

TAX APPEALS – OREGON TAX COURT

Magistrate Allison Boomer
frm Presiding Magistrate Jill Tanner
Oregon Tax Court

Oregon Tax Court

ORS 305.410

- “[T]he tax court shall be the sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact arising under the tax laws of this state.
 - First state tax court established in the United States -- 1961
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Oregon Tax Court

- One court; two divisions
 - Regular Division (Established 1961)
 - Magistrate Division (Established 1997)

 - Tax Appeals, Oregon Tax Court
 - <http://courts.oregon.gov/Tax/Pages/index.aspx>
 - Handbook/FAQs and Mediation Handbook
 - Court Rules (TCR and TCR-MD)
 - Decision, Opinions, and Orders
 - Forms (Complaint, Answer, Certificate of Service)
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Magistrate Division

- Generally, all cases start in Magistrate Division
 - Exception: special designation (TCR 1 C)
 - Pro Se (Self representation)
 - Common
 - Liberal representation rules
 - No record made of proceeding
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Magistrate Division

- User friendly rules
 - All decisions in writing
 - Any party may appeal to Regular Division from Final Decision
 - Current appeals to Regular Division are less than 6 percent
 - Since 1997, 2.8% of all cases filed were appealed to Regular Division
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Regular Division

- Parties represented by attorneys
 - Individuals may appear *pro se*
 - All opinions in writing
 - Appeal to Oregon Supreme Court as a matter of right
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Regular Division

- Docket:
 - Appeals or Special Designation from Magistrate Division
 - Local budget law
 - Measure 5/50 constitutional questions
 - De Novo (“Heard Anew”) appeal
 - Formal:
 - Record made
 - Oregon Code of Evidence applies
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Tax Court Proceedings

- Pre-trial activities
 - Case management conference
 - Court-assisted Mediation/Settlement
 - Exhibits, including appraisal reports, exchanged
 - Trial
 - One-half day to 2 weeks
 - In person or by telephone
 - Testimony and exhibits
 - Site visit
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Tax Court Proceedings

- Know the Rules
 - Follow the Rules
 - Use the Rules
 - Rules are guidelines for presenting your case
 - Rules create a level playing field
 - Rules liberally construed with view of substantial justice between parties
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E-Court

- ❑ New for Tax Court in 2016
 - ❑ E-filing is mandatory for licensed Oregon attorneys as of May 31, 2016
 - ❑ See TCR 9 for e-filing rules
 - ❑ Call court with questions on e-filing codes and document separation
 - ❑ Do *not* call court re e-service; call file and serve at: 1-800-297-5377
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E-Court and OECI

- ❑ Docs issued by court (letters, orders, decisions, and judgments) viewable
 - ❑ Docs filed by parties *not* viewable to protect sensitive information
 - ❑ Call or make written request to court for party-filed docs: \$3.00 for email of case or \$0.25 per page printed
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Standing

□ Magistrate Division

- ORS 305.275(1)(a) – aggrieved by and affected by an act, omission, order or determination

□ Regular Division

- ORS 305.570(1)(a) – aggrieved by and affected by a written decision of a tax court magistrate
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Timeliness

□ ORS 305.280

- 90 days from actual knowledge, but not more than one year
 - 90 days from notice of assessment or notice of refund denial
 - Two years after payment of tax, penalty, and interest
 - 30 days from BOPTA Order
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Timeliness

ORS 305.288

- Current tax year and two preceding tax years if either:
 - 20% error on property used as a dwelling
 - Good and sufficient cause

ORS 305.501(5)(a)

- Appeal to Regular Division within 60 days after final written decision.
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Burden of Proof

- ❑ ORS 305.427 – a preponderance of the evidence shall suffice
 - ❑ ORS 305.412 – court has jurisdiction to determine real market value in property value appeal
 - ❑ ORS 305.575 – court has authority to determine correct deficiency in income tax appeal
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Oregon's Ad Valorem Property Tax System

- Assessed Property
 - Real Property
 - Machinery and Equipment
 - Manufactured Structures
 - Business Personal Property
 - Floating Property
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Oregon's Ad Valorem Property Tax System

□ Pre-1997

- Real Market Value
- Assessed Value

□ 1997 - Present

- Real Market Value
 - Maximum Assessed Value
 - Assessed Value
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Property Tax Appeals: A View from Two Branches of Government

- Board of Property Tax Appeals
 - Executive Branch

 - Oregon Tax Court
 - Judicial Branch
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PROPERTY TAX SYSTEM: ROLE AND RESPONSIBILITY

- ❑ The appeal process
 - ❑ BOPTA: First look at property tax valuation dispute; petition must be filed by Dec 31; hearings Feb – April 15
 - ❑ Oregon Tax Court: Next level of review
 - ❑ Exception: State-appraised industrial property appealed directly to tax court (ORS 305.403)
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Board of Property Tax Appeals

ORS 309.026(2)

- Board shall hear petitions for reduction of:
 - Assessed value or specially assessed value of property as of January 1 * * *
 - Real market value of property as of January 1
 - The maximum assessed value of property as of January 1
 - Corrections to value made under ORS 311.208

 - The board shall consider applications to waive liability for all or a portion of the penalty imposed under ORS 308.295 or 308.296
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Property Tax – other issues

- Property tax exemption
 - Special assessments
 - Omitted property tax assessments
 - Homestead deferral
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Income Tax

- The appeal process
 - Department of Revenue: audit, written objection, conference
 - Oregon Tax Court
 - Appeal taken from notice of assessment or notice of refund denial
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Personal Income Tax*

- Business expense deduction
- Profit motive vs. hobby
- Working family child care credit
- Dependent exemption
- Domicile

* Court also hears corporation excise tax appeals.

Current Tax Court Caseload

- Historical filings:
 - 72% property, 28% income
 - Current year filings:
 - 54% property, 46% income
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Conclusion

- Questions? Comments?
 - Thank you for attending!
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