

## Chapter 309

### Equalization of Property Taxes

#### 309.020

ATTY. GEN. OPINIONS: Validity of county charter provision regarding budget procedure, 1960-62; p 403; filling vacancy in office appointed by the county court, 1964-66, p 115.

LAW REVIEW CITATIONS: 1 WLJ 185.

#### 309.024

##### NOTES OF DECISIONS

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

#### 309.026

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

#### 309.028

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

#### 309.032

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

#### 309.035

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; uniform levy by district in counties with different ratios, 1964-66, p 429.

LAW REVIEW CITATIONS: 4 WLJ 450.

#### 309.036

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

#### 309.038

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

LAW REVIEW CITATIONS: 16 OLR 340; 1 WLJ 174-176.

#### 309.040

##### NOTES OF DECISIONS

After equalization by the board of equalization, uniformity in the assessment is supposed to have been secured as between individuals of the county. Oregon & Calif. R. Co. v. Croisan, (1892) 22 Or 393, 30 P 219.

Though the board failed to meet to examine the assessment roll, the collection of the tax based on such roll was not enjoined since complainant claimed merely overvaluation and did not tender the amount of tax conceded to be due. Welch v. Clatsop County, (1893) 24 Or 452, 33 P 934.

Boards of equalization act in a judicial capacity. Oregon & Calif. R. Co. v. Jackson County, (1901) 38 Or 589, 64 P 307, 65 P 369.

FURTHER CITATIONS: Doerner v. State Tax Comm., (1966) 2 OTR 377.

ATTY. GEN. OPINIONS: Second Monday in May as meeting date, 1950-52, p 285; time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

LAW REVIEW CITATIONS: 1 WLJ 174-176.

#### 309.050

##### NOTES OF DECISIONS

Any person who has property listed on the assessment roll is "interested" in the proceedings of the board of equalization, and may have redress for injury whether caused by overvaluation of his property or undervaluation of that of others. Dundee Mtg. Trust & Inv. Co. v. Charlton, (1887) 13 Sawy 25, 32 Fed 192.

Where the taxpayer failed to appear before the board of equalization his remedy for relief from overvaluation of his property was lost. Oregon & Wash. Mtg. Sav. Bk. v. Jordan, (1888) 16 Or 113, 17 P 621; West Portland Park Assn. v. Kelly, (1896) 29 Or 412, 45 P 901.

Where the taxpayer failed to appear before the board to contest valuation of her property, she could not recover taxes paid on the alleged overvaluation. Ramp v. Marion County, (1893) 24 Or 461, 33 P 681.

LAW REVIEW CITATIONS: 1 WLJ 174-176.

#### 309.060

ATTY. GEN. OPINIONS: Authority of assessor to change assessment after presenting assessment roll to the board of equalization, 1940-42, p 480.

LAW REVIEW CITATIONS: 1 WLJ 174-176.

#### 309.070

##### NOTES OF DECISIONS

Although members of the board are sworn officers, they

must take the oath prescribed by this section. *Northern Pac. R. Co. v. Clatsop County*, (1915) 74 Or 250, 145 P 271.

LAW REVIEW CITATIONS: 1 WLJ 174-176.

309.080

#### NOTES OF DECISIONS

Under a prior similar statute, the board could assess omitted property without giving any notice to the owner of the property. *Oregon & Wash. Mtg. Sav. Bk. v. Jordan*, (1888) 16 Or 113, 17 P 621; *Kirkwood v. Ford*, (1899) 34 Or 552, 56 P 411; *Ankeny v. Blakely*, (1903) 44 Or 78, 74 P 485.

Under a prior similar statute, the board had no authority to determine whether property was exempt from taxation. *Portland Univ. v. Multnomah County*, (1897) 31 Or 498, 50 P 532.

LAW REVIEW CITATIONS: 1 WLJ 174-176.

309.090

#### NOTES OF DECISIONS

The rules of practice in civil actions or suits do not apply to proceedings before the board to correct assessments. *Poppleton v. Yamhill County*, (1890) 18 Or 377, 23 P 253, 7 LRA 449; *Northern Pac. R. Co. v. Clatsop County*, (1915) 74 Or 250, 145 P 271.

The notice required by this section is the pleading upon which the order of the board increasing the assessment is based. *Godfrey v. Douglas County*, (1896) 28 Or 446, 43 P 171.

The person assailing the assessment must overcome the prima facie case which the assessment roll establishes. *Northern Pac. R. Co. v. Clatsop County*, (1915) 74 Or 250, 145 P 271.

LAW REVIEW CITATIONS: 1 WLJ 174-176.

