

## Chapter 311

### Collection of Property Taxes

#### 311.005

ATTY. GEN. OPINIONS: County court's authority to execute writ to collect delinquent road assessments, 1964-66, p 364.

#### 311.020

LAW REVIEW CITATIONS: 46 OLR 280.

#### 311.055

##### NOTES OF DECISIONS

A prior similar statute did not create a new office of tax collector but simply imposed additional duties on the sheriff. *Lane v. Coos County*, (1882) 10 Or 123.

ATTY. GEN. OPINIONS: Appointment of a special tax collector who is not a deputy sheriff, 1930-32, p 303.

LAW REVIEW CITATIONS: 1 WLJ 156.

#### 311.060

##### NOTES OF DECISIONS

This section does not require justification by the sureties, so the signatures of the obligors, without evidence of their qualifications, if approved by the county court, validates the instrument. *Baker County v. Huntington*, (1906) 48 Or 593, 87 P 1036, 89 P 144.

Where the language of the bond was ambiguous as to whether it was the sheriff's general bond or the additional bond required by this section, parol evidence was admissible to show that it was intended to be the latter. *Baker County v. Huntington*, (1905) 46 Or 275, 79 P 187.

Resort to the sheriff's general bond was not permitted where the sheriff did not execute the bond required by this section. *Wheeler County v. Keeton*, (1908) 52 Or 16, 95 P 819.

LAW REVIEW CITATIONS: 46 OLR 280.

#### 311.105

CASE CITATIONS: *Waterhouse v. Clatsop County* (1907) 50 Or 176, 91 P 1083; *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256.

LAW REVIEW CITATIONS: 4 WLJ 457.

#### 311.110

ATTY. GEN. OPINIONS: Inclusion in warrant of information as to special tax levies of cities, 1932-34, p 209.

#### 311.115

##### NOTES OF DECISIONS

The tax roll when completed partakes of the nature of

a judgment. *McNary v. Wrightman*, (1898) 32 Or 573, 52 P 510.

Delivery of the assessment roll to the tax collector was assumed where the record was silent as to its disposition. *Florey v. Coleman*, (1925) 114 Or 1, 234 P 286.

FURTHER CITATIONS: *State v. Fowler*, (1956) 207 Or 182, 295 P2d 167; *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256.

ATTY. GEN. OPINIONS: Time of delivery of assessment roll to tax collector as mandatory, 1922-24, pp 529, 643; issuance of warrant and delivery with assessment roll to sheriff as transaction of judicial business, 1932-34, p 174; assessment roll as a public record, 1962-64, p 155; time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; effect of new law on taxes levied but not collected, 1964-66, p 429; effect of removal of legislative limit on county's tax base for fiscal year 1971-1972 effective after July 1, 1971, (1971) Vol 35, p 735.

#### 311.120

##### NOTES OF DECISIONS

This section does not apply where the property involved is not subject to assessment at all. *Delta Farms v. Scappoose Drainage Dist.*, (1955) 206 Or 99, 288 P2d 816, 291 P2d 762.

ATTY. GEN. OPINIONS: Collection of tax after relevy, 1926-28, p 28; procedure where land has been taxed separately from timber standing thereon, 1934-36, p 151.

#### 311.125

ATTY. GEN. OPINIONS: Failure to carry forward delinquent taxes as affecting enforceability of such taxes, 1932-34, p 595.

#### 311.205

##### NOTES OF DECISIONS

The words "errors of any kind" expand the power to correct the record beyond the limitations of mere clerical errors. *State v. Smith*, (1952) 197 Or 96, 252 P2d 550; *California Bag Co. v. State Tax Comm.*, (1967) 3 OTR 41.

This section gives the sheriff authority to extend the taxes on the assessment roll if when he receives the roll it has not been done. *State v. Johnson*, (1916) 80 Or 107, 156 P 579.

Errors, other than clerical errors, such as errors in the determination of the true cash values of the property assessed, can only be corrected as a result of a review thereof made in appropriate proceedings had before boards of equalization, the State Tax Commission [now Department of Revenue] or the courts, and then only in the manner and to the extent of the order of any of those bodies when

such order is final and not subject to further appeal. *State v. Smith*, (1952) 197 Or 96, 252 P2d 550.

When a tax collector has the roll in his official possession and has notice of a lawful determination of assessed values by superior authority, he is bound to implement the same of record on the roll. *Id.*

**FURTHER CITATIONS:** *Moe v. Pratt*, (1946) 178 Or 320, 166 P2d 479; *Balderree v. State Tax Comm.*, (1965) 2 OTR 142; *Santiam Lbr. Co. v. State Tax Comm.*, (1965) 2 OTR 148.

**ATTY. GEN. OPINIONS:** Authority of assessor to correct roll, 1922-24, p 590; addition of mandatory tax levy to roll by sheriff, 1922-24, p 593; extension of irrigation district tax levied after roll is in hands of sheriff, 1926-28, p 124; correction by sheriff of error in amount of taxes, 1930-32, p 769; correction by sheriff of clerical error in valuation, 1932-34, p 373; correction of tax rate by sheriff, 1936-38, p 240; application to change in assessment by county court, 1936-38, p 671; correction of assessment by sheriff to eliminate a building that had been destroyed prior to assessment date, 1940-42, p 132; correction where improvements assessed to wrong land, 1942-44, p 168; correction of valuation by sheriff, 1944-46, p 149; addition by sheriff of tax levy omitted by assessor, 1944-46, p 379, 1946-48, p 397; recomputation of rates by collector when property omitted from rolls, 1954-56, p 63; tax erroneously paid on property of another, 1956-58, p 235; correction of levy assessed by water district subsequently declared invalid, 1958-60, p 265; orders issued by commission under its supervisory powers as "a correction," 1960-62, p 35; correcting assessment to reflect change in use of state-owned property, 1960-62, p 223; correcting tax roll after sale of property, 1962-64, p 399; 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, 181.

