duties; bond and oath of office	305.120	Enforcement of tax laws
305.030	Term of office; removal; filling vacancies	305.130	Commission as party to suits involving property subject to certain tax liens
305.040	Employees; appointment; removal; duties; compensation; bond	305.140	Power to release real property from certain tax liens
305.050	Salaries of commissioners; traveling expenses of commissioners and employees	305.150	Closing agreements
305.055	Commissioner not to accept gratuity	305.160	Reports from public officers
305.060	Place of holding sessions; office and supplies	305.170	Complaints concerning tax laws; reports and recommendations to Legislative Assembly
305.070	Regular meetings; meeting of county assessors	305.190	Subpenaing and examining witnesses, books and papers
305.080	Record of proceedings; quorum; temporary officers	305.200	Witness fees and mileage
305.090	Supervisory power of commission	305.210	Service of process
305.100	Power to make rules and regulations and prescribe forms		<b>OREGON TAX COURT</b> (General)
305.105	Declaratory rulings by tax commission respecting regulations	305.405	Oregon Tax Court
		305.410	Exclusive authority of court in tax cases within its jurisdiction
		305.415	Service of papers and process

- 305.420 Issuance of subpoenas; administration of oaths; depositions
- 305.425 Proceedings to be without jury and de novo; issues reviewable; rules of procedure
- 305.430 Hearings to be open to public; report of proceedings; contracting of reporting duties
- 305.435 Findings of fact, conclusions of law and court decisions to be in writing; refunds and interest
- 305.440 Finality of unappealed decision of tax court; effect of appeal to Supreme Court; action upon final determination of ad valorem tax matters
- 305.445 Appeals to Supreme Court; reviewing authority and action on appeal
- 305.450 Publication of tax court decisions
- 305.452 Election and term of judge; vacancy; recommendation of appointees to fill vacancy
- 305.455 Qualifications of judge; oath; inapplicability of disqualification-for-prejudice provision
- 305.460 Judge's salary, expenses, retirement
- 305.465 Judges pro tempore; appointment and qualifications
- 305.470 Presiding judge; functions
- 305.475 Offices of tax court; location of hearings
- 305.480 Personnel and equipment for court; expenditures; limitation on activities of personnel
- 305.485 Records
- 305.490 Filing fees; recovery of certain costs and disbursements; disposition of receipts
- 305.495 Fees and expenses of witnesses
- 305.500 Fees for transcripts or copies of records (Small Claims Division)
- 305.515 Small Claims Division; jurisdiction
- 305.520 ORS 305.405 to 305.435 and 305.452 to 305.495 apply to proceedings in small claims division
- 305.525 Notice to taxpayer of right to appeal to small claims division
- 305.530 Election to proceed in small claims division; effect of election
- 305.535 Commencement of proceeding by petition filed by taxpayer
- 305.540 Notice to assessor or tax commission of filing of petition; parties; exclusive jurisdiction; effect on assessor's appeal to tax commission; appearance of commission as amicus curiae
- 305.545 Hearings to be informal; evidence; representation of parties
- 305.550 Dismissal of case on taxpayer's request; effects
- 305.555 Judgments

## INTERGOVERNMENTAL TAX RELATIONS

- 305.605 Application of tax laws within federal areas in state
- 305.610 Reciprocal recognition of tax liability; actions in other states for Oregon taxes
- 305.615 Apportionment of moneys received from United States in lieu of property taxes

## REFUNDS

- 305.755 Refunds to taxpayers by commission
- 305.760 Commission paying over funds to treasurer and writing checks for refunds
- 305.765 Refund of taxes adjudged invalid
- 305.770 Report of taxpayers paying invalid tax; issuance and payment of warrants
- 305.775 Interest on amount of refund in certain cases
- 305.780 Taxes due prior to year in which suit brought
- 305.785 Appropriation

## MISCELLANEOUS PROVISIONS

- 305.805 Repeal of intangibles income tax law not to affect accrued taxes
- 305.810 Verification of return, statement of document filed under tax laws
- 305.815 False return, statement or document prohibited
- 305.820 Date when writing or remittance deemed received by tax officials

## PENALTIES

- 305.990 Penalties

## CROSS REFERENCES

Research on state development, coordination of, 184 170

Taxes administered and adjudicated by agencies other than tax commission and tax court

Beef Council contributions, Ch. 577

Commodity commission assessments, 576 051 to 576 575

Fire protection assessments, forests, State Forester, Ch 477

Gift tax, State Treasurer, Ch 118

Gross premium tax on fire insurance, Insurance Commissioner, 476 055

Inheritance tax, State Treasurer, Ch 119

Insurance company fees and taxes, Insurance Commissioner, Title 56

Liquor taxes, Liquor Control Commission, Ch 473

Motor carrier taxes, Public Utility Commissioner, Ch 767

Motor Vehicle and Aircraft Fuel Taxes, Department of Motor Vehicles, Ch 319

Potato Commission assessments, Ch 578

Race track taxes, Racing Commission, Ch 462

Western Oregon Small Tract Optional Tax, timber, State Forester, 321 705 to 321 765

