

CHAPTER 176

AN ACT

SB 330

Relating to correction of erroneous material in Oregon tax law; amending ORS 305.285, 305.288, 311.205, 311.208, 314.307 and 677.141 and section 146, chapter 655, Oregon Laws 2003; and repealing ORS 305.805, 311.177, 311.179, 311.181, 315.259, 316.074 and 316.076.

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

SECTION 1. ORS 305.285 is amended to read:

305.285. Whenever any property tax matter is appealed to the Department of Revenue, Oregon Tax Court or Supreme Court, and during the pendency of the appeal, no appeal is filed for a subsequent year or years, the taxpayer may, on or before December 15 of the year in which a final determination is made by the last body or tribunal to pass on the matter or within six months of [such] the final determination, whichever is later, request the department to order the officer in charge of the rolls for the intervening years to correct all tax and assessment rolls for those years with respect to the property affected by [such] the final determination. The department may require a hearing and the submission of evidence necessary to determine the correction, if any, that should be made for each intervening year in view of the holding in [such] the final determination. Notwithstanding any time limit in ORS 305.288 [(1) to (6)], 306.115 or 311.205, the department shall order [such correction as] the corrections it deems necessary.

NOTE: Corrects subsection reference. See section 2 (amending ORS 305.288). Updates syntax.

SECTION 2. ORS 305.288 is amended to read:

305.288. (1) The tax court shall order a change or correction applicable to a separate assessment of property to the assessment and tax roll for the current tax year or for either of the two tax years immediately preceding the current tax year, or for any or all of those tax years, if all of the following conditions exist:

(a) For the tax year to which the change or correction is applicable, the property was or is used primarily as a dwelling (or is vacant) and was and is a single-family dwelling, a multifamily dwelling of not more than four units, a condominium unit, a manufactured structure or a floating home.

(b) The change or correction requested is a change in value for the property for the tax year and it is asserted in the request and determined by the tax court that the difference between the real market value of the property for the tax year and the real market value on the assessment and tax roll for the tax year is equal to or greater than 20 percent.

(2) If the tax court finds that the conditions needed to order a change or correction under subsection (1) of this section exist, the court may order a change or correction in the maximum assessed

value of the property in addition to the change or correction in the real market value of the property.

(3) The tax court may order a change or correction applicable to a separate assessment of property to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if, for the year to which the change or correction is applicable, the assessor or taxpayer has no statutory right of appeal remaining and the tax court determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue the statutory right of appeal.

(4) Before ordering a change or correction to the assessment or tax roll under subsection (3) of this section, the tax court may determine whether any of the conditions exist in a particular case. If the tax court determines that one of the conditions specified does exist, the tax court shall hold a hearing to determine whether to order a change or correction to the roll.

(5) For purposes of this section:

(a) "Current tax year" has the meaning given the term under ORS 306.115.

(b) "Good and sufficient cause":

(A) Means an extraordinary circumstance that is beyond the control of the taxpayer, or the taxpayer's agent or representative, and that causes the taxpayer, agent or representative to fail to pursue the statutory right of appeal; and

(B) Does not include inadvertence, oversight, lack of knowledge, hardship or reliance on misleading information provided by any person except an authorized tax official providing the relevant misleading information.

(c) "Manufactured structure" has the meaning given that term in ORS 446.561.

(6) The remedy provided under this section is in addition to all other remedies provided by law.

[(7) As used in subsections (1) to (6) of this section, "manufactured structure" has the meaning given that term in ORS 446.561.]

NOTE: Reorganizes and restructures definition in (7) to improve readability.

SECTION 3. ORS 305.805, 311.177, 311.179 and 311.181 are repealed.

NOTE: Repeals outdated statutes.

SECTION 4. ORS 311.205 is amended to read:

311.205. (1) After the assessor certifies the assessment and tax roll to the tax collector, the officer in charge of the roll may correct errors or omissions in the roll to conform to the facts, as follows:

(a) The officer may correct a clerical error. **For purposes of this paragraph:**

(A) A clerical error is an error on the roll [which either arises]:

(i)(I) That arises from an error in the ad valorem tax records of the assessor, or the records of the Department of Revenue for property assessed under ORS 306.126[, or]; or

(ii) That [which] is a failure to correctly reflect the ad valorem tax records of the assessor, or the

records of the department [of *Revenue*] for property assessed under ORS 306.126[, and which,];

(ii) **That**, had it been discovered by the assessor or the department prior to the certification of the assessment and tax roll of the year of assessment, would have been corrected as a matter of course[,]; and

(iii) **For which** the information necessary to make the correction is contained in [such] **the** records.

