

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. Even if you do not hire a lawyer, 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 or dispatched via private express carrier on or before the date it is due. See ORS 305.418. You must keep proof showing the date of mailing or dispatch. For details, see TCR 1 H.

WHERE? By mail (United States Postal Service):
Oregon Tax Court, Regular Division
1163 State Street
Salem, Oregon 97301-2563

or

By private express carrier or 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 and any dispositive order to the complaint as Exhibit 1. A dispositive order is one resolving the substantive legal issue or issues in your case. You should see a statement of appeal rights at the bottom of any dispositive order.

¹ The Oregon Revised Statutes (ORS) are available at www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx. (Make sure to use the version applicable to the year or years at issue, past year versions are available at www.oregonlegislature.gov/bills_laws/Pages/ORSarchive.aspx). They are also kept in law libraries and some public libraries.

² The Tax Court Rules (TCR) are available here: www.courts.oregon.gov/courts/tax/help/Pages/rules.aspx. 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.

- Include with your complaint a check or money order for the \$281 filing fee or an Application for Deferral or Waiver of Fees & Declaration in Support. Sample forms are available on our website. **A COMPLAINT CANNOT BE FILED WITHOUT THE FEE OR AN APPLICATION TO WAIVE OR DEFER THE FEE.**

IMPORTANT NOTE FOR INCOME TAX APPEALS. If you are disputing an assessment of personal income tax or other net income tax, you must pay all the taxes, penalties, and interest at or before the time you file your complaint. See ORS 305.419. If you believe payment would cause you an **undue** hardship, you may file a motion and accompanying affidavit for the court to consider. Sample forms are available on our website.

WORDING YOUR COMPLAINT. If you are writing your own complaint or adding your own statement to the court's form, number each paragraph consecutively. Type or print 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 if you know your facts, know the law, and prepare how to explain them to the court. 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 attachments to the Department of Revenue, and the court will send you a copy of the cover letter that accompanies those copies. That cover letter will have your Regular Division case number on it. Use that case number in all future contact with the Regular Division.

DO I NEED A LAWYER? In the Regular Division, an individual taxpayer may handle his or her case without a lawyer, but most hire a lawyer. No other representative is allowed. All legal entities must be represented by a lawyer, and the government is always represented by a lawyer.

The Department of Revenue will respond to your complaint by filing an "answer" or a "motion" with the court and will send a copy to you. If the Department of Revenue files a motion, you must respond to the motion within ten days, unless the motion is a motion for summary judgment, in which case you have 20 days to respond.

If the Department files an answer, the court may send you and the Department notice of a case management conference (usually by phone or video), where the court will decide how the case will proceed. You are allowed to talk with the Department's attorney before the conference, including to try to agree on a joint timeline for the court to hear your case.

GETTING LEGAL ADVICE. Most taxpayers should seek legal advice. Court staff cannot give you advice on your appeal. For information on 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: 503-648-3763 or toll free in Oregon at 1-800-452-7636 or online here: www.osbar.org/public/ris/lrsform.html. For income tax cases only, you may wish to consult with the Lewis & Clark Law School Tax Clinic: https://law.lclark.edu/clinics/low_income_taxpayer_clinic/prospective-clients/