Wheat Commission assessments, Ch 579

## 305.010

Actions and suits by governmental units, 30 310

Commission petty cash fund, 1961 c 376 §1

Special rules for 1961-63 biennium on funding commission's costs of administering Chs 315, 320 and 477, 1961 c 376 §§2, 3

## 305.020

Bond executed by surety company as a compliance with any law requiring a bond, 747 080

Employment of certain persons prohibited, 182 030

Premium for bond, reimbursement for, 747 110

## 305.030

Removal of appointed officers, 236 140

Term of appointed officer, 236 140

Vacancies, filling in appointed offices, 236 140

## 305.040

Conduct after employment ends, 314 825

Employment of certain persons prohibited, 182 030

Traveling expenses, 292 220 to 292 298

## 305.050

Salaries of officers and employes, method of payment, 292 039

Traveling expenses, 292.220 to 292 298

- 305.055  
Accepting bribe, 162 230
- 305.060  
Branch offices, 314 805  
Equipment and supplies for state agencies, purchase by Department of Finance and Administration, 279 712  
Office quarters, authority to lease or rent, 276 418 to 276 428
- 305.090  
Action on exemption petitions of certain telephone associations, 307 240  
Direct administration of  
Amusement device privilege taxes, Ch 320  
Eastern Oregon Severance Tax, timber, 321 405 to 321 530  
Forest Products Harvest Tax, 321 005 to 321 225  
Income taxation, state, Chs 314, 316, 317, 318  
Direct assessment of utilities by commission, 308 505 to 308 820  
Enforcement and appeal of ORS 305 090 orders relating to property taxes, 306 220, 306 547  
Final determination of classification of reforestation land, 321 280  
General supervision and control over tax foreclosure proceedings, 312 020  
Limitation on making change or correction, 311 205  
Prescribing form for timber severance reports, 321 955  
Review and equalization of county assessment ratios, 309 310 to 309 410  
Review of assessor's summary collection of personal property taxes, 311 467  
Supervision of property tax generally, 306 111 to 306 220  
Testing work of county assessors, revising assessments, 308 335
- 305.100  
Income tax regulations, 314 815  
Issuance of property tax rules and regulations, 306 120  
Rules and regulations, necessity of filing with Secretary of State, 183 010 to 183 060
- 305.105  
Exclusiveness of remedy under this section, 306 580
- 305.120  
Review of actions of property tax officials, exclusive nature of remedies, 306 580
- 305.140  
Applicability to Ch 318, 318 030  
Power to release lien of eastern Oregon timber severance tax, 321 455
- 305.150  
Account of executor or administrator to show payment of taxes, 117 610
- 305.190  
Applicability to western Oregon ad valorem timber tax, 321 640  
Subpena power of commission, 308 335, 314 425, 321 135
- 305.210  
Service of property tax orders by mail or publication, 306 805
- OREGON TAX COURT**
- Administrative supervision by Supreme Court over other courts, 1 002  
Contempt of court, 33 010 to 33 150  
Courts and judicial officers generally, Ch 1  
Disqualification of judge, 14 210  
Duties of attorneys, 9 460  
Judicial Council, 1 810  
Judicial power of the state, Const Art VII (A), §1  
Jurisdiction of circuit courts, Const Art VII (O), §9  
Jurisdiction over parties, 14 010 to 14 030  
Seal of court, 1 030
- Temporary appointment and assignment of judges, Const. Art VII (A), §2a  
Time limit for decision of court, 1 050  
Writ of mandamus to enforce duties relating to administration of justice, 1 025
- 305.405  
Creation of tax court does not affect any proceeding commenced before January 1, 1962, in a circuit court or in the Supreme Court, 1961 c 533 §14
- 305.410  
Cases within appellate or original jurisdiction of tax court:  
Declaratory rulings of tax commission, 305 105  
Forest fee and yield taxes on reforestation land, 321 355  
Forest Products Harvest Tax, 321 115  
Income taxes, 314 460  
Petition to require income tax return, 314 365  
Property taxes, 306 515, 306 545, 306 547, 308 620  
Western Oregon Ad Valorem Tax, timber, 321 660  
Exclusion of tax court from cases involving reciprocal enforcement of taxes imposed by other states, 305 610  
Power of judicial officers generally, 1 210 to 1 280
- 305.475  
Certain timber tax hearings required to be in county where timber harvested, 321 660
- 305.480  
Temporary reporters, contracting for, 305 430
- 305.495  
Fees and mileage of witnesses in circuit and other courts, 44 410, 44 430
- 305.515  
Appeals to be directly to tax court instead of through tax commission, 305 530  
Exclusive nature of remedies in small claims division, 306 580  
Jurisdiction of small claims division in appeals relating to harvested timber in western Oregon, 321 660  
Small claims division to have separate records, 305 485
- 305.520  
Small claims division excluded from following provisions  
General records of tax court, 305 485  
Required report of proceedings, 305 430  
Subpenas, oaths, depositions, 305 420
- 305.605  
Exemption of federal property to extent required by law, 307 040
- 305.755  
Refund of tax where purpose of special tax levy is abandoned, 311.815  
Refund of taxes on unsecured personal property, 311.810  
Refunds of amount of tax paid through excusable neglect or error, 311 806  
Refunds of taxes on property not within jurisdiction of taxing body, 311 806
- 305.765  
Disposition of tax revenues collected by invalidly organized water districts, 264.220
- 305.815  
Making, signing or verifying false return or statement, 314 075, 314 991
- 305.820  
Similar general provision, 291 578
- 305.990  
Disobedience of subpoena or refusal to testify, 308.990, 314 425, 321 225, 321 991  
Furnishing false statement, 308.990, 309.990, 314 075, 314 991, 321.225, 321.991