(B) **Clerical errors** [Such errors] include, but are not limited to, arithmetic and copying errors[,] and the omission or misstatement of a land, improvement or other property value on the roll.

(b)(A) The officer may correct an error in valuation judgment at any time in any account when an appeal has been filed in the tax court alleging that the value on the roll is incorrect, if the correction results in a reduction of the tax owed on the account.

(B) **The officer may not make** corrections under this paragraph to accounts appraised by the department pursuant to ORS 306.126 and 308.505 to 308.665 [may not be made] without the approval of the department. [Errors in valuation judgment are those where the assessor or the department would arrive at a different opinion of value.]

(C) The officer may correct any other error or omission of any kind. Corrections that are not corrections of **errors in** valuation judgment [errors] include, but are not limited to[,]:

(i) The elimination of an assessment to one taxpayer of property belonging to another on the assessment date[,];

(ii) The correction of a tax limit calculation[,];

(iii) The correction of a value changed on appeal[, or]; **and**

(iv) The correction of an error in the assessed value of property resulting from an error in the identification of a unit of property, but not **from** an error in a notice filed under ORS 310.060.

(D) **For purposes of this paragraph, an error in valuation judgment is one in which the assessor or the department would arrive at a different opinion of value.**

(c) The officer shall make any change requested by the department [of *Revenue* which] **that** relates to an assessment of property made by the department under ORS 308.505 to 308.665.

(d) The officer shall make any change ordered by the tax court or the department [of *Revenue*] under ORS 305.288 [(1) to (6)] or 306.115.

(e) The officer shall make any change required under ORS 308A.089.

(2)(a) The officer in charge of the roll shall make corrections with the assent and concurrence of the assessor or the department. The direction for the correction [shall] **must** be made in writing and state the type of error and the statutory authority for the correction. [Corrections may be made to] **The officer may correct** the roll for any year or years not exceeding five years prior to the last **certified** roll [so certified].

(b) Any additional taxes resulting from corrections for years prior to the current year [shall be] **are** deemed assessed and imposed in the particular year or years [as] to which the corrections apply. Addition of tax to a prior year's tax roll[,] due to corrections under this section[, shall] **may** not be considered in calculating the effect of the tax limitation under [section 11b,] Article XI, **section 11b**, of the Oregon Constitution, for the current year.

(3) **The officer in charge of the roll shall make** a correction [made] pursuant to this section [shall be made] in whatever manner **is** necessary to make the assessment, tax or other proceeding regular and valid. The correction [shall] **must** be distinguishable upon the roll, [shall] **must** include the date of the correction and [shall] **must** identify the officer making the correction.

(4) Whenever a correction **that will increase the assessment to which it relates** is to be made after the assessor has delivered the roll to the tax collector, [the effect of which is to increase the assessment to which it relates, except where] **unless the correction is** made by order of the department, **the officer in charge of the tax roll shall follow the** procedure prescribed in ORS 311.216 to 311.232 [shall be followed; and]. The provisions [therein] of **ORS 311.216 to 311.232** with respect to appeals [shall likewise] apply **under this subsection.**

[(4)] (5) Corrections [which] **that** would result in [less than a \$1,000] a change in assessed value or real market value of **less than \$1,000 do** [shall] not change the value for purposes of computing the taxes levied against the property, but shall be made only for purposes of correcting the office records.

[(5)] (6) The remedies under this section are in addition to other remedies provided by law.

NOTE: Corrects subsection reference in (1)(d). See section 2 (amending ORS 305.288). Updates form and style; updates syntax and tabulates for improved readability.

SECTION 5. ORS 311.208 is amended to read:

311.208. (1) The assessor shall notify the property owner of record or other person claiming to own the property or occupying the property or in possession of the property, if:

(a) A correction is made that applies only to the current roll;

(b) The correction is made after roll certification under ORS 311.105 and prior to December 1 of the current tax year; and

(c) The correction increases the value of the property.

(2) If a correction described in subsection (1) of this section results in additional taxes being added to the current roll, the additional taxes shall be due and payable without interest if paid prior to the 16th of the month next following the date the notice was sent under this section.

(3) If the additional taxes described in subsection (2) of this section are not paid prior to the 16th of the month next following the date the notice was sent under this section, the additional taxes shall be

considered for all purposes of collection and enforcement of payment as having become delinquent on the date the taxes would normally have become delinquent if the taxes had been timely extended on the roll.

(4) The notice described in subsection (1) of this section shall:

(a) Be mailed prior to December 1 to the last-known address of the person described in subsection (1) of this section;

(b) Specify the date and the amount of the correction;

(c) If additional tax is imposed, specify the date by which the additional tax may be paid without interest; and

(d) Include the owner's right to file a petition with the county board of property tax appeals not later than December 31 of the current tax year.

