

Chapter 306

Property Taxation Generally

306.005

NOTES OF DECISIONS

In a home rule county, "assessor" means the officer who actually performs the duties imposed on assessors. Department of Rev. v. Multnomah County, (1970) 4 OTR 133.

LAW REVIEW CITATIONS: 46 OLR 280; 4 WLJ 584.

306.111

NOTES OF DECISIONS

An order made by the State Tax Commission [now Department of Revenue] to a county board of equalization to reduce assessments of certain property classifications was not arbitrary and therefore had to be obeyed. State v. Watson, (1941) 167 Or 403, 118 P2d 207.

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

FURTHER CITATIONS: Sproul v. State Tax Comm., (1962) 1 OTR 31, rev'd on other grounds, 234 Or 567, 382 P2d 99; Strawn v. State Tax Comm., (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286; State Hwy. Comm., v. Anderegg, (1965) 241 Or 31, 403 P2d 717; Portland Canning Co. v. State Tax Comm., (1965) 241 Or 109, 404 P2d 236; Santiam Lbr. Co. v. State Tax Comm., (1965) 2 OTR 148.

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; general duty of assessors and boards of equalization, (1971) Vol 35, p 448.

LAW REVIEW CITATIONS: 1 WLJ 181.

306.125

CASE CITATIONS: Portland Canning Co. v. State Tax Comm., (1965) 241 Or 109, 404 P2d 236.

ATTY. GEN. OPINIONS: Disbursal of money, 1956-58, p 207; credits due county, control of funds deposited under this section, 1956-58, p 220; application of allotment system to account, 1962-64, p 310.

LAW REVIEW CITATIONS: 1 WLJ 173.

306.126

LAW REVIEW CITATIONS: 1 WLJ 172, 173.

306.129

LAW REVIEW CITATIONS: 1 WLJ 172, 173.

306.220

CASE CITATIONS: City of Woodburn v. Domogalla, (1963) 1 OTR 292.

LAW REVIEW CITATIONS: 1 WLJ 173.

306.515 to 306.537

ATTY. GEN. OPINIONS: Appearance of assessor by non-lawyer representative, (1968) Vol 34, p 91.

LAW REVIEW CITATIONS: 1 WLJ 172-177.

306.515

NOTES OF DECISIONS

If a timber owner is dissatisfied with the original valuation of timber, he should follow the general appeal procedure in ad valorem cases. Stimson Lbr. Co. v. State Tax Comm., (1969) 3 OTR 369; aff'd sub nom. Stimson Lbr. Co. v. Larson, (1969) 254 Or 485, 461 P2d 83.

When the time for appeal from the board's ruling expired, the taxpayer was entitled to rely on the reduction in value. Portland Canning Co. v. State Tax Comm., (1964) 1 OTR 600, aff'd, 241 Or 109, 404 P2d 236.

The procedure followed in determining true cash value was proper. Balderree v. State Tax Comm., (1965) 2 OTR 142.

Taxpayer could not appeal to the commission or this court because the board of equalization failed to enter an order. Houck v. State Tax Comm., (1967) 2 OTR 448.

FURTHER CITATIONS: Robinson v. State Tax Comm., (1959) 216 Or 532, 339 P2d 432; 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; Moore Mill & Lbr. Co. v. State Tax Comm., (1965) 2 OTR 102; Doerner v. State Tax Comm., (1966) 2 OTR 377; Century Pontiac, Inc. v. State Tax Comm., (1968) 3 OTR 205; T & R Service, Inc. v. State Tax Comm., (1968) 3 OTR 271; Hult Lbr. & Plywood Co. v. Dept. of Rev., (1969) 3 OTR 507.

ATTY. GEN. OPINIONS: Appearance at hearing by nonlawyer representative, (1968) Vol 34, p 91; conflict of interest when district attorney prosecutes assessor's appeal from board of equalization decision, (1971) Vol 35, p 448.

LAW REVIEW CITATIONS: 4 WLJ 461.

306.520

NOTES OF DECISIONS

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.

This section is available only if taxpayer has no other

statutory remedy. *T & R Serv., Inc. v. State Tax Comm.*, (1968) 3 OTR 271.

Taxpayer could appeal under this section when board of equalization failed to act on his petition to the board. *Houck v. State Tax Comm.*, (1967) 2 OTR 448.

Plaintiff acted within the time required. *Harris v. State Tax Comm.*, (1968) 3 OTR 133.

Taxpayer was barred by the six-month limitation. *Century Pontiac, Inc. v. State Tax Comm.*, (1968) 3 OTR 205.

When the county assessor changed the valuation of logs on taxpayer's return, and did not notify taxpayer of the change in time to appeal under ORS 309.100, the assessor's act entitled taxpayer to appeal under this section. *Hult Lbr & Plywood Co. v. Dept. of Rev.*, (1969) 3 OTR 507.

FURTHER CITATIONS: *Oldham v. State Tax Comm.*, (1964) 2 OTR 40; *Sisters of Charity v. Bd. of Comms.*, (1967) 3 OTR 106; *Mrs. Smith's West Coast Pie Co. v. Dept. of Rev.*, (1971) 4 OTR 398; *Emanuel Lutheran Charity Bd. v. Dept. of Rev.*, (1971) 4 OTR 410.