### 311.207

#### NOTES OF DECISIONS

Injunction was a proper remedy to restrain a sheriff from listing property for taxation where the property was not subject to taxation. *Callendar Nav. Co. v. Pomeroy*, (1912) 61 Or 343, 122 P 758.

Apartment house added to roll as omitted property instead of old house was proper. *Olsen v. State Tax Comm.*, (1967) 3 OTR 31.

**FURTHER CITATIONS:** *Oregon & Calif. R. Co. v. Lane County* (1893) 23 Or 386, 31 P 964; *Moe v. Pratt*, (1946) 178 Or 320, 166 P2d 479.

**ATTY. GEN. OPINIONS:** Assessment by sheriff of property omitted in previous years, 1920-22, pp 234, 301; tax rate, penalty and interest on property omitted in previous years, 1928-30, p 106; treatment as omitted property of property erroneously deeded to county, 1936-38, p 626; addition of property erroneously omitted as exempt, 1942-44, p 15; recovery of payment on senior citizen property tax exemption subsequently canceled, 1966-68, p 510.

### 311.209

#### NOTES OF DECISIONS

Increased value of inventory added to roll should have reflected an increase in value of goods shipped for which cancellation of assessment was authorized. *Kolstad Canneries, Inc. v. Dept. of Rev.*, (1970) 4 OTR 31.

**FURTHER CITATIONS:** *Kolstad Canneries, Inc. v. Dept. of Rev.*, (1970) 4 OTR 34.

### 311.211

#### NOTES OF DECISIONS

See also cases under ORS 308.205.

#### 1. Under former similar statute

Book value of personal property was not the sole measure of value in face of substantial evidence of obsolescence. *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256.

The general statute applicable to interest on moneys required payment of interest by state where taxes not legally due were paid under protest. *Id.*

In action for refund of taxes paid on additional assessment of merchandise stock in trade, taxpayer was entitled to interest on refund of taxes paid under protest. *Id.*

"Merchandise stock in trade" applied only to finished goods available for sale in the ordinary course of business. *Oregon Worsted Co. v. State Tax Comm.*, (1959) 217 Or 104, 317 P2d 924, 342 P2d 108.

When the original assessment was less than established true cash value, such property was deemed omitted property and the difference in value was subject to assessment. *Id.*

Property subsequently assessed as omitted property could not be assessed at the owner's book value but at the true cash value. *M & M Woodworking Co. v. State Tax Comm.*, (1959) 217 Or 161, 314 P2d 272, 317 P2d 920, 339 P2d 718.

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

**FURTHER CITATIONS:** *Willamette Valley Lbr. Co. v. State Tax Comm.*, (1961) 226 Or 543, 359 P2d 98, 360 P2d 926; *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286.

**ATTY. GEN. OPINIONS:** Recomputation of rates by collector when property omitted from rolls, 1954-56, p 63; property omitted from tax rolls in 1952-55, bona fide purchase in 1957 and added to tax rolls after purchase, 1958-60, p 5; appeal of orders issued by commission under its supervisory powers, 1960-62, p 35; recovery of payment on senior citizen property tax exemption subsequently canceled, 1966-68, p 510.

**LAW REVIEW CITATIONS:** 1 WLJ 176.

### 311.213

**ATTY. GEN. OPINIONS:** Recovery of payment on senior citizen property tax exemption subsequently canceled, 1966-68, p 510.

### 311.220

#### NOTES OF DECISIONS

A partner is not a good faith purchaser of his co-partner's interest. *California Bag Co. v. State Tax Comm.*, (1967) 3 OTR 41.

**ATTY. GEN. OPINIONS:** Entering taxes against grantees who purchase property subsequent to assessor's omission but prior to correction of omission, 1954-56, p 149; transfer of exempt property to taxable ownership charges transferee with notice, 1956-58, p 238; date of correction questioned, 1962-64, p 155; correcting tax roll after sale of property, 1962-64, p 399.

## 311.250

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

## 311.255

## NOTES OF DECISIONS

Under a prior similar statute, the county was required to turn over the taxes collected to the proper taxing agency though the levy may have been void. *Eugene v. Lane County*, (1908) 50 Or 468, 93 P 255.

The taxes collected for the taxing agencies enumerated are paid over to them as collected while the state tax is paid over to the state regardless of whether it has been collected. *State v. Siegmund*, (1928) 125 Or 197, 266 P 1075.

This section does not prohibit a taxpayer from paying the amount of one tax levied against his property while refusing to pay other taxes separately listed against it. *Milne v. Hess*, (1933) 141 Or 469, 18 P2d 229.

ATTY. GEN. OPINIONS: Liability of county on collection of void taxes levied by city, 1928-30, p 62.

LAW REVIEW CITATIONS: 12 OLR 233.

