

Enrolled
House Bill 2659

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 311.806 is amended to read:

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

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

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

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

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

(A) To the person in whose name the appeal was filed, for each year after the year for which the appeal was filed in which that person was listed as the owner or an owner or the person in whose name the property was assessed; and

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

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

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

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

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

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

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

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

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

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

(b) In the case of a refund or credit payable to a single requester that results from an order constituting a final determination of a matter as described under subsection (1)(a), (b) or (c) of this section, a county governing body may elect to pay the refund or apply the credit in equal periodic installments over not more than the five-year period that begins on the date that the order is issued if the amount to be refunded or credited exceeds the lesser of \$250,000 or one-quarter of one percent of the total amount of taxes on property imposed within the county within the limits of section 11b, Article XI of the Oregon Constitution, as listed on the certificate last prepared under ORS 311.105.

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

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

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

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

SECTION 2. ORS 311.812 is amended to read:

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

(2) Interest as provided in subsection (3) of this section shall be paid on the following refunds:
(a) A refund resulting from the correction under ORS 311.205 of an error made by the assessor or tax collector.

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

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

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

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

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

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

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

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

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

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

Passed by House May 23, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 17, 2005

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President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State