ATTY. GEN. OPINIONS: Appearance at hearing by non-lawyer representative, (1968) Vol 34, p 91.

306.530

CASE CITATIONS: *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; *City of Woodburn v. Domogalla*, (1964) 238 Or 401, 395 P2d 150; *Balderree v. State Tax Comm.*, (1965) 2 OTR 142.

306.545

NOTES OF DECISIONS

Under prior similar legislation an appeal was not permitted unless the pleadings raised an issue involving assessment at a greater sum than true cash value or a disproportionate assessment of similar property. *Wadhams & Co. v. State Tax Comm.*, (1954) 202 Or 132, 273 P2d 440.

Under prior similar legislation the circuit court was authorized to consider valuation and apportionment, but could not entertain issues of situs or any other issues. *Inland Nav. Co. v. Chambers*, (1954) 202 Or 339, 274 P2d 104.

Original assessment of personal property upon which taxes were initially paid was considered presumptively correct on court review of attempt to include additional valuation as "omitted property." *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256.

The presumption in support of assessment roll operates in favor of taxpayer as well as against him. *Id.*

The taxpayer-owner has an absolute right to appear and be heard, and there is no need for him to petition to intervene. *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286.

Failure to file an appeal within the time for appeals to the commission [now department] cannot be raised by demurrer to a complaint in the Tax Court. *Miller's Mobile Manor v. State Tax Comm.*, (1963) 1 OTR 424.

The 60-day period for filing runs from the date the order was deposited in the mail. *Lewis & Clark College v. State Tax Comm.*, (1968) 3 OTR 169.

If a timber owner is dissatisfied with the original valuation of timber, he should follow the general appeal procedure in ad valorem cases. *Stimson Lbr. Co. v. State Tax Comm.*, (1969) 3 OTR 369; aff'd sub nom. *Stimson Lbr. Co. v. Larson*, (1969) 254 Or 485, 461 P2d 83.

To be aggrieved and directly affected, taxpayer must have some direct interest in the subject matter of the proceeding. *Brummel v. Dept. of Rev.*, (1970) 4 OTR 168.

The procedure followed in determining true cash value

was proper. *Balderree v. State Tax Comm.*, (1965) 2 OTR 142.

Demurrer of taxpayer-intervenor without prior motion or permission of court was proper. *Brummel v. Dept. of Rev.*, (1970) 4 OTR 168.

As one of a great body of taxpayers, plaintiff's interests were adequately protected by the appeal by the proper officials of Multnomah County. *Id.*

FURTHER CITATIONS: *Robinson v. State Tax Comm.*, (1959) 216 Or 532, 339 P2d 432; *First EUB Church v. State Tax Comm.*, (1963) 1 OTR 249; *City of Woodburn v. Domogalla*, (1963) 1 OTR 292; *Curry County Bd. of Equalization v. State Tax Comm.*, (1967) 2 OTR 455; *Multnomah County v. Dept. of Rev.*, (1971) 4 OTR 383; *Emanuel Lutheran Charity Bd. v. Dept. of Rev.*, (1971) 4 OTR 410.

ATTY. GEN. OPINIONS: Appearance of assessor by nonlawyer representative, (1968) Vol 34, p 91.

LAW REVIEW CITATIONS: 1 WLJ 172-175; 4 WLJ 450.

306.547

NOTES OF DECISIONS

The writ of prohibition is not available when the legislature has provided an exclusive remedy which is adequate to test jurisdiction. *Willamette Valley Lbr. Co. v. State Tax Comm.*, (1961) 226 Or 543, 359 P2d 98.

This statute contemplates exhaustion of administrative remedies before going to court. *Id.*

This section grants taxpayer a right of review from commission [now department] determination of the equalization ratio. *Union Pac. R.R. v. State Tax Comm.*, (1962) 232 Or 521, 376 P2d 80.

The procedure followed in determining true cash value was proper. *Balderree v. State Tax Comm.*, (1965) 2 OTR 142.

ATTY. GEN. OPINIONS: Appeal of orders issued by commission under its supervisory powers, 1960-62, p 35.

LAW REVIEW CITATIONS: 1 WLJ 172-175, 182.

306.560

CASE CITATIONS: *M & M Woodworking Co. v. State Tax Comm.*, (1959) 217 Or 161, 314 P2d 272, 317 P2d 920, 339 P2d 718; *Sproul v. State Tax Comm.*, (1962) 1 OTR 31.

LAW REVIEW CITATIONS: 1 WLJ 172-175.

306.580

NOTES OF DECISIONS

The writ of prohibition is not available when the legislature has provided an exclusive remedy which is adequate to test jurisdiction. *Willamette Valley Lbr. Co. v. State Tax Comm.*, (1961) 226 Or 543, 359 P2d 98.

This statute contemplates exhaustion of administrative remedies before going to court. *Id.*

FURTHER CITATIONS: *Brummel v. Dept. of Rev.*, (1970) 4 OTR 168.

ATTY. GEN. OPINIONS: Appeal of orders issued by commission under its supervisory powers, 1960-62, p 35.

LAW REVIEW CITATIONS: 1 WLJ 172-175.

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NOTES OF DECISIONS

The 60-day period for filing runs from the date the order was deposited in the mail. *Lewis & Clark College v. State Tax Comm.*, (1968) 3 OTR 169.