

## Chapter 15

# Property Tax Appeals

### Appeals Summary

In Oregon, various forums hear property tax appeals. This chapter begins with an overview of each forum. A more detailed discussion of each level of the appeal process begins on page 4.

### Board of Property Tax Appeals (BOPTA)

The local BOPTA is generally the first step in the formal appeal procedure. If taxpayers disagree with the value shown on their tax statement, they can file a petition with the board. The board then schedules a hearing to determine whether the taxpayers' evidence supports a value reduction. The board also has the authority to waive or reduce penalties assessed for late filing of real and personal property returns. Decisions of the board regarding the value of property may be appealed to the Magistrate Division. Decisions regarding the waiver of late filing penalties are final and cannot be appealed.

### Tax Court

The Oregon Tax Court has jurisdiction for all tax appeals under state laws, including personal income tax, property tax, corporate excise tax, timber tax, local budget law, and property tax limitations. The court has two divisions, the Magistrate Division and the Regular Division.

Appeals to the Tax Court normally start in the Magistrate Division. The court may resolve an appeal by trial or mediation. Decisions of the Magistrate Division may be appealed to the Regular Division of the court. The Regular Division consists of a single judge who hears all of the appeals.

Taxpayers who appeal to the Magistrate Division may elect the small claims procedure if the total value under appeal does not exceed \$250,000. A small claims decision is final and cannot be appealed.

Owners of principal or secondary industrial property appraised by the Department of Revenue may elect to file an appeal directly with the Tax Court instead of with BOPTA.

## **Supreme Court**

An order from the Regular Division of the Tax Court may be appealed to the Oregon Supreme Court. The court has seven justices who all participate in each appeal. The Supreme Court relies on the record made in Tax Court and does not accept additional evidence. Attorneys for both the appellant and the respondent provide the court with written briefs and may present short oral arguments.

## **Department of Revenue**

The Department of Revenue has limited authority to hear certain types of property tax appeals. These include supervisory appeals, hardship appeals, and other miscellaneous appeals as specifically authorized by statute.

## **Appeals Matrix**

The following page contains a chart describing various types of appeals, where and when to file the appeal, and the statutory authority for the process.

## What, Where, and When to Appeal

Issue	Where	When	Statute
<b>Appeals—In general</b>			
BOPTA decision	Magistrate	Within 30 days	ORS 305.280
Magistrate—Standard	Regular Division	Within 60 days	ORS 305.501
Magistrate—Small Claims	None		
Regular Division judgment	Supreme Court	Within 30 days	ORS 19.255
Dept. of Revenue decision	Magistrate	Within 90 days	ORS 305.280

<b>Value Appeals—Timely</b>			
Value on tax statement	BOPTA	By December 31	ORS 309.100
Industrial—principal or secondary	BOPTA or Magistrate	By December 31	ORS 305.403
Omitted property; error correction	Magistrate	Within 90 days	ORS 311.223
Centrally assessed property	Dept. of Revenue	2 <sup>nd</sup> Monday in June	ORS 308.595

<b>Non-Value Appeals—Timely</b>			
Late filing penalty—real; personal	BOPTA	By December 31	ORS 308.295; ORS 308.296
Late Filing penalty—omitted	Magistrate	Within 90 days	ORS 311.223
BOPTA penalty decision	None		
Exemptions—denial or disqualification	Magistrate	Within 90 days	ORS 305.275 ORS 305.280
Exemptions—late filed application	Dept. of Revenue	December 15	ORS 307.475
Special assessments—denial or disqualification	Magistrate	Within 90 days	ORS 308A.718 ORS 305.280
Special assessments—late filed application	Dept. of Revenue	December 15	ORS 307.475
Other action of assessor or tax collector	Magistrate	Within 90 days	ORS 305.275 ORS 305.280
Senior citizen deferral—denial or disqualification	Magistrate	Within 90 days	ORS 311.668
Enterprise zone—failure or refusal to precertify	Magistrate	Within 90 days	ORS 285B.719(4)
Enterprise zone—waiver of precertification requirement	Dept. of Revenue		ORS 285B.719(8)

<b>Appeals—Not Timely Filed</b>			
Good & sufficient cause; 20 percent error for residential	Magistrate	Current and two prior years	ORS 305.288
Good & sufficient cause; agreement to facts; other	Dept. of Revenue	Current and two prior years	ORS 306.115
Pendency of prior appeal	Dept. of Revenue	Dec. 15 or 6 mos.	ORS 305.285