## 311.260

## NOTES OF DECISIONS

In a prosecution against the sheriff for embezzlement of money collected as taxes he was chargeable with checks received since it was presumed they were cashed and lawful money received. *State v. Neilon*, (1903) 43 Or 168, 73 P 321.

FURTHER CITATIONS: *Lane County v. Oregon*, (1868) 74 US 71, 19 L Ed 101.

ATTY. GEN. OPINIONS: Effect of issuing tax receipts upon receipt of taxpayer's deposit slip in bank which became insolvent, 1930-32, pp 139, 686.

## 311.265

ATTY. GEN. OPINIONS: Effect of acceptance by tax collector of warrants in excess of amount authorized, 1924-26, p 157; acceptance of warrants in payment of interest on taxes, 1932-34, p 355; amount of warrants acceptable, 1932-34, p 491; authority of county court to direct sheriff to accept county warrants in payment of certain taxes due the county, 1930-32, p 512; acceptance of bonds and interest coupons in payment of delinquent taxes and interest, 1934-36, p 362.

## 311.275

## NOTES OF DECISIONS

This section has no bearing on fixing liability to the state for payment of taxes but merely determines the liability of the grantor and grantee to each other where there is no express agreement determining such liability. *Ferguson v. Kaboth*, (1903) 43 Or 414, 73 P 200, 74 P 466; *Broadway-Madison Corp. v. Fisher*, (1940) 164 Or 401, 102 P2d 194.

There is no statute similar to this section regarding personal property taxes, therefore where an agreement was made between vendor and vendee to prorate "current" personal property taxes, the tax is prorated on the basis of the tax year for personal property, January 1 to December 31. *Ewauna Box Co. v. Weyerhaeuser*, (1953) 198 Or 360, 255 P2d 121.

Where vendor and vendee of personal property agree to prorate payment of personal property taxes as of day of

sale, the tax is prorated upon the calendar year, unless it is otherwise provided in the agreement. Id.

ATTY. GEN. OPINIONS: Liability for taxes between grantor and the state as grantee, 1930-32, p 770, 1942-44, p 86; building which has been sold and will be removed from land, 1958-60, p 357.

## 311.280

## NOTES OF DECISIONS

Where several lots are assessed as one parcel an owner has the right under this section, upon application to the assessor, to be apprised of the valuation of any lot in the event he desires to pay taxes on the same. *Guthrie v. Haun*, (1938) 159 Or 50, 76 P2d 292.

FURTHER CITATIONS: *Napier v. Lincoln County Sch. Dist.*, (1970) 4 OTR 221.

ATTY. GEN. OPINIONS: Segregation of delinquent taxes on property assessed by State Tax Commission, 1922-24, p 450; request of owner of 30 acres, described by metes and bounds, for segregation of taxes, 1938-40, p 377; segregation of taxes on personal property, 1938-40, p 423; partial release of judgment tax lien, 1962-64, p 108; redemption of part of tax foreclosed parcel, 1964-66, p 22.

## 311.345

ATTY. GEN. OPINIONS: Liability for tax collector's failure to collect personal property tax, 1958-60, p 277.

## 311.350

## NOTES OF DECISIONS

A warrant issued on the general fund may not be paid from a special courthouse fund though the effect is that county orders will not be paid in the order of registry. *Obenchain v. Daggett*, (1913) 68 Or 374, 137 P 212.

This section was passed with the intention that a county court could not, under the pretext of providing a fund for a specific purpose, accumulate money in the treasury, and thereafter apply it to some other purpose. Id.

ATTY. GEN. OPINIONS: Use of interest from special fund for purposes other than that for which the fund was created, 1930-32, p 389; use of school building fund to defray school bus expense, 1930-32, p 463; transfer of money from general fund, 1932-34, p 71, 1940-42, p 405; apportionment of moneys collected as delinquent taxes, 1932-34, p 145; temporary transfer of funds, 1946-48, p 93; transfer of funds from general road fund, 1948-50, p 188; transfer of unused general fund balance to operate county hospital, 1952-54, p 219; payment of general administrative costs of issuing dog licenses, 1954-56, p 127; disposition of funds from sale of personal property acquired by tax foreclosure, 1960-62, p 381; proper account for interest earned on bond proceeds, 1964-66, p 174.

## 311.356

ATTY. GEN. OPINIONS: Amount of instalment payments that may be accepted, 1940-42, p 70.

## 311.375

## NOTES OF DECISIONS

Under a prior similar section the state had a preferred claim on taxes collected by the county for general county purposes but had no claim on moneys collected from taxes

levied for specific objects. *Northrup v. Hoyt*, (1897) 31 Or 524, 49 P 754.

After a county has levied and collected the state tax apportioned to it, it cannot refuse to pay the money to the state on the ground that the apportionment of the state tax among the counties was not uniform. *Yamhill County v. Foster*, (1909) 53 Or 124, 99 P 286.

The state tax apportioned to the county must be paid whether or not collected by the county. *State v. Siegmund*, (1928) 125 Or 197, 266 P 1075.

The state is a preferred creditor of the county in the amount of the state tax levied in the county and not merely in the amount of the state tax collected. *Eugene Sch. Dist. 4 v. Fisk*, (1938) 159 Or 245, 79 P2d 262.