**STATE TAX COMMISSION**

**305.010 State Tax Commission; number and qualifications of members; capacity as party; 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 in its name may sue and be sued and shall adopt and use an official seal bearing its name.

[Formerly 306 010]

**305.020 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.

[Formerly 306 020]

**305.030 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.

[Formerly 306 030]

**305.040 Employees; appointment; removal; duties; compensation; bond.** (1) Unless otherwise provided by the State Civil Service Law, the commission may appoint and remove at pleasure such experts, clerks and employes as may be necessary, and shall

define their duties and fix their compensation.

(2) Subject to any applicable provision of the State Civil Service Law:

(a) The commission may appoint and remove the deputy commissioners, agents, auditors, clerks and employes it considers necessary. Such persons shall have the duties and powers the commission from time to time prescribes.

(b) The salaries of all deputy commissioners, agents and employes shall be fixed by the commission.

(3) All such deputy commissioners, agents and employes shall be allowed such reasonable and necessary traveling and other expenses as may be incurred in the performance of their duties.

(4) The commission may require the officers, agents and employes it designates to give bond for the faithful performance of their duties in such sum and with such sureties as it may determine. The state shall pay the premiums on such bonds.

(5) Subsections (2), (3) and (4) of this section are applicable to all laws of this state imposing taxes upon or measured by net income.

[Formerly 306 040]

**305.050 Salaries of commissioners; traveling expenses of commissioners and employes.** (1) Unless otherwise provided in ORS 292.760, the salary of each tax commissioner shall be fixed by the State Board of Control.

(2) Subject to any other applicable law regulating travel expenses, each commissioner and the employes of the commission shall be entitled to receive their necessary traveling expenses incurred in the performance of their official duties.

[Formerly 306.050]

**305.055 Commissioner not to accept 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.

[Formerly 306 230]

**305.060 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.

[Formerly 306 060]

**305.070 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.

[Formerly 306 070]

**305.080 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.

[Formerly 306 080]

**305.090 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.

[Formerly 306 090]

**305.100 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.

[Formerly 306 100]

**305.105 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 Oregon Tax Court and Supreme Court in the manner provided by ORS 305.445 and 306 545

[Formerly 306 710]

Note: The 1961 amendment to ORS 306 710 takes effect January 1, 1962. Until then, ORS 306 710 (1959 Replacement Part) remains in effect.

**305.110 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.

[Formerly 306 110]

**305.120 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.

[Formerly 306 140]

**305.130 Commission as party to suits involving property subject to certain tax liens.** (1) The State Tax Commission may be

made a party in any suit in any court of this state or of the United States having jurisdiction of the subject matter to quiet title to, to remove a cloud from the title to, or for the foreclosure of a mortgage or other lien upon, any real property or personal property, or both, upon which the State of Oregon has or claims to have a lien under ORS 314.430, 315.630 or 321.075, and the decree in such suit shall be conclusive and binding upon the State of Oregon and such commission

(2) The complaint in such suit shall set forth with particularity the nature of any such lien had or claimed by the State of Oregon. The summons in such suit, together with a copy of the complaint therein, shall be served on such commission in the manner prescribed by ORS 15.080, and such summons shall require such commission to appear and answer the complaint within 60 days from the date of such service  
[1961 c 573 §4]

**305.140 Power to release real property from certain tax liens.** (1) Any person having an interest in or lien upon any real property to or upon which the amount of the warrant provided for in ORS 314.430, 315.630 or 321.075 constitutes a cloud on the title or has become a lien, may request the commission in writing to release such real property from the cloud or lien of such warrant. If, upon such request, the commission finds that a sale of such real property would not result in satisfaction in whole or in part of the taxes due, it shall execute a release of such cloud or lien upon such property, and such release shall be conclusive evidence of the removal and extinguishment of such cloud or lien in respect of such real property.