## **Appeals to the Board of Property Tax Appeals**

The county board of property tax appeals (BOPTA) is an impartial three-member panel empowered to decide matters within its jurisdiction. The county governing body appoints potential board members to pools from which the county clerk selects the members who will sit on the board. The pools must be appointed by October 15 of each tax year. A county can have as many boards as necessary to complete work within the period allowed by law. Each board consists of one member of the county governing body and two nonoffice-holding residents of the county. A nonoffice-holding county resident may be selected to serve in place of the member of the governing body. All board members must receive training approved by the Department of Revenue before serving on the board. The county clerk serves as the clerk of the board and is responsible for scheduling hearings, keeping the record of board meetings, and mailing orders.

### **When and Where to File Petitions**

Petitions can be filed during the period following the date tax statements are mailed through December 31 of the tax year being appealed. If December 31 falls on a weekend or holiday, the filing deadline is extended to the next business day. Petitions are filed with the county clerk (or the equivalent position in home rule counties). Petitions postmarked the day of the filing deadline are considered timely filed. There is no fee for filing a petition with BOPTA.

### **Who Can File a Petition with BOPTA**

The owner, an owner, or a person who holds an interest in the property that obligates the person to pay taxes imposed on the property may petition the board for relief. Certain people are also allowed to sign the petition for one of those persons listed above, if they provide a properly signed authorization. These people are: a relative (as defined by OAR 150-309.100(3)-(C)); a real estate broker licensed in Oregon; an appraiser certified, licensed, or registered in Oregon; a person duly qualified to practice as a certified public accountant or public accountant in Oregon; and the lessee of the property. Any person holding a general power of attorney from the owner of property can also sign the petition and represent an owner at BoPTA. Attorneys licensed in Oregon, legal guardians and conservators, executors of the estate of a deceased person, trustees in bankruptcy proceedings, and employees regularly employed in the tax matters of a business may sign the petition and are not required to provide authorization.

## **Requirements of a Petition**

ORS 309.100 and OAR 150-309.100(3)-(A) list the information that must be included in a petition to the board. If this information is not provided or is not accurate, the clerk returns the petition to the appellant. The petitioner must be given a minimum of 20 days (or up until the time of their hearing) to perfect their appeal.

## **The Board Session**

The board may hold its first meeting on or after the first Monday in February, but no later than the date necessary for the board to complete its work by April 15, the date the board must adjourn.

## **Jurisdiction of the Board**

ORS 309.026 limits the board of property tax appeals to acting on the following:

- Real market value (RMV);
- Specially assessed value (SAV);
- Maximum assessed value (MAV);
- Assessed value (AV);
- Corrections to value made under ORS 311.208. This consists of property added to the roll by the assessor after the roll has been certified but prior to December 1 of the tax year; and
- The penalty imposed by the assessor under ORS 308.295 or ORS 308.296 for the late filing of a Combined Industrial Property Return, a Real Property Return, or a Confidential Personal Property Return. The board may waive all or a portion of the penalty. The board's decision is final and cannot be appealed to the court.

The BOPTA petition form is designed to allow the board to act on MAV when RMV is appealed. Thus, if there is an exception on the roll for the current year, the board should consider the value of the exception and make any appropriate changes to MAV and AV that result from a change in RMV.

At any step in the appeal process, if only one element of the total value is in dispute (land only or improvement only), the taxpayer has the right to appeal only that portion. At the hearing, the taxpayer and assessor should then present evidence of valuation specific to that component

alone. If the taxpayer appeals only one component of the property, the board may change the value of only that component.

For more information on the jurisdiction of the board, please refer to the most recent version of the *Board of Property Tax Appeals Manual*, DOR publication 150-303-484.

## Hearings

Petitioners must receive at least five days' written notice of the time and place to appear to present evidence to the board. If the petitioner chooses not to attend the hearing, the board will make a decision based on the written material submitted prior to the hearing.

Boards allow each party to the appeal a specific amount of time to present evidence. The time allowed may vary depending on the type of property involved. Hearings are informal, but most counties use a set procedure, such as *Robert's Rules of Order*. Board meetings and hearings (except those in which the assessor or DOR will discuss confidential property returns) are public meetings and all discussion should be audible to everyone attending. The law allows the board to keep its record in an audio or written format. Most counties keep both an audio and written record of the hearings.

