

A-Engrossed
House Bill 2659

Ordered by the House May 18
Including House Amendments dated May 18

Sponsored by Representative MACPHERSON; Representatives BERGER, GALIZIO, GARRARD, HASS (at the request of Metro Multifamily Housing Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Restates that refund of property tax is required when refund is ordered [*or stipulated*] **and order constitutes final determination that is not subject to appeal**, even if order [*or stipulation*] is more than six years following assessment date for tax year for which refund is being made.

Requires interest to be paid on property tax refund resulting from written stipulation if stipulation constitutes final determination that is not subject to appeal.

Applies to final determinations made on or after May 5, 2005.

[*Applies to refunds of tax from tax years beginning on or after July 1, 1991, if final determination or stipulated judgment had not been made as of April 1, 2004.*]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property tax refunds; creating new provisions; amending ORS 311.806 and 311.812; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 311.806 is amended to read:

6 311.806. (1) Subject to subsection (2) of this section, the county governing body shall refund, out
7 of the refund reserve account provided in ORS 311.807, or the unsegregated tax collections account
8 provided in ORS 311.385, taxes on property collected by an assessor or tax collector pursuant to a
9 levy of the assessor or of any taxing district or tax levying body or pursuant to ORS 311.255, plus
10 interest thereon as provided in ORS 311.812, in the following cases:

11 (a) To the person described in ORS 309.100 (1) and in whose name a petition was filed, whenever
12 a change in the value of property is ordered by a county board of property tax appeals and no ap-
13 peal is taken or can be taken from the board's order, or whenever ordered by the Oregon Tax Court
14 or the Supreme Court and the order constitutes a final determination of the matter;

15 (b) To the person who has sought and obtained an order from the Department of Revenue under
16 ORS 306.115, whenever a change in the value of property is ordered by the department and no ap-
17 peal is taken or can be taken from the order of the department;

18 (c) To the person who meets the criteria described in ORS 305.275 and in whose name an appeal
19 is filed under ORS 305.275, whenever ordered by the Oregon Tax Court or Supreme Court and the
20 order constitutes a final determination of the matter;

21 (d) Whenever a change in the value of property is made under ORS 309.115 upon resolution of
22 an appeal and no separate appeal of the value of the property was taken for the year of the change:

23 (A) To the person in whose name the appeal was filed, for each year after the year for which

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 the appeal was filed in which that person was listed as the owner or an owner or the person in
2 whose name the property was assessed; and

3 (B) To the owner of record on the tax roll at the time of refund, each year thereafter;

4 (e) To the owner of record on the tax roll at the time of refund, whenever taxes are collected
5 against real or personal property not within the jurisdiction of the tax levying body;

6 (f) Except as provided in ORS 310.143, to the owner of record on the tax roll at the time of re-
7 fund, whenever, through excusable neglect, or through an error subject to correction under ORS
8 311.205 taxes on property are paid in excess of the amount legally chargeable thereon, and then only
9 in the amount of money collected in excess of the amount actually due; or

10 (g) Except as provided in ORS 311.808, to the payer of the tax whenever any person pays taxes
11 on the property of another by mistake of any kind.

12 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, [*no*] a refund of taxes
13 [*shall*] **may not** be allowed or made after six years from the assessment date for the [*fiscal*] **tax** year
14 for which the taxes were collected.

15 [*(b) A refund of taxes may be allowed or made after the period described in paragraph (a) of this*
16 *subsection if, before the expiration of the period, a written claim for refund of the taxes is filed by the*
17 *taxpayer with the county governing body. Where applicable, a certified copy of the order of the De-*
18 *partment of Revenue or of the Oregon Tax Court or the Supreme Court shall be made a part of the*
19 *claim.*]

20 [*(c) Upon written request of the Director of the Department of Revenue or with the approval of the*
21 *tax collector, the county governing body may order a refund of taxes to be paid as specified in sub-*
22 *section (1) of this section without the filing of a written claim and without regard to the period specified*
23 *under paragraph (a) of this subsection. The request of the department shall be considered an order for*
24 *the purpose of ORS 311.812 (2)(b).*]

25 **(b) A refund of taxes may be allowed or made under subsection (1)(f) or (g) of this section**
26 **after the period described in paragraph (a) of this subsection if, before the expiration of the**
27 **period, a written claim for refund of the taxes is filed by the taxpayer with the county gov-**
28 **erning body.**

