

A-Engrossed
House Bill 2087

Ordered by the House June 23
Including House Amendments dated June 23

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

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.

Expands taxpayer bill of rights. [*Lowers limits on interest allowed on tax deficiencies. Applies to tax years beginning on or after January 1, 2018.*]

Provides for cancellation, after 20 years, of uncollected tax debt, penalties and interest.

[*Establishes Office of Taxpayer Advocate and Office of Independent Administrative Review in Department of Revenue.*]

[*Establishes functions, powers and duties of offices.*]

[*Appropriates moneys from General Fund to Department of Revenue for purposes of offices.*]

Directs Department of Revenue to adopt and publish standards to determine whether satisfaction of tax liability through installment payments facilitates collection of liability.

[*Takes effect on 91st day following adjournment sine die.*]

A BILL FOR AN ACT

1
2 Relating to taxpayers; creating new provisions; and amending ORS 305.155, 305.860 and 305.875.

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

4 **SECTION 1.** ORS 305.860 is amended to read:

5 305.860. (1) The Director of the Department of Revenue shall prepare a statement [*which*] **that**
6 sets forth in simple nontechnical terms:

7 (a) The rights of a taxpayer and the obligations of the Department of Revenue during an audit;

8 (b) The procedures by which a taxpayer may appeal any adverse decision of the department,
9 including **decisions related to collections**, informal conferences and judicial appeals;

10 (c) The procedures for filing and processing refund claims and filing of taxpayer complaints;
11 [*and*]

12 (d) The procedures [*which*] **that** the department may use in enforcing the provisions of the laws
13 of this state[.]; **and**

14 **(e) The procedures used by the department for the collection of tax debt.**

15 (2) The statement prepared in accordance with subsection (1) of this section shall be distributed
16 by the Director of the Department of Revenue to all taxpayers upon request. The director shall in-
17 form taxpayers of their rights in a brief explanatory statement included in all billing or collection
18 notices, all notices of assessment or deficiency and all notices of refund adjustment or denial sent
19 to the taxpayer.

20 **SECTION 2.** ORS 305.875 is amended to read:

21 305.875. In any meeting or communication with the Department of Revenue, including but not
22 limited to audits, conferences, interviews and any other meeting or communication between the
23 taxpayer and the department, the taxpayer shall have the following rights, unless waived by the

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 taxpayer:

2 (1) The right to an explanation, by an officer or employee of the department before or during
3 the meeting of:

4 (a) The audit, conference or meeting process and the taxpayer's rights under such process; and

5 (b) The collection process and the taxpayer's rights under such process.

6 (2) The right to make an audio recording of any meeting relating to the determination or col-
7 lection of any tax with the department representative, using the taxpayer's own equipment, and at
8 the taxpayer's own expense.

9 (3) If the department makes an audio recording of the meeting, [*the taxpayer has*] the right to
10 advance notice of the recording and a copy of the recording upon request. The taxpayer shall re-
11 imburse the department the reasonable cost of the copy.

12 (4) The right to consult with an attorney, certified public accountant, enrolled agent, or an other
13 person permitted to represent a taxpayer at any meeting before the department, if the taxpayer
14 clearly states to the department representative at any time during any meeting, that the taxpayer
15 wishes to consult with the person. This subsection does not apply to a meeting initiated by an ad-
16 ministrative subpoena.

17 (5) The right to be represented by anyone who is permitted to represent the taxpayer before the
18 department, as provided under ORS 305.230 and 305.245.

19 (6) The right not to be present, if represented, at the meeting unless subpoenaed by the depart-
20 ment pursuant to ORS 305.190, or other laws of this state.

21 **(7) The right not to be contacted by the department if the taxpayer has designated a**
22 **power of attorney for representation under ORS 305.230 and has provided notice of that**
23 **representation and its scope to the department. This provision does not apply to notices**
24 **mailed by the department.**

25 **SECTION 3.** ORS 305.155 is amended to read:

26 305.155. (1) The Department of Revenue shall cancel an unpaid tax imposed by laws of the State
27 of Oregon that is collected by the department, including any penalty or interest applicable to the
28 tax, if the department determines that:

29 (a) The tax has been delinquent for seven or more years;

30 (b) All reasonable efforts have been made to effect collection;

31 (c) The taxpayer cannot be located or is dead; and

32 (d) The tax is wholly uncollectible.