## Decisions

Board decision-making procedures vary from county to county. Some boards make the decision at the hearing while the petitioner is present. Other boards keep the record open and make the decision later. If a board does the latter, the chairperson must tell the petitioner when the board will meet to make the decision.

The board must issue an order for every petition filed. The board can sign the order at the hearing and give it to the petitioner in person or sign the order later and mail it to the petitioner.

The order must:

- Contain the assessor's original values and the values ordered by the board.
- Be mailed within five days of being signed by the board.

A copy of the order must be delivered to the assessor and the tax collector on the same day it is mailed to the petitioner.

The board can issue amended orders to correct errors in its original orders. The clerk or one board member can issue orders to correct clerical errors in orders if the full board authorizes this procedure. The chairperson must reconvene the board to correct errors of jurisdiction.

Errors of jurisdiction occur when the board incorrectly applies its authority under ORS 309.026. The board can issue amended orders through June 30.

Decisions of the board regarding the waiver of late filing penalties are final and cannot be appealed. All other board orders can be appealed by either the petitioner or the assessor to the Magistrate Division within 30 days of the date the order is mailed.

## **The Role of the Appraiser**

The level of assessor representation at BOPTA hearings varies from county to county. Some assessors select one person to represent the county at all hearings. Other counties may have one person handle all the residential appeals and a commercial appraiser handle all the commercial appeals. Some counties have the appraiser who physically appraised the property appear at each hearing. Some assessors may choose not to send any representative to the hearings; however, the department does not recommend such a procedure.

No matter how many appraisers actually appear at the hearings, the assessor or chief appraiser should select one person to act as the primary liaison with the clerk's office. The clerk should deliver copies of the petitions to this person and notify this person of the hearing schedule and agenda. The appointed liaison should then assign the appeals to the appropriate person, notify them of the hearing time, and discuss the county's policy about the level of preparation and the time spent for each appeal.

Upon receiving an assignment to represent the county in an appeal, the appraiser or other person should:

- Review the petition and evidence provided by the taxpayer.
- Depending upon county policy, review the value of the property under appeal. Some counties may not review the property value if the petitioner does not provide any valid evidence. Other counties may have a policy to review the value of all properties under appeal regardless of the evidence submitted by the taxpayer. The amount of time the assessor's representative spends preparing for a hearing generally depends on the type of evidence submitted by the petitioner. If the appellant has submitted potentially convincing evidence of a value different from the roll value, the assessor's representative should examine it carefully. The assessor's representative may decide to agree with the petitioner's evidence of value or rebut it.
- Prepare a recommendation to the board to sustain or reduce the property value. This may be presented in person at the hearing or in the form of a written recommendation.

Generally, it should address all values on the roll pertinent to the property including RMV, RMV of the exception, SAV, MAV, MSAV, and AV.

- Attend the hearing; listen to the petitioner's testimony; respond to the board's questions; make a recommendation to the board.

Although BOPTA hearings are informal, the assessor's representative should only speak when the board asks, and should always act in a professional and objective manner.

## **Appeals to the Tax Court (Magistrate Division)**

If the taxpayer or the assessor disagree with a BOPTA decision, either party may appeal to the Magistrate Division. Appeals may be filed under the standard procedure or, if certain conditions exist, under the small claims procedure. Only the taxpayer may file a complaint under the small claims procedure. The appeal must be made within 30 days of the date the order is mailed.

Taxpayers may also appeal other actions of the assessor or tax collector to the court, including:

- Denial of exemptions and special assessments;
- Disqualification from exemptions and special assessments;
- Omitted property assessments; and
- Denial of discount and imposition of interest.

If the taxpayer chooses to file an appeal, it must be filed within 90 days of the date the action becomes known to the taxpayer. Department of Revenue decisions can also be appealed by the taxpayer or assessor up to 90 days after the decision is mailed. Most appeals to the Magistrate Division are authorized by ORS 305.275 and 305.280. Appeals of omitted property assessments are made under ORS 311.223(4).