(2) In addition to the release of cloud or lien provided for in subsection (1) of this section, the commission may execute releases in the following cases, which releases shall be conclusive evidence of the removal and extinguishment of such cloud or lien:

(a) If the commission finds that liability for the amount assessed, together with all interest thereon and penalties and costs in respect thereof, has been satisfied;

(b) If the commission finds that the fair market value of that part of the property remaining subject to the cloud or lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon the property;

(c) If there is supplied to the commission a bond, in such form and with such surety as the commission considers sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of the release; or

(d) If there is paid to the commission in partial satisfaction of the amount of the warrant provided for in ORS 314.430, 315.630 or 321.075 an amount not less than the value, as determined by the commission, of the lien of the State of Oregon upon the part of the property so to be released. In determining such value the commission shall give consideration to the fair market value of the part of the property so to be released and to such liens thereon as have priority to the lien of the State of Oregon

[1961 c 573 §3 (enacted in lieu of ORS 314.435, 315.635 and 321.085)]

**305.150 Closing agreements.** (1) The State Tax Commission, with the approval of two commissioners, is authorized to enter into an agreement in writing with any person relating to the liability of such person, or of the person or estate for whom he acts, for any taxable period open to adjustment under the pertinent statutes of limitation, in respect of any revenue measure which the State Tax Commission is required to administer.

(2) Such agreement shall be final and conclusive on the date agreed to, and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact, the question, issue or case shall not be reopened as to the matters agreed upon, and, in any action, suit or proceeding, such agreement, or any determination, assessment, collection, refund, abatement or credit made in accordance therewith shall not be annulled, modified, set aside or disregarded.

[Formerly 306.720]

**305.160 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.

[Formerly 306.160]

**305.170 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.

[Formerly 306 170]

**305.180** [Reserved for expansion]

**305.190 Subpena 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.

[Formerly 306 190]

**305.200 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.

[Formerly 306 200]

**305.210 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.

[Formerly 306 210]

**305.220 to 305.400** [Reserved for expansion]

## OREGON TAX COURT

Note: ORS 305 405 to 305 555 take effect January 1, 1962

### (General)

**305.405 Oregon Tax Court.** There is created a court of justice to be known as the Oregon Tax Court

[1961 c 533 §1]

**305.410 Exclusive authority of court in tax cases within its jurisdiction.** (1) Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme Court, the tax court shall be the sole, exclusive and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state in cases within its jurisdiction

(2) No person shall contest, in any action, suit or proceeding in the circuit court or any other court, any matter reviewable by the tax court.

[1961 c 533 §12]

**305.415 Service of papers and process.** Except as otherwise provided in ORS 305.405 to 305.555, the mailing by registered or certified mail of any pleading, decision, order, notice or process, other than a subpoena, in respect to proceedings before the court shall be sufficient service thereof.

[1961 c 533 §25]

**305.420 Issuance of subpoenas; administration of oaths; depositions.** (1) The judge or the clerk of the court, on the request of any party to the proceeding, or his attorney, shall issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of any returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry at any designated place of hearing in the manner prescribed by law in civil actions in courts of this state.

(2) Any employe of the court designated in writing for the purpose by the judge may administer oaths

(3) Any party to the proceeding may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state. To that end, he may compel the attendance of witnesses and production of returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry

(4) This section shall not apply to proceedings in the small claims division

[1961 c 533 §17]

**305.425 Proceedings to be without jury and de novo; issues reviewable; rules of procedure.** All proceedings before the court shall be without a jury and de novo. In the case of appeals from the State Tax Commission, except as provided in ORS 308.620, the issues of fact and law shall be restricted to those raised by the parties in the appeal to the commission. If the court finds that other issues are important to a full determination of the controversy, it shall remand the whole matter to the commission for further determination and the issuance of a new order, unless the parties and the commission stipu-

late to the determination of such other issues without remand to the commission. All notices, pleadings, hearings and proceedings shall be in accordance with the rules of practice and procedure promulgated by the court, which, except with respect to the small claims division, shall conform, as far as practical, to the rules of equity practice and procedure in this state.

[1961 c 533 §16]

**305.430 Hearings to be open to public; report of proceedings; contracting of reporting duties.** Hearings before the tax court shall be open to the public. Unless waived by the parties with the consent of the court, all proceedings before the court, except those before the small claims division, shall be officially reported by a reporter. The expense shall be paid by the state from the appropriation for the court. In addition to the services of the official reporter appointed under ORS 305.480, the court may contract the reporting of its proceedings and, in the contract, may fix the terms and conditions under which transcripts will be supplied by the contractor to the court and to other persons and agencies.

