

INSTRUCTIONS FOR FILING AN APPEAL WITH THE REGULAR DIVISION OF THE OREGON TAX COURT

WHY APPEAL? If you are dissatisfied with the magistrate's decision, you can appeal to the Regular Division of the Oregon Tax Court. Most taxpayers are well advised to seek legal advice in deciding whether (and how) to appeal. You must comply with the Oregon Revised Statutes (ORS)¹ and Tax Court Rules (TCR)² that control appeals.

WHEN? An appeal from a Magistrate Division decision must be filed within 60 days from the date the decision was entered. Unless an appeal is filed within the time required by statute, the Tax Court will not be able to consider it. "Filed" means the appeal must be in possession of the office of the Tax Court on the date it is due, or it must be mailed on or before the date it is due as shown by the post office cancellation stamp, as further detailed in ORS 305.418.

WHERE? By mail:
Oregon Tax Court, Regular Division
1163 State Street
Salem, Oregon 97301-2563

or

By hand delivery:
1241 State Street, Floor 4R
Salem, Oregon

503-986-5645 or 1-800-773-1162

HOW? It is not enough to say "I appeal."

The court cannot file your complaint until ALL of the following are complete:

- Write out a complaint. A sample form is available on our website. Sign your complaint and make a copy. Submit the original to the court and keep the copy for your records. Attach a copy of the magistrate's decision to the complaint as Exhibit A.
- Include with your complaint a check or money order for the \$265 filing fee or an Application for Waiver or Deferral of Fee and Court Costs accompanied by an Affidavit of Income, Assets, and Expenses in Support of Application for Waiver or Deferral of Fee And Court Costs. Sample forms are available on our website. **A COMPLAINT CANNOT BE FILED WITHOUT THE FEE OR AN APPLICATION TO WAIVE OR DEFER THE FEE.**

¹ The Oregon Revised Statutes (ORS) are available online at <http://www.leg.state.or.us/ors>. (Make sure to use the version applicable to the year or years at issue). They are also kept in law libraries and some public libraries.

² The Tax Court Rules (TCR) are available online at <http://courts.oregon.gov/Tax>. These rules are also kept in law libraries and some public libraries. If you do not have access to the web and wish to obtain a copy of the Tax Court Rules, send a written request with your name and address to the court at the address listed above or call the court at one of the numbers listed above. Postage and copy fees apply and must be paid in advance.

IMPORTANT NOTE FOR INCOME TAX APPEALS. Pursuant to ORS 305.419, taxes, penalties, and interest must be paid before appeal. A motion to stay payment may be filed, if payment would result in an undue hardship. If you want the court to consider this motion, complete the form and accompanying affidavit of undue hardship and submit it with your complaint. A sample form is available on our website.

WORDING YOUR COMPLAINT. Number each paragraph consecutively. Do not just copy the form unless it fits your case. Type or print your complaint in plain, short statements. Try to limit each paragraph to a single set of facts.

CAUTION. The pleading and proof of a tax case usually requires a lot of thought and work. Your chances of winning are greatly improved by knowledge and preparation. Read, learn, and follow all of the laws and rules that tell you how to appeal.

WHAT HAPPENS NEXT. Once the court receives your signed complaint and fee, the court will file your complaint. The court will send a copy of the complaint and magistrate's decision to the Department of Revenue and a copy of the cover letter that accompanies those copies to you. That cover letter will have your Regular Division case number on it. Use that case number in all future contact with the Regular Division. The Department of Revenue will respond to your complaint either by filing an answer or a motion with the court. The Department of Revenue will send you a copy of their answer or motion. If the Department of Revenue files a motion, you must respond to the motion within ten days, unless the motion is a motion summary judgment, in which case you have 20 days to respond. Following the receipt of the answer or response, the court will set a telephone case management conference and send you a notice of the time and date.

GETTING LEGAL ADVICE. Most taxpayers should seek legal advice. Court staff cannot give you advice on your appeal. For information about attorneys, you may contact the Oregon State Bar at 503-620-0222 or toll free in Oregon at 1-800-452-8260. For the Lawyer Referral Service, call 503-648-3763 or toll free in Oregon at 1-800-452-8260.