FURTHER CITATIONS: *State v. Marion County*, (1900) 36 Or 371, 59 P 814; *Lane County v. Oregon*, (1868) 74 US 71, 19 L Ed 101.

ATTY. GEN. OPINIONS: Date from which interest begins to run for late payment of state taxes, 1922-24, p 258.

### 311.390

ATTY. GEN. OPINIONS: County distribution formula for revenue from state forest lands, 1962-64, p 482.

LAW REVIEW CITATIONS: 4 WLJ 461.

### 311.392

ATTY. GEN. OPINIONS: Control of funds by district treasurer, 1962-64, p 129.

### 311.395

#### NOTES OF DECISIONS

Under former similar statute in a prosecution for larceny of public money, the settlements and receipts required by this section were prima facie evidence of the amount accounted for by the sheriff. *State v. Neilon*, (1903) 43 Or 168, 73 P 321.

Under former similar statute if the tax collector failed to make the required periodical payments the presumption was not that he had converted the money but that he merely retained it. *Lake County v. Neilon*, (1903) 44 Or 14, 74 P 212.

ATTY. GEN. OPINIONS: Status of taxes deposited by sheriff in bank that becomes insolvent, 1920-22, p 365; disposition of city road taxes, 1924-26, p 607; responsibility of county treasurer for taxes paid over to taxing agencies, 1928-30, p 62; applicability to funds received by sheriff to redeem certificates of delinquency, 1928-30, p 425; right of county to set off a claim against a city against city taxes held by county treasurer, 1932-34, p 143; apportionment of delinquent taxes by county treasurer, 1932-34, p 145; responsibility of sheriff in paying over taxes to county treasurer, 1934-36, p 34; payment to taxing agencies of interest accrued on their taxes held by county treasurer, 1936-38, p 70; necessity of keeping funds in separate bank accounts, 1936-38, p 90; disposition of funds from sale of personal property acquired by tax foreclosure, 1960-62, p 381; control of funds by district treasurer, 1962-64, p 129; county distribution formula for revenue from state forest lands, 1962-64, p 482.

### 311.405

#### NOTES OF DECISIONS

See also cases under ORS 311.410.

##### 1. In general

2. Property subject to personal property tax lien
3. Time lien attaches
4. Priority of tax lien over other liens or claims
5. Tax year and proration of personal property taxes

##### 1. In general

LOL 3684 [this section and ORS 311.410 and 311.415] was patterned after Washington statutes so that state's decisions are entitled to great weight. *Hoskins v. Dwight*, (1914) 69 Or 558, 139 P 922; *Studley v. Luse*, (1918) 89 Or 338, 173 P 1182; *Wyman v. Noonday Min. Co.*, (1921) 100 Or 211, 197 P 289; *Getchell v. Walker*, (1929) 129 Or 602, 278 P 93.

If the tax is not collected from the person against whom it is assessed and who owned the personal property at the time, it may be collected from a subsequent owner in whose name the property may be if it can be identified as the same specific property described in the original assessment. *Druck v. Plastic Sheeting Co.*, (1958) 214 Or 186, 328 P2d 339.

##### 2. Property subject to personal property tax lien

Only the specific personal property assessed is subject to a lien for the tax imposed upon it unless the lien is extended to other property in accordance with ORS 311.640 and 311.645. *Owens v. Ore. Livestock Loan Co.*, (1935) 151 Or 63, 47 P2d 963.

##### 3. Time lien attaches

Taxes are a lien from the day specified though the amount of the tax is yet to be determined. *Logan v. Luukinen*, (1924) 113 Or 52, 231 P 184.

A personal property tax lien upon realty dates from the time the tax collector notes the lien upon the tax roll opposite the tract selected. *McKennon v. Warnick*, (1925) 115 Or 163, 236 P 1051.

##### 4. Priority of tax lien over other liens or claims

The lien for general taxes is superior to a prior lien of a city for special assessments for street improvements and the owner of the general tax lien may foreclose it without first paying the city the amount of the special assessment. *Studley v. Luse*, (1918) 89 Or 338, 173 P 1182; *Pacific Coast Inv. Co. v. Jones*, (1936) 155 Or 244, 63 P2d 888.

The lien of a mortgage held by the state to secure a loan of moneys from the irreducible school fund is superior to the lien for taxes levied subsequent to the mortgage but inferior to the lien for taxes levied prior to the mortgage. *State Land Bd. v. Campbell*, (1932) 140 Or 196, 13 P2d 346; *State Land Bd. v. Schroetlin*, (1939) 161 Or 146, 88 P2d 316.

The purchaser at a tax sale of lands in a district improvement company takes the land subject to the lien of holders of bonds issued prior to the levy of the taxes for which the property was sold. *Nelson v. McAllister Dist. Imp. Co.*, (1936) 155 Or 95, 62 P2d 950.

In a suit to foreclose a chattel mortgage, unless the defendant county could trace its lien out of the assessment of the property held by the plaintiff, it has no lien unless and until distraint is made, and in such case the lien so acquired is subject to existing liens on the property distrainted. *Druck v. Plastic Sheeting Co.*, (1958) 214 Or 186, 328 P2d 339.

Where the county had a tax lien on certain personal property of a bankrupt such tax lien had priority over all other claims out of the proceeds of sale of such personal property. *Ingram v. Coos County*, (1934) 71 F2d 889.