(5) The correction shall be made by the officer in charge of the roll in the manner described in ORS 311.205 [(3)].

(6) A correction made under this section may be appealed to the board of property tax appeals in the manner provided in ORS 309.100.

NOTE: Corrects subsection reference in (5). See section 4 (amending ORS 311.205).

SECTION 6. ORS 314.307 is amended to read: 314.307. As used in this section and ORS 314.308, 314.403[,] and 314.404[, 314.406 and 314.469]:

(1) "Listed transaction" means any of the following transactions:

(a) A listed transaction under section 6707A of the Internal Revenue Code.

(b) A transaction without economic substance in which an Oregon taxable corporation:

(A) Transfers income-producing assets to a real estate investment trust owned directly or indirectly by the corporation; and

(B) With respect to dividends paid from the real estate investment trust, claims a dividend-received deduction and the real estate investment trust claims a dividend-paid deduction.

(c) A transaction without economic substance in which an Oregon taxable corporation:

(A) Transfers income-producing assets to a regulated investment company owned directly or indirectly by the corporation; and

(B) With respect to dividends paid from the regulated investment company, claims a dividend-received deduction and the regulated investment company claims a dividend-paid deduction.

(2) "Oregon taxable corporation" means a corporation:

(a) That does business in Oregon, is organized in Oregon or has income from Oregon sources; or

(b) That is owned by an Oregon income or corporate excise taxpayer.

(3) "Reportable transaction" means a transaction:

(a) That is a reportable transaction under section 6707A of the Internal Revenue Code; or

(b) That is a listed transaction.

(4) "Transaction without economic substance" means a transaction for which the taxpayer cannot demonstrate a business purpose other than tax savings.

NOTE: Eliminates unnecessary references in lead-in.

SECTION 7. ORS 315.259, 316.074 and 316.076 are repealed.

NOTE: Repeals outdated statutes.

SECTION 8. Section 146, chapter 655, Oregon Laws 2003, is amended to read:

Sec. 146. (1) Except as provided in [subsections (2) and] **ORS 446.621 and subsection (3)** of this section, [sections 9 to 23a and 47a to 47c of this 2003 Act] **ORS 305.288 (5)(c), 306.006, 446.566 to 446.646 and 446.995**, the amendments to Oregon Revised Statutes by sections 48 to 142, **chapter 655, Oregon Laws 2003**, [of this 2003 Act] and the repeal of Oregon Revised Statutes by section 143, **chapter 655, Oregon Laws 2003**, [of this 2003 Act] do not apply to expand, diminish or alter the rights or remedies available, prior to [the operative date of sections 9 to 23a of this 2003 Act] **May 1, 2005**, to a creditor who perfected a security interest in a manufactured structure prior to [the operative date of sections 9 to 23a of this 2003 Act] **May 1, 2005**.

(2) If the Department of Consumer and Business Services issues an ownership document for a manufactured structure that was previously issued a certificate of title by the Department of Transportation, the Department of Consumer and Business Services shall record in the department's records and note on the ownership document any unreleased secured interest that was noted on the certificate of title. A secured interest described in this subsection retains the original perfection date of the interest, but provides the same creditor rights and remedies available for a secured interest in personal property perfected under [section 18 (1) of this 2003 Act] **ORS 446.611 (1)**.

(3) [Section 21 of this 2003 Act] **ORS 446.626** applies to applications by a manufactured structure owner who holds a leasehold estate in real property whether the lease creating the required recorded leasehold estate is entered into before, on or after [the effective date of this 2003 Act] **August 14, 2003**.

NOTE: Adjusts subsection reference in (1). See section 2 (amending ORS 305.288).

SECTION 9. ORS 677.141 is amended to read:

677.141. (1) A physician issued a license under ORS 677.139 is subject to all the provisions of this chapter and to all the rules of the Oregon Medical Board. A physician issued a license under ORS 677.139 has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under this chapter.

(2) A physician issued a license under ORS 677.139 may not:

(a) Act as a dispensing physician as defined in ORS 677.010;

(b) Administer controlled substances for the treatment of intractable pain to a person located within this state;

(c) Employ a physician assistant as defined in ORS 677.495 to treat a person located within this state;

~~[(d) Claim the tax deduction provided by ORS 316.076;]~~

~~[(e)]~~ (d) Participate in the Primary Care Services Program under ORS 442.550 to 442.570; or

~~[(f)]~~ (e) Assert a lien for services under ORS 87.555.

(3) A physician licensed under ORS 677.139 shall comply with all patient confidentiality requirements of this state, except as those requirements are expressly prohibited by the law of any other state of the United States where a person's medical records are maintained.

NOTE: Deletes reference to repealed statute.

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