ORS 305.288 allows limited appeals for the current year, and either or both of the two prior years, when the appellant fails to file a timely complaint. The court can consider this type of appeal if the magistrate determines:

- There is good and sufficient cause for the failure to appeal timely; or
- The property is residential and the appellant asserts an error in RMV of at least 20 percent.

For the court to hear an appeal, the taxpayer must be aggrieved and affected by the assessment or other action. A taxpayer is aggrieved if a tax consequence exists. The taxpayer must be the property owner or a person who holds an interest in the property that obligates

payment of taxes. This type of interest includes a “contract, lease, or other intervening instrumentality.”

## **Standard Magistrate Procedure**

To initiate an appeal, the taxpayer or assessor must complete a complaint form and submit it to the court with a filing fee. The person filing a complaint is called the plaintiff and the person responding to the complaint is called the defendant. The complaint must explain how the plaintiff is aggrieved and describe the relief requested. If the assessor files the appeal, a copy of the complaint must be served by certified mail on the affected taxpayer and an affidavit must be filed with the court attesting to the service. If the taxpayer files the appeal, the court mails a copy of the complaint to the assessor and the Department of Revenue. For Department of Revenue-appraised property, the complaint is mailed to the department, unless the county is also named as the defendant. The assessor or the department must respond to the complaint within 30 days. The response must include a brief answer to the issues raised in the complaint.

## **Case Management**

After the complaint and response are received, the Magistrate Division schedules a case management conference. These are usually held by telephone. At the conference, the issues before the court are identified and decisions are made about how to proceed with the appeal. Mediation or a trial may be scheduled or the magistrate may consider motions or stipulations. Stipulations are written agreements signed by both parties. Sometimes the appeal can be resolved at the case management conference and mediation or a trial is not necessary.

## **Motions**

Motions request certain actions from the court. Either party to the complaint can make a motion. Motions must be made in writing, except they may be made orally during case management conferences or trials. The person making the motion must state the reason and legal basis for the motion and the relief requested. One type of motion frequently made by defendants is a *Motion to Dismiss*. For example, if a taxpayer appeals directly to Tax Court without first appealing to BOPTA, the assessor can make a *Motion to Dismiss* because the plaintiff did not follow the correct appeal procedure. Another frequently used motion is a *Motion for Summary Judgment*. This type of motion may be applicable when facts are undisputed and a decision can be made without holding a trial.

Motions require written responses unless one of the parties asks the court to allow oral arguments on the motion. A response to a *Motion for Summary Judgment* must be filed within

20 days from the date a copy of the motion was served on the responding party. Responses to all other motions must be filed within 10 days from the date of service. After receipt of the motion, the court will issue an order granting or denying the motion. Orders on motions cannot be appealed until the court's final decision in the case is issued.

## **Mediation**

The goal of mediation is to settle the appeal without going to trial. A magistrate acts as mediator. Either party may request mediation or the court may order mediation. During mediation, each party will be asked to present its view of the issues. The magistrate may ask questions or identify strengths and weaknesses in each position. Both parties are expected to participate in mediation. Failure to do so could result in court sanctions. A trial will be set if mediation does not resolve the appeal. The magistrate who acted as mediator cannot be assigned to hold the trial unless both parties waive this requirement in writing. Generally, the parties meet with the mediator in person, rather than by telephone conference.

## **Trial**

A trial is a formal proceeding where both parties present testimony and evidence in a courtroom or, at the court's discretion, by telephone. The trial and participants are subject to the direction and authority of the magistrate. All participants should treat each other with respect and courtesy. The magistrate is to be addressed as "Your Honor," "Magistrate," or "Judge." If the trial is held in a courtroom, everyone should stand when the magistrate enters or leaves. Testimony is given under oath. The court does not record the trial. If either party wants to record the proceeding, the magistrate must first receive notice.

Evidence must be exchanged so the court and other parties receive it no later than 10 days before the trial date. Timely exchange of evidence is very important. The court may exclude any evidence that is not exchanged by the deadline. Evidence includes reports, documents, records, returns, photographs, calculations, field notes, or other written materials presented to the court. Each report or other document is a separate exhibit. Prior to exchange, the exhibits must be marked and numbered according to the guidelines prescribed by the court. Each page must be numbered. The plaintiff's exhibits are marked *numerically* and have the case number marked on the label. A defendant's exhibits are marked *alphabetically*. Occasionally, another person may intervene in the appeal and provide support to either the plaintiff or the defendant. If so, the intervenor's exhibits are marked numerically with a capital "I" in front of the number.

