

Chapter 305

General Administration of Revenue Laws; Tax Court

Chapter 305

LAW REVIEW CITATIONS: 4 WLJ 448.

305.060

ATTY. GEN. OPINIONS: Rental of office space by State Tax Commission, 1946-48, p 351.

305.075

ATTY. GEN. OPINIONS: Confidentiality of income tax returns as to assistant attorneys general, (1970) Vol 35, p 102.

305.083

ATTY. GEN. OPINIONS: Acceptance of free transportation or reduced rates when on official business, 1938-40, p 526.

305.090

NOTES OF DECISIONS

All county tax collectors are amenable to the general supervision and control of the commission [now Department of Revenue] to the extent that such supervision and control is necessary for the proper accomplishment of the duties vested in that body. *State v. Smith*, (1952) 197 Or 96, 252 P2d 550.

This section is broad and general and gave the commission [now Department of Revenue] authority to act as it did. *Balderree v. State Tax Comm.*, (1965) 2 OTR 142.

FURTHER CITATIONS: *Willamette Valley Lbr. Co. v. State Tax Comm.*, (1961) 226 Or 543, 359 P2d 98; *Sproul v. State Tax Comm.*, (1962) 1 OTR 31, rev'd, 234 Or 567, 382 P2d 99; *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286; *Santiam Lbr. Co. v. State Tax Comm.*, (1965) 2 OTR 179; *State Hwy. Comm. v. Anderegg*, (1965) 241 Or 31, 403 P2d 717.

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67; time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; commission authority to correct certification, (1968) Vol 34, p 156; general duty of assessors and boards of equalization, (1971) Vol 35, p 448.

LAW REVIEW CITATIONS: 1 WLJ 173, 181; 4 WLJ 476.

305.100

CASE CITATIONS: *Industrial Air Prod. Co. v. State Tax Comm.*, (1964) 236 Or 338, 388 P2d 470.

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67; authority to adopt rule to implement proposed tax limit, 1964-66, p 429; commission authority to correct certification, (1968) Vol 34, p 156.

305.105

NOTES OF DECISIONS

This section contemplates the allegation of facts, and a controversy. *Oregon Farm Bureau v. State Tax Comm.*, (1967) 2 OTR 440.

Taxpayers must first present their case to the Tax Commission [now Department of Revenue]. *Michaels v. State Tax Comm.*, (1967) 2 OTR 445.

The ruling should be confined to the facts alleged. *Utico Corp. v. State Tax Comm.*, (1969) 3 OTR 457.

FURTHER CITATIONS: *Simpson Tbr. Co. v. State Tax Comm.*, (1966) 2 OTR 509; *Girt v. Tri-County Metropolitan Transp. Dist.*, (1970) 4 OTR 92.

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67.

LAW REVIEW CITATIONS: 1 WLJ 171, 172; 4 WLJ 450.

305.110

NOTES OF DECISIONS

The construction given the tax laws by the State Tax Commission [now Department of Revenue] is entitled to great weight. *Sprague v. Fisher*, (1948) 184 Or 1, 63, 197 P2d 662, 203 P2d 274.

FURTHER CITATIONS: *Oregon Farm Bureau v. State Tax Comm.*, (1967) 2 OTR 440; *Emanuel Lutheran Charity Bd. v. Dept. of Rev.*, (1971) 4 OTR 410.

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67; confidentiality of income tax returns as to assistant attorneys general, (1970) Vol 35, p 102.

LAW REVIEW CITATIONS: 1 WLJ 148, 152; 5 WLJ 673.

305.120

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67; distribution of cigarette tax money to cities and counties, 1966-68, p 62.

305.150

CASE CITATIONS: *Lottis v. State Tax Comm.*, (1966) 2 OTR 434.

LAW REVIEW CITATIONS: 1 WLJ 170.

305.190

NOTES OF DECISIONS

A subpoena duces tecum was proper if the commission [now director] has as its purpose contemplated legislation, revision of administrative rules, uncovering facts to aid in

its adjudication function, or gathering data relevant to the administration of ORS chapter 321. *Pope & Talbot, Inc. v. State Tax Comm.*, (1959) 216 Or 605, 340 P2d 960.

LAW REVIEW CITATIONS: 1 WLJ 155.

305.405 to 305.555

LAW REVIEW CITATIONS: 42 OLR 292-327.

305.405

CASE CITATIONS: *Bristol v. State Tax Comm.*, (1962) 1 OTR 81; *City of Woodburn v. Domogalla*, (1964) 1 OTR 292, rev'd, 238 Or 401, 395 P2d 150; *City of Woodburn v. State Tax Comm.*, (1966) 2 OTR 137, aff'd, 243 Or 633, 413 P2d 606.