[1961 c 533 §19]

**305.435 Findings of fact, conclusions of law and court decisions to be in writing; refunds and interest.** The court, except when sitting as the small claims division, shall make written findings of fact and conclusions of law, as provided by ORS 17.440, and shall render its decision in writing. The court may affirm, reverse, modify or remand the order of the commission, and, in case of such modification, reversal or remanding, the court shall state in its decision all respects in which the commission's order is erroneous. In the case of an appeal under ORS 314.460, any taxes, interest or penalties paid but found by the court to be in excess of those legally assessed, shall be ordered refunded to the taxpayer, with interest as provided by law

[1961 c 533 §20]

**305.440 Finality of unappealed decision of tax court; effect of appeal to Supreme Court; action upon final determination of ad valorem tax matter.** The decision of the court shall be binding upon all parties until changed, if at all, by the decision of the Supreme Court upon appeal. If no appeal is taken to the Supreme Court, the decision of the court shall constitute a final determination of the matter. If an appeal is taken, the

decision of the court shall become final in the same manner as the decision, judgment or decree of the circuit court becomes final when appeal therefrom is taken to the Supreme Court. Upon the final determination of any ad valorem tax matter, all officers having charge of the rolls on which the assessments involved in such proceeding appears shall correct the same in accordance with such determination, and taxes shall be refunded or additional taxes collected by the proper officers. In the case of an appeal under ORS 308 620, a certified copy of the decree of the court shall be sufficient warrant for the apportionment, levying and collecting of taxes against the property constituting the subject matter of the appeal and upon the valuation determined by the court [1961 c 533 §21]

**305.445 Appeals to Supreme Court; reviewing authority and action on appeal.** The sole and exclusive remedy for review of any decision or order of the tax court shall be by appeal to the Supreme Court. Jurisdiction hereby is vested in the Supreme Court to hear and determine all appeals from final decisions and final orders of the tax court, except with respect to the small claims division of the tax court. Such appeals, and the review of final decisions and final orders of the tax court, shall be in accordance with the procedure in equity cases on appeal from a circuit court, but without regard to the sum involved. Upon such appeal and review, the Supreme Court shall have power to affirm, modify or reverse the order or decision of the tax court appealed from, with or without remanding the case for further hearing, as justice may require [1961 c 533 §22]

**305.450 Publication of tax court decisions.** The tax court shall provide for the publication of its decisions which are of general public interest in the form it deems best adapted for public convenience. Publications shall constitute the official reports of the court and shall be made available for sale and distribution in the manner provided by ORS 2 160 and 9 790, for distribution and sale of the decisions of the Supreme Court designated as "Oregon Reports." [1961 c 533 §23]

**305.452 Election and term of judge; vacancy; recommendation of appointees to fill vacancy.** (1) The judge of the tax court shall be elected by the legal voters of the state for

a term of six years, in the manner provided in ORS 252 010 to 252 080

(2) In the event of a vacancy in the office of judge, the vacancy shall be filled by an appointment made by the Governor. The Governor may request the governors of the Oregon State Bar to submit to him the names of five or more eligible persons deemed by them to be particularly experienced in the field of tax law, as an aid to the Governor in making the appointment [1961 c 533 §§2, 3(2)]

**305.455 Qualifications of judge; oath; inapplicability of disqualification-for-prejudice provision.** (1) The judge of the tax court shall be a citizen of the United States and of this state, and shall have been admitted to practice in the Supreme Court of Oregon and have been engaged in this state for at least three years preceding his election or appointment, either in active practice, governmental or private, as an attorney and counselor at law or in the discharge of the duties of a judicial or quasi-judicial office. Before entering upon the duties of his office, the judge shall take and subscribe to an oath or affirmation for the faithful discharge of the duties thereof, and such oath shall be filed in the office of the Secretary of State

(2) Notwithstanding the provisions of any other law, the provisions of ORS 14 250 relating to the disqualification of a judge for prejudice shall not be applicable to any judge serving regularly or temporarily as a judge of the tax court [1961 c 533 §§3 (1), 8]

**305.460 Judge's salary, expenses, retirement.** (1) The judge of the tax court shall receive an annual salary, to be payable monthly, equal to the annual salary provided for circuit court judges under ORS 3 060. He shall receive no other allowances for his services except as authorized by this section

(2) When the judge of the tax court holds court or performs any other official function away from the state capital, his hotel bills and traveling expenses necessarily incurred by him in the performance of that duty shall be paid by the state. Such expenses are to be paid upon the certificate of the judge to the truth of an itemized statement of the expenses. The certificate of expenses is a sufficient voucher upon which the Secretary of State shall audit the claim and draw his warrant upon the State Treasurer for the amount thereof in favor of the tax court judge