29 **(c) The county governing body shall order a refund of taxes to be paid as specified in**
30 **subsection (1) of this section without the filing of a written claim and without regard to the**
31 **period specified under paragraph (a) of this subsection upon receipt of a copy of an order by**
32 **the Department of Revenue, the Oregon Tax Court or the Supreme Court that constitutes**
33 **a final determination that is not subject to appeal.**

34 (3)(a) Upon request of the owner or an owner of any taxable property or the person in whose
35 name the property is assessed, or the owner of record on the tax roll at the time of refund, which-
36 ever is applicable, and with the approval of the tax collector, the county governing body may au-
37 thorize refunds payable under subsection (1)(a) to (e) of this section to be made by crediting the total
38 tax liability account of the requester with the amount of the refund. The total tax liability account
39 is the total amount of tax that has been extended or charged against a particular property tax ac-
40 count as limited by section 11b, Article XI of the Oregon Constitution.

41 (b) In the case of a refund or credit payable to a single requester that results from an order
42 constituting a final determination of a matter as described under subsection (1)(a), (b) or (c) of this
43 section, a county governing body may elect to pay the refund or apply the credit in equal periodic
44 installments over not more than the five-year period that begins on the date that the order is issued
45 if the amount to be refunded or credited exceeds the lesser of \$250,000 or one-quarter of one percent

1 of the total amount of taxes on property imposed within the county within the limits of section 11b,
2 Article XI of the Oregon Constitution, as listed on the certificate last prepared under ORS 311.105.

3 (c) If a county governing body elects to pay a refund or credit under the provisions of paragraph
4 (b) of this subsection, and the election will result in a hardship to a requester, the requester may
5 appeal the election to the tax court as provided in ORS 305.404 to 305.560.

6 (4) Immediately upon payment of the refund and any interest thereon, the tax collector shall
7 make the necessary correcting entries in the records of the office of the tax collector. ORS 294.305
8 to 294.565 do not apply to refunds made out of the refund reserve account or the unsegregated tax
9 collections account.

10 (5) A refund is not required under this section for any tax year if the amount of the refund
11 would be \$10 or less. Any amount not refunded under this subsection shall be distributed to taxing
12 districts in the same manner that other taxes are distributed.

13 (6) As used in this section, "owner of record on the tax roll at the time of refund" means the
14 owner or an owner of the property or the person in whose name the property is assessed on the tax
15 roll last certified and delivered to the tax collector under ORS 311.105 and 311.115.

16 **SECTION 2.** ORS 311.812 is amended to read:

17 311.812. (1) Except as provided in subsection (2) of this section, [*no*] interest [*shall*] **may not** be
18 paid upon any tax refunds made under ORS 311.806.

19 (2) Interest as provided in subsection (3) of this section shall be paid on the following refunds:

20 (a) A refund resulting from the correction under ORS 311.205 of an error made by the assessor
21 or tax collector.

22 **(b) A refund resulting from a written stipulation of the county assessor or the county**
23 **tax collector if the written stipulation constitutes a final determination that is not subject**
24 **to appeal.**

25 [*b*] (c) Any refund ordered by the Department of Revenue if no appeal is taken or can be taken
26 from the department's order.

27 [*c*] (d) Refunds ordered by the Oregon Tax Court or the Supreme Court if the order constitutes
28 a final determination of the matter.

29 [*d*] (e) Refunds of taxes collected against real or personal property not within the jurisdiction
30 of the tax levying body.

31 [*e*] (f) Refunds due to reductions in value ordered by a county board of property tax appeals
32 where no appeal is taken.

33 [*f*] (g) Refunds due to reductions in value made pursuant to ORS 309.115.

34 [*g*] (h) Refunds due to a claim for a war veteran's exemption for a prior tax year that is filed
35 pursuant to ORS 307.262.

36 (3) The interest provided by subsection (2) of this section shall be paid at the rate of one percent
37 per month, or fraction of a month, computed from the time the tax was paid or from the time the
38 first installment thereof was due, whichever is the later. If a discount were given at the time the
39 taxes were paid, interest shall be computed only on the net amount of taxes to be refunded.

40 **SECTION 3. The amendments to ORS 311.806 and 311.812 by sections 1 and 2 of this 2005**
41 **Act apply to final determinations by the Department of Revenue, Oregon Tax Court or Su-**
42 **preme Court that are made on or after May 5, 2005, and that are not subject to appeal.**

43 **SECTION 4. This 2005 Act takes effect on the 91st day after the date on which the reg-**
44 **ular session of the Seventy-third Legislative Assembly adjourns sine die.**