33 (2) The department shall offer to suspend collection of an unpaid tax imposed by laws of the
34 State of Oregon that is collected by the department, including any penalty or interest applicable to
35 the tax, if the department determines that the individual liable for the debt:

36 (a) Has income that does not exceed 200 percent of the federal poverty guidelines based on the
37 individual's household size and household members;

38 (b) Has less than \$5,000 in assets; and

39 (c) Has income solely from a source that is exempt from garnishment under ORS chapter 18.

40 (3) The department may cancel [*any*] **an unpaid** tax imposed by laws of the State of Oregon that
41 is collected by the department or any portion of the tax assessed against a person, including any
42 penalty and interest that has not been collected, if the department determines that the adminis-
43 tration and collection costs involved would exceed the amount that can reasonably be expected to
44 be recovered.

45 (4) When taxes are canceled under subsection (1) or (3) of this section, the department shall

1 make an order canceling the tax, penalties and interest. The order shall be filed in the records of
2 the department. Upon making the order, the department also shall cause to be canceled or released
3 any lien of record of the tax, penalties and interest in the counties that may have been filed and
4 entered therein.

5 (5) When collection of taxes is suspended under subsection (2) of this section:

6 (a) The department shall continue to charge interest on the taxes for which collection has been
7 suspended.

8 (b) The taxpayer may make voluntary payments of unpaid tax. Voluntary payment of unpaid tax
9 under this subsection does not affect the taxpayer's eligibility for suspension of collection under this
10 section or allow the department to resume collection of any unpaid tax.

11 (c) The department may file a lien against the taxpayer's property.

12 (d) The department may resume collection as described in subsection (7) of this section if the
13 taxpayer incurs additional unpaid tax during the period of suspended collection.

14 (6) Nothing in this section limits the department's authority to offset state or federal payments,
15 including tax refunds, against unpaid taxes that have been suspended under subsection (2) of this
16 section.

17 (7)(a) When collection of taxes is suspended under subsection (2) of this section, the department
18 shall review annually the taxpayer's eligibility for suspension of collection activities and ensure that
19 the taxpayer continues to meet all requirements listed in subsection (2) of this section.

20 (b) If the department determines that a taxpayer no longer meets the requirements listed in
21 subsection (2) of this section, the department may resume collection of any unpaid tax. Not less than
22 30 days before the department resumes collection under this subsection, the department shall pro-
23 vide written notice to the taxpayer that the taxpayer no longer qualifies for suspension of collection
24 under this section and that the department will resume collection of the unpaid tax.

25 (8) The department may write off the debt on its accounts under ORS 293.240 for any tax period
26 for which collection has been suspended under subsection (2) for more than three tax years.

27 **(9) The department shall cancel an unpaid tax imposed by laws of the State of Oregon**
28 **that is collected by the department or any portion of the tax assessed against a person, in-**
29 **cluding any penalty and interest that has not been collected, if at least 20 years have passed**
30 **since the date of the notice of assessment. This subsection does not apply to property tax**
31 **or special assessment balances deferred under ORS 311.666 to 311.701 or 311.702 to 311.735.**

32 [(9)] (10) The department shall by rule establish policies and procedures for the administration
33 of this section.

34 **SECTION 4. Section 5 of this 2017 Act is added to and made a part of ORS chapter 305.**

35 **SECTION 5. The Department of Revenue shall by rule adopt and publish standards to be**
36 **used by the department in determining whether an agreement to satisfy a tax liability**
37 **through installment payments under ORS 305.890 facilitates collection of the liability. In de-**
38 **veloping the standards described in this section the department shall consider the collection**
39 **financial standards promulgated by the Internal Revenue Service.**

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