(3) The judge of the Oregon Tax Court shall be subject to the provisions of ORS 1.310 to 1.380 relating to retirement and retirement pay to the same extent and in the same manner as a judge of a circuit court [1961 c 533 §§4, 5]

**305.465 Judges pro tempore; appointment and qualifications.** (1) Whenever the tax court trial docket or business becomes congested, or the judge of the tax court is absent or unable to sit, or disqualifies himself on his own motion, or is disqualified for any of the causes specified in ORS 14.210, or for any other reason is unable to perform his duties as judge, and it appears to the Supreme Court that it is advisable that the services of an additional judge or judges be provided, the Supreme Court may appoint judges pro tempore of the tax court as provided in subsections (2) and (3) of this section.

(2) The Supreme Court may appoint one or more persons to be judge pro tempore, each of whom shall be a citizen of the United States and of this state, and shall have been admitted to practice in the Supreme Court and engaged in this state for at least three years next preceding his appointment either in active practice, governmental or private, as an attorney and counselor at law or in the discharge of the duties of a judicial office. The provisions of ORS 3.520 to 3.560 shall be deemed equally applicable to a tax court judge pro tempore appointed under this subsection wherever appropriate to and not in conflict with any provisions of ORS 305.405 to 305.555.

(3) The Supreme Court may appoint one or more circuit court judges, with the qualifications of a regular tax court judge, to serve temporarily and exclusively as a judge pro tempore of the tax court. The provisions of ORS 3.081 to 3.096 shall be deemed equally applicable to a tax court judge pro tempore assigned under this subsection wherever appropriate to and not in conflict with any provisions of ORS 305.405 to 305.555.

(4) A judge pro tempore appointed under subsection (2) or (3) of this section shall be subject to the directions of the presiding judge of the tax court with respect to the assignment of causes, matters and proceedings, and the general administration of the business of the court.

(5) The Supreme Court may request the governors of the Oregon State Bar to submit to it the names of five or more eligible

persons deemed by them to be particularly experienced in the field of taxation, as an aid to the Supreme Court in making a pro tempore appointment under subsection (2) or (3) of this section [1961 c 533 §6]

**305.470 Presiding judge; functions.** Whenever more than one judge is serving as a judge of the tax court, the judge senior in continuous service as a judge of the tax court, or if two or more have been in continuous service the same length of time, then the judge senior in age, shall be the presiding judge. The presiding judge shall assign causes, matters and proceedings and apportion the business of the tax court [1961 c 533 §7]

**305.475 Offices of tax court; location of hearings.** The principal office of the tax court shall be in the state capital, but the court may hold hearings in any county seat, with a view to securing reasonable opportunity to taxpayers to appear before the court with as little inconvenience and expense to taxpayers as is practicable. The Secretary of State shall provide adequate offices and a courtroom within the capitol group of buildings. The county court or board of county commissioners, upon request of the judge of the tax court, shall provide the court with suitable rooms at the county seat when hearings are held outside the capital city [1961 c 533 §9]

**305.480 Personnel and equipment for court; expenditures; limitation on activities of personnel.** (1) The court shall appoint a clerk, a reporter, a clerical assistant and other employes and fix their compensation. The court may make necessary expenditures for library, publications and equipment. The reporter shall be subject to the provisions of ORS 8.310 to 8.410 as if appointed by a judge of the circuit court, except where such provisions are in conflict with ORS 305.405 to 305.555

(2) Salaries and other expenditures of the court shall be paid and allowed out of the moneys appropriated therefor upon proper certification by the judge. The members and employes of the court shall be reimbursed for all actual and necessary expense as provided by law

(3) No clerk or employe of the court shall act as attorney, counselor or accountant in the matter of any tax imposed or levied

by this state or any of its political subdivisions.

[1961 c 533 §11]

**305.485 Records.** The records of the tax court shall include a register, journal and fee book.

(1) The register is a book wherein the clerk shall enter, by its title, every suit or proceeding commenced in, or transferred or appealed to, the court, according to the date of its commencement, transfer or appeal. Thereafter, until the entry of judgment, he shall note therein, according to the date thereof, the filing or return of any paper or process, or the making of any order, rule or other direction in or concerning such suit or proceeding.

(2) The journal is a book wherein the clerk shall enter the proceedings of the court.

(3) The fee book is a book wherein the clerk shall enter, under the title of every cause, against the party to whom the service is rendered, the clerk's fees earned, and whether received or not received.

(4) The files of the court are all papers or process filed with or by the clerk of the court, in any suit or proceeding therein, or before the judge.

(5) Separate records shall be kept for the small claims division, in such form and content as the court prescribes.