305.410

NOTES OF DECISIONS

Plaintiff's eligibility for certification by defendant did not present a question within the Tax Court's jurisdiction. *Hayden Island, Inc. v. Dept. of Environmental Quality*, (1970) 4 OTR 69, aff'd, 258 Or 597, 484 P2d 1106.

Issues regarding the validity of the formation of the district and the tax which was levied by the district did not present questions "arising under the tax laws of the state" and therefore within the jurisdiction of the Tax Court. *Girt v. Tri-County Metropolitan Transp. Dist.*, (1970) 4 OTR 92.

Since the suit was broader in scope than an attack on a tax alone, as it challenged the existence of the district, the Tax Court did not have original jurisdiction. *Horner's Market v. Tri-County Metropolitan Transp. Dist.*, (1970) 2 Or App 288, 467 P2d 671, Sup Ct review denied (with opinion), 256 Or 124, 471 P2d 798.

FURTHER CITATIONS: *City of Woodburn v. Domogalla*, (1964) 238 Or 401, 395 P2d 150, reversing 1 OTR 292.

ATTY. GEN. OPINIONS: Exercising right of appeal, 1964-66, p 429.

305.425

NOTES OF DECISIONS

The quantum of proof required of a taxpayer is a preponderance of the evidence giving due consideration to the evidentiary value against the taxpayer of the presumption of assessment validity. *Sproul v. State Tax Comm.*, (1962) 1 OTR 31, rev'd on other grounds, 234 Or 567, 382 P2d 99; *Williams v. State Tax Comm.*, (1963) 1 OTR 265.

The burden of proof in income tax cases is on the taxpayer. *Sproul v. State Tax Comm.*, (1962) 1 OTR 31, rev'd on other grounds, 234 Or 567, 382 P2d 99.

Presumption of assessment validity in an income tax case is evidentiary. *Sproul v. State Tax Comm.*, (1962) 1 OTR 31.

The presumption of assessment validity attaches to the assessment as made by the assessor. *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286.

Service is complete when the complaint is deposited in the mail. *Loveness v. State Tax Comm.*, (1967) 3 OTR 25.

The Tax Court is not bound by any stipulation, concession or evidence given in a hearing before the State Tax Commission [now Department of Revenue]. *Wilson v. State Tax Comm.*, (1968) 3 OTR 312.

Any denial of due process by denial of an administrative hearing was cured by the de novo judicial review. *Portland Canning Co. v. State Tax Comm.*, (1964) 1 OTR 600, aff'd, 241 Or 109, 404 P2d 236.

FURTHER CITATIONS: *Bristol v. State Tax Comm.*, (1962) 1 OTR 81; *First EUB Church v. State Tax Comm.*, (1963) 1 OTR 249; Board of Publications of Methodist Church v. State Tax Comm., (1963) 1 OTR 413; *Georgia-Pac. Corp. v. State Tax Comm.*, (1964) 237 Or 143, 390 P2d 337; *Smith Kline & French Labs. v. State Tax Comm.*, (1965) 241 Or 50, 403 P2d 385; *Balderree v. State Tax Comm.*, (1965) 2 OTR 142; *Merkle v. State Tax Comm.*, (1966) 2 OTR 283; *Oregon Farm Bureau v. State Tax Comm.*, (1967) 2 OTR 440; *Jonsson v. Dept. of Rev.*, (1971) 4 OTR 376.

LAW REVIEW CITATIONS: 42 OLR 297; 42 OLR 324.

305.427

NOTES OF DECISIONS

An assessment is presumed to be correct. *Pacific Coast Land Co. v. Dept. of Rev.*, (1971) 4 OTR 314; *J.R. Widmer, Inc. v. Dept. of Rev.*, (1971) 4 OTR 361; *Southern Ore. Broadcasting Co. v. Dept. of Rev.*, (1971) 4 OTR 371.

The taxpayer must overcome the presumption of validity of the assessment by a preponderance of the evidence. *Arnold v. Dept. of Rev.*, (1970) 4 OTR 174.

Preponderance of evidence means the greater weight of evidence, the more convincing evidence. *Feves v. Dept. of Rev.*, (1971) 4 OTR 302.

Where no substantial error is proven in the assessor's methods of valuation and the ultimate fact of true cash value is left in doubt, evidential value of the presumption of assessment validity continues. *Id.*

A taxpayer has the burden of proof by a preponderance of evidence to show that the assessor had no basis for his higher valuation. *Pacific Coast Land Co. v. Dept. of Rev.*, (1971) 4 OTR 314.