A trial normally begins with opening statements from the plaintiff and the defendant. The plaintiff's witnesses testify first and are subject to cross-examination and redirect. Defendant's

witnesses follow, and when their testimony is completed, the plaintiff may call rebuttal witnesses. The trial concludes with closing statements by both sides.

## **Decision and Judgment**

Final decisions of the court are in writing. Either party may appeal the decision to the Regular Division of the Tax Court within 60 days. If there is no appeal during the 60-day period, the magistrate will enter a judgment consistent with the final decision. The judgment may not be appealed.

## **Role of the County Appraiser**

The first step in processing an appeal is to respond to the complaint within 30 days of the court's notification. An appraiser, supervisor, or county legal counsel can prepare the response. The response should identify areas of agreement or disagreement. The response can also be used to make requests of the court. The complaint should be reviewed carefully to determine if it was filed timely or contains other defects. If there are problems with the appeal, it is appropriate to inform the court. Generally, the court will not address legal issues unless they are raised by one of the parties in a motion.

If the complaint is unclear about the taxpayer's concerns or the relief requested, these issues should be clarified during the initial case management conference or by contacting the taxpayer or representative directly. Sometimes an appeal can be resolved amicably if the county appraiser learns more about the property, or the taxpayer receives more information about assessment methods and procedures.

Being well-prepared is the key to successful resolution of an appeal. The time spent in preparation depends on the complexity of the issues and the property type. At the case management level, the appraiser should be prepared to discuss procedures and identify any concerns about the appeal. In complex cases, legal counsel may represent the county. If the appeal is set for mediation, the appraiser should be well-versed about the issues and have an understanding of areas where compromise may be possible.

Preparing for trial can be time-consuming. It may be necessary to prepare a complete appraisal report when the case involves the valuation of a large commercial property. A report may not be necessary for cases involving residential properties or limited issues. Complete all written evidence in time to meet the exchange requirements of the court. Give thought to the appraiser's direct testimony as well as the questions and responses that may occur in cross-examination. The county appraiser should present the county's evidence clearly and completely,

respond to questions from the taxpayer, and ask relevant questions to clarify or expose weaknesses in the taxpayer's evidence. If an attorney represents the taxpayer or county, the attorney will ask the questions and the appraiser is limited to giving testimony. Present testimony in a manner that is neither defensive nor argumentative.

Take the following steps when preparing to represent the county in an appeal:

- Respond to the complaint within 30 days.
- Review the complaint for timeliness or other defects.
- Make motions if appropriate and respond timely to motions from the other party.
- Identify issues and prepare evidence.
- Mail evidence so that the court and other party receive it 10 days before the trial.
- Be punctual for all court proceedings, and be courteous and respectful to all participants.
- Give clear and complete testimony.

## **Small Claims Procedure**

A taxpayer can elect to use the small claims procedure if the valuation of the property is the only issue and the assessor has determined that the assessed or specially assessed value of the property being appealed is \$250,000 or less. The fee for filing under the small claims procedure is \$10. Under the small claims procedure, a taxpayer can choose to have a hearing or have the property appraised.

If the taxpayer chooses an appraisal in lieu of a hearing, the magistrate will appoint an independent fee appraiser. The taxpayer must pay the appraisal fee. The value determined by the appraiser becomes the final RMV.

If the taxpayer chooses to have a hearing, it is an informal procedure conducted by a magistrate. The county may participate and present evidence. A decision under the small claims procedure is final and cannot be appealed. The assessor cannot file a complaint under the small claims procedure. ORS 305.514 describes this procedure.

## **Regular Division**

Magistrate decisions may be appealed to the Regular Division of the Tax Court. Filing a complaint and paying a \$50 fee starts the appeal process. Procedures are more formal than those followed by the Magistrate Division. Attorneys usually represent both sides and there is no

mediation procedure. Dates for discovery, evidence exchange, and trial are scheduled during case management conferences. Discovery allows both parties to request documents and information prior to the evidence exchange deadline. When either party wants additional information, the request should be made in writing within the time period scheduled for discovery. The court may also grant the litigants the right to depose (question) witnesses prior to the trial. Depositions are used to obtain additional evidence to support a position or to find weaknesses in the opposing party's position. During a deposition, witnesses are under oath and testimony is recorded.