When the lien of the personal property tax on sheep held in trust was extended to other sheep held in trust, by the sheriff levying on them, the beneficiaries' interest in such other sheep was subject to the tax lien. *Owens v. Ore. Livestock Loan Co.*, (1935) 151 Or 63, 47 P2d 963.

In a liquidation proceeding of a corporation by a receiver the personal property taxes had priority over wage claims,

where both taxes and wages were incurred during the period an operating receiver had control of the property. *Parks v. Cent. Door & Lbr. Co.*, (1940) 164 Or 363, 102 P2d 706, 128 ALR 375.

#### 5. Tax year and proration of personal property taxes

The tax year for personal property commences January 1 and terminates December 31 of each year, although the levy of personal property tax is not made until July of such year. *Ewauna Box Co. v. Weyerhaeuser*, (1953) 198 Or 360, 255 P2d 121.

Where vendor and vendee of personal property agree to prorate payment of personal property taxes as of day of sale, the tax is prorated upon the calendar year, unless it is otherwise provided in the agreement. *Id.*

FURTHER CITATIONS: *Marion County v. Woodburn Mercantile Co.*, (1911) 60 Or 367, 119 P 487, 41 LRA(NS) 730; *Sproul v. State Tax Comm.*, (1962) 1 OTR 31, rev'd on other grounds, 234 Or 567, 382 P2d 99; *Bumble Bee Seafoods, Inc. v. State Tax Comm.*, (1966) 2 OTR 347, aff'd, 245 Or 442, 421 P2d 974; *Foy v. State Tax Comm.*, (1968) 3 OTR 307; *Napier v. Lincoln County Sch. Dist.*, (1970) 4 OTR 221.

ATTY. GEN. OPINIONS: The lien: Personal liability of purchaser of personal property for taxes levied thereon prior to purchase, 1924-26, p 479; personal property to which the lien attaches, 1930-32, p 555, 1938-40, p 423; lien of personal property taxes on real property where the personal and real property are assessed together in one lump sum, 1932-34, p 648; collection of personal property taxes of insolvent bank, 1934-36, p 615; effect of mortgagor's redemption of real property sold to state on mortgage foreclosure on the tax lien which was foreclosed by the sale, 1934-36, p 714; meaning of words "except as otherwise specifically provided by law," 1936-38, pp 216, 236; amount of the lien where assessor erred in computing the tax rate, 1936-38, p 240; taxation of building and merchandise partially destroyed by fire in June of year of assessment, 1948-50, p 137; personal property tax lien on house trailer moved to other state after assessment date, 1958-60, p 303; redemption of part of tax foreclosed parcel, 1964-66, p 22.

Priorities: Priority as between excise taxes and property taxes, 1928-30, p 516; priority of tax lien over mortgages to secure loans by state from Rural Credits Fund, 1934-36, p 172; priority as between property tax lien and inheritance tax lien, 1936-38, p 327; priority between property taxes and federal social security taxes, state unemployment taxes and state industrial accident taxes, 1938-40, p 114; priority between tax lien and lien of judgment based upon a note which escheated to the state, 1940-42, p 335; priority of tax lien as against an outstanding trust receipt, 1954-56, p 88; priority between federal income tax lien and county lien, 1956-58, p 218; priority in bankruptcy of personal property taxes and interest, 1956-58, p 303.

LAW REVIEW CITATIONS: 3 WLJ 92.

#### 311.410

#### NOTES OF DECISIONS

See also cases under ORS 311.405.

Where decedent's real property escheated to the state, only the taxes that were a lien against the property at decedent's death are payable by the administrator as the land was not subject to taxation after the date of death. *In re Ohlsen's Estate*, (1938) 158 Or 197, 75 P2d 6.

The fact that property on which there is a tax lien was subsequently transferred to the city and devoted to public use so that the property could not be sold for the unpaid

taxes did not invalidate the lien. *Salem v. Marion County*, (1943) 171 Or 254, 137 P2d 977.

FURTHER CITATIONS: *Portland v. Multnomah County*, (1931) 135 Or 469, 296 P 48; *Moe v. Pratt*, (1946) 178 Or 320, 166 P2d 479; *Perry v. State Tax Comm.*, (1966) 2 OTR 275; *Perry v. State Tax Comm.*, (1967) 245 Or 483, 422 P2d 578.

ATTY. GEN. OPINIONS: Enforcing tax lien on property transferred to exempt ownership, 1922-24, pp 212, 216; tax lien on property transferred to United States subsequent to the date the lien attached, 1936-38, p 185; tax lien on real property escheated to the state, 1938-40, p 41; priority between federal income tax lien and county lien, 1956-58, p 218; transfer of exempt property to taxable ownership charges transferee with notice, 1956-58, p 238; determination, payment and refund of taxes on property partly owned by state, 1958-60, p 197; building which has been sold and will be removed from land, 1958-60, p 357; correcting assessment to reflect change in use, 1960-62, p 223; last date for establishing farm use for tax purposes, 1966-68, p 534; time limit for filing application, 1966-68, p 605.

#### 311.412

ATTY. GEN. OPINIONS: Paying tax liens from award, 1960-62, p 208.

#### 311.413

ATTY. GEN. OPINIONS: Paying tax liens from award, 1960-62, p 208.

#### 311.415

#### NOTES OF DECISIONS

See cases under ORS 311.405 and 311.410.