[1961 c 533 §10]

**305.490 Filing fees; recovery of certain costs and disbursements; disposition of receipts.** (1) The appellant, upon appeal from an order or determination of the State Tax Commission, or a taxpayer bringing suit for refund according to subsection (2) of ORS 314.460, upon filing his complaint or petition in the tax court, shall pay to the clerk thereof, in advance, the sum of \$10, except that, in case of petitions filed in the small claims division, the fee shall be \$1.50. A similar fee shall be paid by other parties making an appearance in the proceeding. Neither the State of Oregon, nor any county, school district, municipal corporation or other public corporation therein, nor any officer of any such public political division or corporation, appearing in his representative capacity, shall be required to pay the fee prescribed. The party entitled to costs and disbursements on such appeal shall recover from his opponent the amount so paid upon order of the court, as in equity suits in the circuit court.

(2) All fees and other moneys received

or collected by the clerk by virtue of his office shall be paid over to the State Treasurer and shall be held by him in the General Fund as miscellaneous receipts.

[1961 c 533 §15 (1), (3)]

**305.495 Fees and expenses of witnesses.** Any witness subpoenaed or whose deposition is taken shall receive the same fees and mileage as a witness in a circuit court of this state. Witnesses for the state or its political subdivisions shall be paid from moneys appropriated therefor. Payment of fees and mileage to other witnesses shall be made by the party at whose instance the witness appears or the deposition is taken.

[1961 c 533 §18]

**305.500 Fees for transcripts or copies of records.** (1) The tax court may fix a fee, not in excess of the fees charged and collected by the clerks of the circuit court, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry or other paper and the comparison and certification thereof.

(2) The clerk of the court shall make provision for supplying at cost certified copies of any papers or process filed with the court.

[1961 c 533 §§15 (2), 24]

**305.510** [Reserved for expansion]

#### (Small Claims Division)

**305.515 Small Claims Division; jurisdiction.** (1) There shall be a division of the Oregon Tax Court known as the small claims division.

(2) Judges of the tax court shall sit as judges of the small claims division.

(3) The small claims division shall have jurisdiction of the following classes of cases upon election by the taxpayer pursuant to ORS 305.530.

(a) An appeal for refund in any case authorized by paragraph (a) of subsection (1) of ORS 314.455 with respect to any year for which the amount of refund claimed does not exceed \$250, exclusive of interest and penalties.

(b) An appeal from additional taxes assessed or taxes assessed when no return was filed in any case authorized by paragraph (b) of subsection (1) of ORS 314.455 with respect to any year for which the amount in controversy does not exceed \$250, exclusive of interest and penalties.

(c) An appeal by a taxpayer in any case

authorized by ORS 306.515 and which involves only the question of the true cash value of real property, where the board of equalization has determined that such real property, including land and improvements, has a true cash value not in excess of \$25,000  
[1961 c 533 §26]

**305.520 ORS 305.405 to 305.435 and 305.452 to 305.495 apply to proceedings in small claims division.** ORS 305 405 to 305 435 and 305 452 to 305.495 shall apply to proceedings in the small claims division, unless expressly inapplicable thereto or inconsistent with ORS 305.515 to 305 555  
[1961 c 533 §34]

**305.525 Notice to taxpayer of right to appeal to small claims division.** At the same time that notice of the assessment, determination or order of the State Tax Commission or board of equalization is given to any taxpayer, the State Tax Commission or board of equalization, as the case may be, shall in writing also notify the taxpayer of his right to appeal to the small claims division by filing a petition in prescribed form with the clerk of the court.  
[1961 c 533 §29]

**305.530 Election to proceed in small claims division; effect of election.** A taxpayer may elect to proceed in the small claims division of the tax court instead of by an appeal authorized by ORS 314.455 or 306.515. In the event the taxpayer shall so elect, the taxpayer may not thereafter revoke the election, and shall not have any further right to appeal or bring suit as authorized by ORS 314 455, 314 460 or 306 515. In the event the taxpayer files a petition with the State Tax Commission as provided in ORS 306 515 or subsection (2) of ORS 314 455, he shall not thereafter be permitted to elect to proceed in the small claims division  
[1961 c 533 §27]

**305.535 Commencement of proceeding by petition filed by taxpayer.** A taxpayer shall commence a proceeding in the small claims division by filing with the clerk of the court a petition, in the form prescribed by the rules of the tax court, which shall state the nature of the taxpayer's claim. Such petition shall be filed within the time for otherwise appealing specified in ORS 314.455 and 306.515 for the particular case  
[1961 c 533 §28]

