

Attachment A: a separate, standalone representation statute for the Magistrate Division

Remove references to Magistrate Division in ORS 305.239:

(1) Notwithstanding ORS 9.320:

(a) Any person who is qualified to practice law or public accountancy in this state, any person who has been granted active enrollment to practice before the Internal Revenue Service and who is qualified to prepare tax returns in this state or any person who is the authorized employee of a taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer before *[a tax court magistrate or]* the Department of Revenue in any conference or proceeding with respect to the administration of any tax.

(b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer before *[a tax court magistrate or]* the department in any conference or proceeding with respect to the administration of any tax on or measured by net income.

(c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code, as amended and in effect on December 31, 2022, may represent the corporation in any proceeding before *[a tax court magistrate or]* the department in the same manner as if the shareholder were a partner and the S corporation were a partnership. The S corporation must designate in writing a tax matters shareholder authorized to represent the S corporation.

(d) An individual who is licensed as a real estate broker or principal real estate broker under ORS 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a registered appraiser under ORS 308.010 may represent a taxpayer before *[a tax court magistrate or]* the department in any conference or proceeding with respect to the administration of any ad valorem property tax.

(e) A general partner who has been designated by members of a partnership as their tax matters partner under ORS 305.242 may represent those partners in any conference or proceeding with respect to the administration of any tax on or measured by net income.

(f) Any person authorized under rules adopted by the department may represent a taxpayer before the department in any conference or proceeding with respect to any tax. Rules adopted under this paragraph, to the extent feasible, shall be consistent with federal law that governs representation before the Internal Revenue Service, as federal law is amended and in effect on December 31, 2022.

[(g) Any person authorized under rules adopted by the tax court may represent a taxpayer in a proceeding before a tax court magistrate.]

(2) A person may not be recognized as representing a taxpayer pursuant to this section unless there is first filed with the [*magistrate or*] department a written authorization, or unless it appears to the satisfaction of the [*magistrate or*] department that the representative does in fact have authority to represent the taxpayer. A person recognized as an authorized representative [*under rules or procedures adopted*] by the tax court shall be considered an authorized representative by the department **for purposes of the proceeding in the magistrate division of the tax court.**

(3) A taxpayer represented by someone other than an attorney is bound by all things done by the authorized representative, and may not thereafter claim any proceeding was legally defective because the taxpayer was not represented by an attorney.

(4) Prior to the holding of a conference or proceeding before the [*tax court magistrate or*] department, written notice shall be given by the [*magistrate or*] department to the taxpayer of the provisions of subsection (3) of this section.

Remove references to Magistrate Division in ORS 305.242:

(1)(a) When the treatment of partnership items on a partner's return is consistent with the treatment of that item on the partnership return and results in a notice of deficiency, the partners may designate a tax matters partner to represent each of them before the Department of Revenue in any conference or [*before a tax court magistrate*] in any proceeding with respect to the administration of any tax on or measured by net income.

(b) Notwithstanding paragraph (a) of this subsection, a tax matters partner shall be designated as provided in ORS 314.733(2), in the case of a partnership subject to ORS 314.731 to 314.737.

(2) The designation of a tax matters partner shall be made in writing and filed with the department [*or magistrate*] within 30 days after the date of the notice of deficiency. The tax matters partner must be:

(a) A general partner in the partnership at some time during the taxable year; or

(b) A general partner in the partnership at the time the designation is made.

(3) If a notice explaining the partnership adjustments is mailed by the department to the tax matters partner with respect to any partnership taxable year, the tax matters partner shall supply the department [*or, if applicable, the magistrate*] with the name, address, profits interest and taxpayer identification number of each person who was a partner in the partnership at any time during the taxable year, unless that information was provided in the partnership return for that year.

(4) A timely request for a conference filed with the department [*or appeal filed with the tax court*] by the tax matters partner shall be considered as a request [*or an appeal*] by all of the

partners represented by the tax matters partner, and all issues regarding treatment of partnership items shall be resolved in a single conference.

(5) A partner who elects to be represented by a tax matters partner, or any partner in a partnership subject to ORS 314.731 to 314.737, shall be bound by all things done by the tax matters partner and may not thereafter claim that any act or proceeding was legally defective because the partner was not represented by an attorney.

Repeal ORS 305.245, language incorporated into new Magistrate Division statute.

Retain ORS 305.260 (prohibition on appearance by former department employees).

Repeal ORS 305.494 (S corp shareholders, applies to tax court), no longer applicable.

Adopt new Magistrate Division statute, to be codified between ORS 305.495 and ORS 305.497:

(1) Notwithstanding ORS 8.690, 9.160, ORS 9.320, ORS chapter 180, ORS 203.145 or other law, in lieu of appearing by an attorney who is an active member of the Oregon State Bar:

(a) A party to a proceeding in the magistrate division of the Oregon Tax Court may be represented by a natural person designated by the party and recognized by the court as an authorized representative under this section.

(b) A party who is represented under this section is bound by all things done by the authorized representative. That party may not later claim the proceeding was legally defective because the party was not represented by an Oregon licensed attorney.

(2)(a) A taxpayer who is a natural person may designate another natural person including, but not limited to, a certified public accountant, a tax preparer, a tax consultant, a real estate appraiser or broker, or a family member.

(b) A taxpayer that is a legal entity must designate a natural person including, but not limited to, a certified public accountant, a tax preparer, a tax consultant, a real estate appraiser or broker, or an owner, partner, shareholder, member, officer, employee, or other natural person.

(c) Any other party, including the Department of Revenue or a local government, must designate an officer or authorized employee of the party, or of the administrator of the tax.

(3)(a) A taxpayer designates a representative by filing with the court a written authorization in a form acceptable to the court.

(b) Any other party designates a representative by filing a pleading, motion, or notice with the court naming the representative on behalf of the party.

(4) The court recognizes a representative for purposes of this section upon designation under subsection (3) of this section. Alternatively, the court may recognize a representative when it appears to the satisfaction of the magistrate that a representative does in fact have authority to represent the party.

(5) Upon recognizing a taxpayer's representative other than an Oregon licensed attorney, the court will provide written notice of the recognition to all parties, including a statement of the provisions of subsection (1)(b) of this section.

(6) The represented party, or the court on its own motion, may revoke the authorized representative's authority to represent a party in a particular case.

(7) A representative recognized by the court under this section shall also be recognized as an authorized representative by the Department of Revenue for purposes of the proceeding in the magistrate division.