#### 311.420

ATTY. GEN. OPINIONS: Standing timber as real property, 1920-22, p 646; removal of fixtures by real property owner prior to delinquent tax foreclosure as a crime, 1940-42, p 428; treatment of real property destroyed by fire, 1958-60, p 156.

#### 311.425

#### NOTES OF DECISIONS

Where the contract is executory, the owner of the land may be held responsible for payment of taxes but this in no way relieves owner of timber under executory contract from being responsible for Oregon ad valorem taxes. *Willamette Valley Lbr. Co. v. United States*, (1966) 252 F Supp 199.

ATTY. GEN. OPINIONS: Application to standing timber conveyed separately from land prior to assessment of taxes, 1920-22, p 647; authority of district attorney to institute injunction proceedings without consent of county court, 1930-32, p 794.

LAW REVIEW CITATIONS: 36 OLR 278.

#### 311.430

ATTY. GEN. OPINIONS: Entry of judgment in tax foreclosure suit and sale thereunder as a bar to prosecuting an action under ORS 311.420, 1940-42, p 428.

## 311.455

## NOTES OF DECISIONS

This section has reference to taxes on personal property assessed as such and does not apply to taxes on properties of a public utility corporation comprising both realty and personalty and assessed as a unit. *Salem v. Marion County*, (1943) 171 Or 254, 137 P2d 977.

FURTHER CITATIONS: *Reynolds Aluminum v. Multnomah County*, (1955) 206 Or 602, 287 P2d 921.

ATTY. GEN. OPINIONS: Treatment of personal property destroyed by fire, 1958-60, p 156; taxpayer's personal liability after foreclosure and sale of property, 1958-60, p 374; disposition of funds from sale of personal property acquired by tax foreclosure, 1960-62, p 381.

## 311.460

LAW REVIEW CITATIONS: 42 OLR 317.

## 311.465

## NOTES OF DECISIONS

No unlawful discrimination results in compelling certain property owners to pay their taxes earlier than others, as the classification is reasonable and there is no discrimination between property owners similarly circumstanced. *Northwest Auto Co. v. Hurlburt*, (1922) 104 Or 398, 207 P 161.

This section was not unconstitutional as depriving certain owners of automobiles of property without due process of law. *Id.*

ATTY. GEN. OPINIONS: Collection of tax on merchandise kept for sale on Indian reservation, 1920-22, p 296; when tax collected under authority of this section becomes due and payable, 1926-28, p 310; payment of tax demanded pursuant to this section by instalments, 1942-44, p 169.

## 311.505 to 311.655

LAW REVIEW CITATIONS: 1 WLJ 156.

## 311.505

## NOTES OF DECISIONS

The words "delinquent taxes" in a contract of sale were construed to include taxes due and unpaid which were not yet delinquent as defined by this section. *Portland Terminal Inv. Co. v. Porter Ind. Co.*, (1930) 133 Or 205, 289 P 1048.

This section does not prohibit a taxpayer from paying the school district tax while refusing to pay the other county taxes levied on his property. *Milne v. Hess*, (1933) 141 Or 469, 18 P2d 229.

The tax year for personal property commences January 1 and terminates December 31 of each year, although the levy of personal property tax is not made until July of such year. *Ewauna Box Co. v. Weyerhaeuser*, (1953) 198 Or 360, 255 P2d 121.

Where vendor and vendee of personal property agree to prorate payment of personal property taxes as of the day of sale, the tax is prorated upon the calendar year, unless it is otherwise provided in the agreement. *Id.*

Because of delay until long after delinquency date in requiring a corporate receiver to pay delinquent taxes, the court refused to impose a penalty, though the statute called it interest, upon the estate. *Coy v. Title Guar. & Trust Co.*, (1914) 212 Fed. 520.

FURTHER CITATIONS: *Portland v. Pratt*, (1936) 153 Or 57, 55 P 799.

ATTY. GEN. OPINIONS: Amendments as not retroactive in effect, 1922-24, pp 319, 364, 638, 1924-26, pp 323, 325, 639, 1926-28, pp 292, 464, 1930-32, p 205, 1934-36, p 454, 1948-50, p 389.

Authority of county court to discount or refund the penalty on delinquent taxes, 1922-24, p 37, 1928-30, p 18, 1930-32, pp 494, 765; authority of drainage district to waive penalties and interest, 1928-30, p 566; cancellation of delinquent taxes upon acquisition of property by state, 1928-30, p 290.

Rate of interest on delinquent taxes, 1926-28, pp 13, 134, 611; penalty and interest on taxes on omitted property assessed by sheriff after delinquency date, 1928-30, p 106; application to ad valorem taxes only, 1932-34, p 570; payment of interest collected to tax levying districts, 1936-38, p 71; amount of acceptable instalment payments, 1940-42, p 71; when personal property taxes may be paid, 1944-46, p 16; effect of Soldiers and Sailors Civil Relief Act on limiting amount of interest that may be charged on unpaid taxes, 1944-46, p 37; due dates of taxes levied under supplemental tax levy, 1946-48, p 397.

Application of discount provisions to payments made in lieu of taxes by Federal Housing Authority, 1948-50, p 162; right to discount when taxpayer pays all taxes prior to November 15 except a portion challenged as unconstitutional, 1950-52, p 65; time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; effect of new law on taxes levied but not collected, 1964-66, p 429; legislative limit on tax base, (1970) Vol 34, p 1043.