**305.540 Notice to assessor or tax commission of filing of petition; parties; exclusive jurisdiction; effect on assessor's appeal to tax commission; appearance of commission as amicus curiae.** Upon the filing of a petition by the taxpayer to the small claims division, the clerk of the court shall give notice thereof to the applicable county assessor or the State Tax Commission, as the case may be, and such assessor or the commission shall thereafter be deemed a party to the proceeding and, at the hearing on the petition, may appear in opposition thereto. In the event a petition is filed, the small claims division shall thereafter have exclusive jurisdiction over the case, and, if the assessor shall have filed an appeal with the State Tax Commission either before or afterward, the assessor must, within 30 days after the date of notice of the filing of the taxpayer's petition, file with the small claims division a petition stating his grounds for appeal; the filing of such petition by the assessor shall constitute a withdrawal of the assessor's appeal to the State Tax Commission. The two petitions shall be heard and determined together by the small claims division. With the permission of the court, the State Tax Commission may appear amicus curiae in any proceeding before the small claims division  
[1961 c 533 §30]

**305.545 Hearings to be informal; evidence; representation of parties.** The hearing in the small claims division shall be informal, and the judge may hear such testimony and receive such evidence as he deems necessary or desirable for a just and equitable determination of the case, except that all testimony shall be given under oath. A party may appear on his own behalf or may be represented or accompanied by an attorney, licensed accountant or such other person as the court may permit to be present and participate in the proceeding before the small claims division.  
[1961 c 533 §32]

**305.550 Dismissal of case on taxpayer's request; effects.** At any time prior to entry of judgment, a taxpayer may dismiss a case in the small claims division by notifying the clerk of the court in writing, but such dismissal shall be with prejudice, shall not have the effect of revoking the election specified in ORS 305.530, and shall not affect the petition, if any, filed by the assessor pursuant to the provisions of ORS 305.540.  
[1961 c 533 §31]

**305.555 Judgments.** The judgment in the small claims division shall be conclusive upon all parties and may not be appealed, and may include orders to the State Tax Commission, board of equalization and other proper officers to correct an assessment roll or a tax roll, or both, modify or cancel an assessment, pay or allow a refund to take such other action as may be necessary to effectuate the judgment. A judgment shall not be considered as judicial precedent or be given any force or effect in any other case, hearing or proceeding

[1961 c 533 §33]

305.560 to 305.600 [Reserved for expansion]

### INTERGOVERNMENTAL TAX RELATIONS

**305.605 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.

[Formerly 306 240]

**305.610 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.

(4) The Oregon Tax Court shall not have jurisdiction over actions brought pursuant to this section

[Formerly 306 250, subsection (4) enacted as 1961 c 533 §54]

**305.615 Apportionment of moneys received from United States in lieu of property 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.

[Formerly 306 180]

305 620 to 305.750 [Reserved for expansion]

### REFUNDS

**305.755 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.

[Formerly 306 260]

**305.760 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.

[Formerly 306 270]

**305.765 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 305 770 to 305 785. [Formerly 306 280]

**305.770 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 presented. 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 [Formerly 306 290]

**305.775 Interest on amount of refund in certain cases.** 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 305 770 [Formerly 306 300]

**305.780 Taxes due prior to year in which suit brought.** Nothing contained in ORS 305.770 to 305.785 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.

[Formerly 306 310]

**305.785 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 305.770 to 305.785, not exceeding the amounts paid to and received by the State of Oregon, together with interest thereon as provided in ORS 305.775, under and by virtue of the law or laws, or parts thereof, declared to be invalid.

[Formerly 306 320]

305.790 to 305.800 [Reserved for expansion]

#### MISCELLANEOUS PROVISIONS

**305.805 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

[Formerly 306 340]

**305.810 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.

[Formerly 306 410]

**305.815 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.

[Formerly 306 420]

305.825 to 305.985 [Reserved for expansion]

**305.820 Date when writing or remittance deemed received by tax officials.** (1) Any writing or remittance required by law to be filed with or made to the State Tax Commission, county board of equalization, county assessor or tax collector (designated in this section as the "addressee") which is:

(a) Transmitted through the United States mail, shall be deemed filed or received on the date shown by the postoffice cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the addressee establishes that the actual mailing occurred on an earlier date.

(b) Lost in transmission through the United States mail, shall be deemed filed and received on the date it was mailed if the sender:

(A) Can establish by competent evidence satisfactory to the addressee that the writing or remittance was deposited on or before the date due for filing in the United States mail and addressed correctly to the addressee; and

(B) Files with the addressee a duplicate of the lost writing or remittance within 30 days after written notification is given by the addressee of its failure to receive such writing or remittance.

(2) As used in this section, "writing or remittance" includes, but is not limited to, "report," "tax return," "claim for credit," "claim for refund," "statement," "notice of appeal," "petition for review," "notice of election," and remittances

[Formerly 306 440]

## PENALTIES

**305.990 Penalties.** (1) Any person who wilfully presents or furnishes to the commission, or any member thereof, any statement which they may require under ORS 305.160, 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 305.055 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 305.815 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.

[Formerly 306 990]

## 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 December 1, 1961

Sam R. Haley  
Legislative Counsel