Taxpayer did not sustain her burden of proof that the transaction was a loan, not a gift, and that the debt, if any, was worthless. *Bush v. State Tax Comm.*, (1966) 244 Or 261, 416 P2d 1021, aff'g 2 OTR 239.

FURTHER CITATIONS: *McCullum v. State Tax Comm.*, (1967) 2 OTR 486; *Reynolds Metal Co. v. Dept. of Rev.*, (1970) 258 Or 116, 477 P2d 888, 481 P2d 352, modifying 3 OTR 470; *Oregon Research Institute, Inc. v. Dept. of Rev.*, (1971) 4 OTR 433.

305.430

ATTY. GEN. OPINIONS: Social security contributions for administrator of small claims division, 1964-66, p 65.

305.435

CASE CITATIONS: *Bristol v. State Tax Comm.*, (1962) 1 OTR 81.

305.440

NOTES OF DECISIONS

A judicial determination of the value of real property for one year is not conclusive as to the value of the property for a subsequent year. *Mittleman v. State Tax Comm.*, (1965) 2 OTR 105.

FURTHER CITATIONS: *M & M Woodworking Co. v. State Tax Comm.*, (1959) 217 Or 161, 314 P2d 272, 317 P2d 920, 339 P2d 718.

305.445

NOTES OF DECISIONS

In establishing a policy requiring reappraisal every six

years, the legislature recognized the deficiencies in attempting to determine value by applying factors to out-of-date appraisals. *Reynolds Metal Co. v. Dept. of Rev.*, (1970) 258 Or 116, 477 P2d 888, 481 P2d 352, modifying 3 OTR 470.

FURTHER CITATIONS: *M & M Woodworking Co. v. State Tax Comm.*, (1959) 217 Or 161, 314 P2d 272, 317 P2d 920, 339 P2d 718; *Oregon Worsted Co. v. Chambers*, (1959) 217 Or 104, 317 P2d 924, 342 P2d 108; *Strawn v. State Tax Comm.*, (1964) 1 OTR 98, modified, 236 Or 299, 388 P2d 286.

LAW REVIEW CITATIONS: 4 WLJ 450.

305.455

LAW REVIEW CITATIONS: 48 OLR 361, 364.

305.480

ATTY. GEN. OPINIONS: Social security contributions for administrator of small claims division, 1964-66, p 65.

305.490

NOTES OF DECISIONS

The clerk is entitled to reject a proffered filing if not accompanied by the correct fee. *Estate of Lackey v. State Tax Comm.*, (1965) 2 OTR 83, aff'd, 242 Or 509, 411 P2d 78.

305.515

NOTES OF DECISIONS

The small claims division of the Tax Court is a court of special, limited and inferior jurisdiction. *City of Woodburn v. Domogalla* (dictum), (1963) 1 OTR 292, rev'd on other grounds, 238 Or 401, 395 P2d 150.

In the small claims division, the Tax Court proceedings are special and statutory. *Id.*

FURTHER CITATIONS: *Estate of Lackey v. State Tax Comm.*, (1965) 2 OTR 83, aff'd, 242 Or 509, 411 P2d 78.

LAW REVIEW CITATIONS: 4 WLJ 461.

305.530

ATTY. GEN. OPINIONS: Conflict of interest when district attorney prosecutes assessor's appeal from board of equalization decision, (1971) Vol 35, p 448.

305.605

ATTY. GEN. OPINIONS: Taxation of materials, supplies, machinery and equipment of contractor of Federal Government, 1940-42, p 605; taxation of motor vehicle fuel sold and delivered on military reservation, not for exclusive use of the United States, 1942-44, p 3.

305.620

CASE CITATIONS: *Girt v. Tri-County Metropolitan Transp. Dist.*, (1970) 4 OTR 92.

LAW REVIEW CITATIONS: 5 WLJ 197, 317.

305.765

ATTY. GEN. OPINIONS: Refunds of taxes paid under unconstitutional statute prior to enactment of this section, 1930-32, p 34; refunds of contributions under Unemployment Compensation Law, 1934-36, p 805; time limitation for filing refund claims, 1938-40, p 577; refund of contributions paid under safety appliance Act, 1944-46; pp 105, 111.

LAW REVIEW CITATIONS: 38 OLR 252.

305.820

NOTES OF DECISIONS

In order to rely on the date of mailing as the date of receipt it is necessary that the envelope be properly addressed. *Bernard Chevrolet Co. v. State Tax Comm.*, (1969) 3 OTR 411.

ATTY. GEN. OPINIONS: When mailed document is delivered, 1966-68, p 555.