LAW REVIEW CITATIONS: 12 OLR 233; 1 WLJ 174; 4 WLJ 461.

## 311.510

## NOTES OF DECISIONS

See also cases under ORS 311.505.

FURTHER CITATIONS: *Napier v. Lincoln County Sch. Dist.*, (1970) 4 OTR 221; *Stinemeyer v. Wesco Farms, Inc.*, (1971) 92 Adv Sh 1736, 487 P2d 65.

## 311.515

## NOTES OF DECISIONS

See cases under ORS 311.505.

## 311.525

ATTY. GEN. OPINIONS: Property taxes as including irrigation district assessments, 1928-30, p 186, 1934-36, p 594, 1938-40, p 311; application where certificate of delinquency has been issued to the county, 1928-30, pp 290, 508; effect of redemption of property from state after cancellation of interest and penalties, 1928-30, p 540; application where certificate of delinquency has been issued to irrigation district, 1930-32, p 190; application where state redeems real property bid in by county on foreclosure of certificates of delinquency, 1934-36, p 648; validity of 1937 amendment providing tax lien not affected when state acquires title, 1936-38, pp 304, 549, 635, 1938-40, p 264; authority of state to repay to county the state tax paid by county on land obtained by state through mortgage foreclosure, 1938-40, p 306; payment of penalty and interest on taxes which were a lien prior to lien of state, 1938-40, p 347; payment of penalty and interest on delinquent taxes when property redeemed by state from county tax foreclosure sale, 1940-42, p 194.

311.555

## NOTES OF DECISIONS

If an owner fails to comply with this section he is in no position to challenge a foreclosure list that designates another as the owner of his land. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

311.560

CASE CITATIONS: *Knapp v. Josephine County* (1951) 192 Or 327, 235 P2d 564.

311.610

ATTY. GEN. OPINIONS: Release of tax warrant for uncollectible taxes, 1962-64, p 461.

311.625

ATTY. GEN. OPINIONS: Application of statute of limitations to lien of personal property taxes assessed pursuant to this section, 1940-42, p 460; judgment docket in which entries are to be made, 1940-42, p 483; effect of docketing of warrant on rate of interest on delinquent taxes, 1940-42, p 585; foreclosure of delinquent tax liens, 1944-46, p 440; priority of tax lien as against an outstanding trust receipt, 1954-56, p 88; expiration and renewal of liens, 1956-58, p 126; authority to execute partial release of lien, 1962-64, p 108; release of tax warrant for uncollectible taxes, 1962-64, p 461.

311.635

ATTY. GEN. OPINIONS: Release of tax warrant for uncollectible taxes, 1962-64, p 461.

311.640

## NOTES OF DECISIONS

Personal property other than that on which the tax was levied is not subject to the lien of a personal property tax until after delinquency when the tax collector levies on such property to sell it to satisfy the delinquent tax claim. *Owens v. Ore. Livestock Loan Co.*, (1935) 151 Or 63, 47 P2d 963.

Where a loan company held title to sheep as trustee such sheep were subject to tax in its name and other sheep it later acquired were subject to sale for such taxes. *Id.*

Where a mortgagor of sheep delivered other sheep to the mortgagee in satisfaction of the mortgage, such other sheep were not subject to sale for taxes levied on the mortgaged sheep while held by the mortgagor. *Id.*

FURTHER CITATIONS: *First Nat. Bank v. Marion County*, (1942) 169 Or 595, 130 P2d 9.

ATTY. GEN. OPINIONS: Procedure for collecting personal property tax, 1924-26, p 68; person liable for personal property tax, 1924-26, p 477; effect of failure of purchaser at tax sale to comply with his bid, 1934-36, p 157; collection of personal property tax of insolvent bank, 1934-36, p 615; effect on personal property tax lien of sale of such property on foreclosure of chattel mortgage, 1938-40, p 747; authority of county court to compromise personal property taxes, 1940-42, p 155; disposition of funds from sale of personal property acquired by tax foreclosure, 1960-62, p 381.

311.645

## NOTES OF DECISIONS

The lien of the personal property taxes attaches to the real property when the required notation is made on the

tax roll. *McKennon v. Warnick*, (1925) 115 Or 163, 236 P 1051; *Getchell v. Walker*, (1929) 129 Or 602, 278 P 93.

The word "owned" as used with respect to what real property may be charged with personal property taxes means to have a good legal title, to hold as property, to possess. *McKennon v. Warnick*, (1925) 115 Or 163, 236 P 1051.

Real property transferred prior to the time the grantor's personal property taxes are delinquent cannot be charged with the lien of the personal property taxes. *Id.*

A void sale for taxes does not discharge the lien of the tax. *Getchell v. Walker*, (1929) 129 Or 602, 278 P 93.