## **Appeals to the Department of Revenue**

The Department of Revenue has limited authority to hear property tax appeals. The types of appeals the department can hear are described below.

### **Supervisory Authority Appeals**

The majority of appeals received by the department are filed under ORS 306.115, the statute that gives the department supervisory authority over the property tax system in Oregon. ORS 306.115(3) states:

“The department may order a change or correction applicable to a separate assessment of property to the assessment or tax roll for the current tax year and for either of the two tax years immediately preceding the current tax year if for the year to which the change or correction is applicable the department discovers reason to correct the roll which, in its discretion, it deems necessary to conform the roll to applicable law without regard to any failure to exercise a right of appeal.”

This statute gives the department the discretion to determine the circumstances under which it will order changes to the assessment or tax roll. OAR 150-306.115 identifies certain standards that must be satisfied before the department will exercise its supervisory power. These standards are:

- *There is good and sufficient cause for not appealing within the statutory period.* To determine whether good and sufficient cause exists, the department applies the criteria in OAR 150-307.475.
- One of the following extraordinary circumstances exists:
  - *Taxation of nonexistent property or property outside the taxing jurisdiction.*

- *Taxation of property that is exempt as a matter of law without application.* For example, if school district property was inadvertently taxed.
- *Taxpayer’s computational or clerical errors on a personal property return.* This applies only to clerical errors and calculation errors—not to other reporting errors.
- *A bona fide purchaser had no notice of a real property roll correction.* This may apply if a buyer was unaware of a tax liability because it was not recorded on the tax roll at the time of purchase.
- *A question of fact is of interest to the department.* The department may take jurisdiction when an issue affects many properties statewide.
- *The parties to the petition agree to facts that indicate it is likely that an error exists on the roll.* The parties must agree to facts about the property. The department determines if the facts indicate the existence of an error.

## **Hardship Appeals**

Many different types of exemptions and special assessments require filing applications with the assessor. If the taxpayer fails to apply by the statutory deadline, the assessor cannot approve the application even though the property qualifies for the program. In this circumstance, ORS 307.475 allows the taxpayer to request that the department make a recommendation to the assessor for approval of the application. In order for the department to recommend approval, there must be good and sufficient cause (a hardship) that resulted in the failure to apply timely. Circumstances of good and sufficient cause described in OAR 150-307.475 include:

- An illness, absence or disability which significantly affects a taxpayer’s ability to apply timely.
- Delayed receipt of necessary documentation, such as a veteran’s disability certification.
- Reliance on misinformation from county or department personnel.

The department may hold a conference to determine if good and sufficient cause exists. When good and sufficient cause exists, the department will recommend that the assessor accept the application as timely filed. The assessor must then decide whether to approve the recommendation. If it is approved, the roll is corrected and a refund is issued if the taxes have been paid.

There is a time limit on hardship appeals. The request to the department must be made no later than December 15 of the year in which the application should have been filed. For example, an

appeal concerning an exemption application that was due on April 1, 2003, must be made by December 15, 2003, or the department will not be able to consider the request.

### **Miscellaneous Appeals**

ORS 305.285 allows for appeals to the department for subsequent tax years while a decision for a prior year is pending. For example, a taxpayer timely appeals a property value for the 1998–99 tax year to BOPTA. The taxpayer appeals the board's decision to the Magistrate Division of the Tax Court. The Magistrate Division issues a decision and the taxpayer appeals the decision to the Regular Division of the Tax Court. The Regular Division issues a decision in July 2001. The taxpayer is satisfied with this decision. The taxpayer did not file appeals with BOPTA for the 1999 or 2000 tax years. The taxpayer may ask the department to correct the 1999 and 2000 tax rolls, even though those tax years were not previously appealed. An appeal under ORS 305.285 must be filed by December 15 of the year that final determination of the original appeal is made, or within six months of the final determination, whichever is later. Appeals are rare under this statute because ORS 309.115 provides the benefit of the prior adjudication to the subsequent years.

The department can also receive appeals filed under ORS 285B.719(8). This statute provides for businesses that are seeking an enterprise-zone exemption to request a waiver of the precertification requirement. The department may waive the precertification requirement for good and sufficient cause.