309.100

#### NOTES OF DECISIONS

The rules of practice in civil actions or suits do not apply to proceedings before the board to correct assessments. *Poppleton v. Yamhill County*; (1890) 18 Or 377, 23 P 253, 7 LRA 449; *Northern Pac. R. Co. v. Clatsop County*, (1915) 74 Or 250, 145 P 271.

Appearance before the board to get an overvaluation reduced does not preclude the taxpayer from later resorting to a court of equity to enjoin the tax based on such assessment. *California & Ore. Land Co. v. Gowen*, (1892) 48 Fed 771.

If the petition does not comply with the provisions of this section the board has no jurisdiction to hear it. *Northern Pac. R. Co. v. Clatsop County*, (1915) 74 Or 250, 145 P 271.

The person assailing the assessment must overcome the prima facie case which the assessment roll establishes. *Id.*

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.

A petition merely stating that petitioner's property was assessed in excess of its true cash value without setting forth the facts and grounds upon which the petition was made was insufficient to give the board jurisdiction to hear the petition. *Northern Pac. R. Co. v. Clatsop County*, (1915) 74 Or 250, 145 P 271.

Where a reduction of the assessment was not sought under this section, the party cannot object in a suit to restrain collection of a tax that the valuation was arbitrarily

fixed. *Western Union Tel. Co. v. Hurlburt*, (1917) 83 Or 633, 163 P 1170.

The petition was sufficient. *Houck v. State Tax Comm.*, (1967) 2 OTR 448.

Since taxpayer did not receive notice of the changed valuation, his right to appeal was not limited by this section. *Hult Lbr. & Plywood Co. v. Dept. of Rev.*, (1969) 3 OTR 507.

FURTHER CITATIONS: *Moore Mill & Lbr. Co. v. State Tax Comm.*, (1965) 2 OTR 102; *T & R Service, Inc. v. State Tax Comm.*, (1968) 3 OTR 271.

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: 1 WLJ 174-176; 4 WLJ 450, 461.

309.110

#### NOTES OF DECISIONS

The notice required by ORS 309.090 may be read in connection with the order of the board to show the facts upon which the order is based if there is an ambiguity in the order. *Godfrey v. Douglas County*, (1896) 28 Or 446, 43 P 171.

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; appearance at hearing by nonlawyer representative, (1968) Vol 34, p 91.

309.120

#### NOTES OF DECISIONS

Where no entry appeared opposite an assessment, in the column entitled "as equalized by the county board", it was presumed that the assessment was not equalized. *Godfrey v. Douglas County*, (1896) 28 Or 446, 43 P 171.

The authorized corrections and additions may be lawfully made by any member of the board during its sessions or by authorized clerical assistants or the board may direct the assessor to make the necessary entries. *Florey v. Coleman*, (1925) 114 Or 1, 234 P 286.

309.130

#### NOTES OF DECISIONS

Where the assessment roll had been returned to the assessor and he did not make the corrections authorized by the board, mandamus did not lie to require the assessor to deliver the assessment roll to the county clerk so that he could make the authorized corrections. *Florey v. Coleman*, (1925) 114 Or 1, 234 P 286.

309.320

#### NOTES OF DECISIONS

Under a prior statute the state board of equalization had no authority to equalize or correct errors in the assessments of individual taxpayers or to change the classification of property made by the county assessor. *Oregon & Calif. R. Co. v. Croisan*, (1892) 22 Or 393, 30 P 219; *Dayton v. Bd. of Equalization*, (1898) 33 Or 131, 50 P 1009.

Under a prior statute, the state board had no authority to increase the assessment of a particular class of personal property for one county where the assessment roll of another county did not recognize such a class. *Dayton v. Bd. of Equalization*, (1897) 33 Or 131, 50 P 1009.

Under a prior statute, the failure of the State Board of Equalization to properly equalize the assessments on personal property did not invalidate its acts in equalizing values upon real property. *Dayton v. Multnomah County*, (1898) 34 Or 239, 55 P 23.

**309.400**

## NOTES OF DECISIONS

The State Tax Commission [now Department of Revenue] is a supervising agency and the board of equalization and assessors are subject to its orders. *Columbia River-Longview Bridge Co. v. Wellington*, (1932) 140 Or 413, 13 P2d 1075; *State v. Watson*, (1941) 167 Or 403, 118 P2d 107.

FURTHER CITATIONS: *State v. Fowler*, (1956) 207 Or 182, 295 P2d 167.

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

LAW REVIEW CITATIONS: 1 WLJ 181.

**309.990**

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.