The tax collector is the sole judge as to when it is necessary to charge personal property taxes against realty. *Id.*

ATTY. GEN. OPINIONS: Necessity of complying with statutory method of charging real property with lien of personal property tax, 1922-24, p 48; enforceability of lien of delinquent personal property tax charged on lands mortgaged to the state, 1924-26, p 92; authority of county court to relieve real property from lien of personal property tax charged against it, 1924-26, p 201, 1924-26, p 467; charging delinquent personal property tax against real property as estopping sheriff from proceeding against other personal property of delinquent taxpayer, 1926-28, p 488; charging delinquent personal property taxes against real property sold under contract by delinquent taxpayer, 1932-34, p 132; effect on tax lien upon personal property of making such tax a lien on real property, 1932-34, p 142; authority of sheriff to cancel personal property taxes charged against realty, 1934-36, p 391; charging personal property taxes on utility company property against realty of company, 1934-36, p 539; validity of charging delinquent personal property taxes against all the real property of delinquent taxpayer, 1934-36, p 735; charging delinquent personal property taxes against real property previously conveyed by delinquent taxpayer by unrecorded deed, 1938-40, p 120; Lien on interest of vendor of real property after sale but before delivery of deed of title, 1958-60, p 213; disposition of funds from sale of personal property acquired by tax foreclosure, 1960-62, p 381; proposed constitutional tax limit, (1968) Vol 34, p 203.

LAW REVIEW CITATIONS: 12 OLR 146.

311.650

ATTY. GEN. OPINIONS: Lessee's liability for tax on federal lands leased for grazing, 1958-60, p 174.

311.658

## NOTES OF DECISIONS

Under a prior similar statute, the state taxes due from each county could be recovered by an action by the state against the county. *State v. Baker County*, (1893) 24 Or 141, 33 P 530; *Yamhill County v. Foster*, (1909) 53 Or 124, 99 P 286.

In an action by the state against the county for the county's proportion of the state tax, the steps in the proceedings of the State Board of Equalization in equalizing and apportioning the state tax did not have to be alleged. *State v. Clatsop County*, (1912) 63 Or 377, 125 P 271.

The addition of taxable property to the assessment roll after the apportionment of state taxes by the State Tax Commission does not affect the apportionment. *State v. Siegmund*, (1928) 125 Or 197, 211, 266 P 1075.

FURTHER CITATIONS: *Citizens' Nat. Bank v. Baker County Bd. of Equalization*, (1924) 109 Or 669, 222 P 341.

**311.660**

ATTY. GEN. OPINIONS: This limitation as affected by the six percent constitutional limitation on the power to levy a tax, 1952-54, p 69; proposed constitutional tax limit, (1968) Vol 34, p 203.

**311.668**

ATTY. GEN. OPINIONS: Procedure for filing with the State Treasurer, 1962-64, p 279.

**311.705**

ATTY. GEN. OPINIONS: Authority of county court to cancel taxes assessed against exempt property, 1936-38, p 695; compromising taxes on property which has decreased greatly in value, 1938-40, p 271; acceptance of deed to tax delinquent property in payment of delinquent taxes, 1940-42, pp 151, 155; compromise of taxes where there is grave legal doubt of their validity, 1944-46, pp 457, 468; compromise where no grave legal doubt of validity, 1956-58, pp 109, 119; compromise of personal property tax by tax collector, 1958-60, p 277; compromise based on corrected entry, 1962-64, p 155.

**311.710**

ATTY. GEN. OPINIONS: Effect of cancellation of personal property taxes on the lien of such taxes, 1940-42, p 460; release of tax warrant for uncollectible taxes, 1962-64, p 461.

**311.717**

ATTY. GEN. OPINIONS: Validity of this section, 1934-36, p 215.

**311.720**

ATTY. GEN. OPINIONS: Cancellation of taxes when contract of sale canceled by State Land Board, 1922-24, p 233; liability for taxes on real property resold by state after cancellation of contract of sale, 1936-38, p 563; agricultural college fund as part of the irreducible school fund, 1938-40, p 653; tax levied to create bounties for killing rodents as within the term "taxes" as used in this section, 1940-42,

p 519; interpretation of "prior to the inception of state land board's lien," 1940-42, p 556; cancellation of taxes on property sold on contract by Veterans' State Aid Commission after cancellation of contract of sale, 1940-42, p 655.

**311.806****NOTES OF DECISIONS**

The property was within the jurisdiction of the tax levying body until a charitable exemption, if any, was allowed. *Sisters of Charity v. Bd. of Commrs.*, (1967) 3 OTR 106.

ATTY. GEN. OPINIONS: Equitable ownership as sufficient to recover taxes paid in excess of amount legally chargeable, 1944-46, p 169; discussion of term "excusable neglect," 1944-46, p 169; procedure where one county collects more than its share of taxes on transient livestock, 1948-50, p 137; refund of illegally acquired taxes, 1950-52, p 57; refund of taxes on property erroneously paid by person who no longer owns the property, 1954-56, p 107; illegally acquired taxes, 1956-58, p 120; refund of taxes paid on land of another, 1956-58, pp 225, 235; determination, payment and refund of taxes on property partly owned by state, 1958-60, p 197; constitutionality of retroactive tax exemption, 1960-62, p 237.

**311.815**

ATTY. GEN. OPINIONS: Refund of taxes by school district where use of taxes would result in unfairness to the taxpayer, 1934-36, p 648; refund of taxes erroneously collected to retire school indebtedness, 1950-52, p 12; levy of taxes for high school purposes as "special tax," 1958-60, p 269; assets of reorganized school district, 1960-62, p 205.

**311.990****NOTES OF DECISIONS**

The fact that taxes collected by a sheriff were illegally exacted is no defense to a prosecution against the sheriff for failure to pay such taxes to the county treasurer. *State v. Neilon*, (1903) 43 Or 168, 73 P 321.

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