### **Department Appeal Procedure**

The first step in filing an appeal is to complete a petition and send it to DOR. A petition contains the appealing party's name, address and phone number, property location, account number, a description of the issue, and the relief requested. A DOR form is not required as long as the petition is in writing and contains all the information listed above. The petitioner or an authorized representative as defined in ORS 305.230 must sign the petition. The requirements of a petition are further identified in OAR 150-306.115-(A).

When DOR receives an appeal, it assigns an appeal number and reviews the petition to determine if more information is needed. Requests for additional information may be made to the taxpayer or county. The department sends a copy of the petition to the opposing party. An untimely or incomplete petition may be dismissed.

## **Conferences**

The department holds two types of conferences: supervisory and merits. The conferences are usually held by telephone. About one to two months before the conference, the department will send written notice to both parties informing them of the date and time. The taxpayer may appear at the conference or be represented by an authorized representative. A county appraiser usually represents the assessor. Either party may have other witnesses at the conference. The conferences are tape-recorded and testimony is given under oath. The department's conference officer has full control of the conduct of the conference.

### **Supervisory Conferences**

The department holds supervisory conferences to determine if the petitioner has met any of the standards identified in OAR 150-306.115. If the conference officer determines that one or more standards have been met, the department will issue a preliminary ruling and schedule the case for a merits conference. If no standards are satisfied, the department will deny the appeal in writing.

### **Merits Conferences**

The department holds merits conferences to examine the substantive issues raised in an appeal. Both parties have an opportunity to present evidence and ask questions. In valuation cases, both parties may present appraisals or market data to support their opinions of value. In a hardship appeal, the taxpayer should present evidence of good and sufficient cause for the late application. Certain appeals may involve legal arguments or interpretation of statutes.

When making a decision about the appeal, DOR's conference officer must determine which side has presented the preponderance of the evidence. The side that presents the most persuasive evidence will prevail. Besides reviewing the testimony and written evidence, the department may also consider prior court rulings in making its decision.

A written *Conference Decision* informs both parties of the department's findings. Sometimes an appeal is withdrawn or resolved by stipulation before a decision is issued.

### **Role of the County Employee**

The amount of time and expertise required to prepare for a conference varies with the type of appeal and the complexity of the issues. An appraiser will typically handle valuation issues. The person who works with exemptions may be assigned the hardship appeals. The tax collector may deal with interest and discount issues.

The person assigned to the case should first clarify the issues raised in the appeal. It may be helpful to talk to the taxpayer or representative, or visit the property. In anticipation of a supervisory conference, the appraiser should prepare to comment on the applicability of the supervisory standards. For a hardship appeal, the county employee should review the file and be ready to discuss circumstances related to the taxpayer's late-filed application.

For appeals involving value disputes, the assessor's representative may need to submit an appraisal report or other written evidence of the value of the property. All valuation evidence must be mailed to DOR and other parties 10 days before the conference, or be received by DOR and other parties at least five days before the conference. The conference officer has the discretion to exclude evidence not exchanged by the due date.

DOR's conferences are informal. Appropriate conduct is important and each participant is expected to be courteous. The county representative and the taxpayer should be available by telephone at the scheduled time. Typically, the petitioner testifies first and is then subject to questioning by the opposing party. Next, the opposing party presents evidence and is subject to questioning from the petitioner. In complex cases, there may be closing statements with the petitioner having the final opportunity to speak. The conference officer may ask questions at any time or may alter the normal procedure if it facilitates development of the record.

The county employee's responsibility is to present the county's evidence clearly, to ask relevant questions designed to clarify or expose weaknesses in the taxpayer's testimony, and to respond to questions from the taxpayer. Sometimes, a taxpayer asks questions about the assessment and taxation process that are not directly related to the appeal. Being prepared and helpful in answering these questions can often result in a better relationship with the taxpayer.

Occasionally, the conference record may be left open to receive additional evidence or comments from either party. It is important to provide information and make responses according to the timelines established during the conference.

## **Centrally Assessed Property Appeals**

DOR values and assesses certain electric, communication, gas, railroad, airline, and pipeline property. The department sends proposed values to the companies in May of each year. No later than the second Monday in June, a company may request a conference with the DOR director to review the value. A conference is scheduled with the director or deputy director and a decision is issued by August 1. A taxpayer that disagrees with the decision may appeal to the Tax Court. See ORS 308.595.