

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED

10/22/2021 8:13 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Administrative rules relating to property tax administration senior and disabled property tax deferral.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/18/2021 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97301

Filed By:
Katie Thiel
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/18/2021

TIME: 9:00 AM

OFFICER: Katie Thiel

ADDRESS: Remote Hearing - Video/Conference Call

955 Center Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1600137223>

Meeting ID: 160 013 7223

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NEED FOR THE RULE(S)

2021 HB 2634 passed (Oregon Laws Ch. 535) to amend the property tax deferral program. Normally when a deferral participant passes away, the account is disqualified, and the home cannot continue in the program. There is an exception, to allow surviving spouses to continue deferral for their home if they apply and meet eligibility criteria. This

new law eased the eligibility criteria for surviving spouses to qualify (eliminating the five-year prior ownership and residency requirement) and allows them two years to record the deed to the property in their name. It also allows disabled heirs of a deceased participant to obtain deferral under these same criteria. OAR 150-311-0700 does not address the ability to record the deed within two years, and there is a need to clarify the application process for disabled-heir applications.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Revised Statutes and Oregon Administrative Rules, both of which are available online or from the Agency.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal or economic impact due to these rule changes. The statutes implemented are what cause the impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There is no impact to state agencies and a de minimis effect on the counties and the public. These changes are clarifying or interpretive in nature and do not affect the cost to comply.

(2)(a) The amendment of 150-311-0700 will have no cost of compliance effect on small business as it is not applicable to or binding upon businesses.

(b) There is no impact on those subject to the rules, as these changes are clarifying or interpretive in nature and do not affect projected reporting, record-keeping or other administrative activities, or costs.

(c) None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the amendment of 150-311-0700.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 150-311-0700

RULE SUMMARY: To comply with Oregon Laws 2021, Chapter 535 and clarify the application process and deferral status of a property during the period when a surviving spouse or disabled heir is awaiting possession of the deed.

CHANGES TO RULE:

150-311-0700

Election by Spouse or Disabled Heir to Continue Tax Deferral ~~¶~~

~~(1) Definitions. For purposes of this rule:¶~~

~~(a) "Disabled heir" means a person that is a disabled heir as described in ORS 311.666.¶~~

~~(b) "Surviving spouse" means:¶~~

~~(a) A ~~man or woman~~ person who is legally married to an applicant at the time of the applicant's death; or¶~~

~~(b) A ~~man or woman~~ person who is joined in a registered domestic partnership with an applicant at the time of the applicant's death. "Registered domestic partnership" has the meaning given that term in ORS 106.310(1).¶~~

~~(2) When any one of the circumstances listed in ORS 311.684(1) to (3) occurs¶~~

~~(2) After the applicant's death, a surviving spouse or disabled heir may continue the property in deferred tax status as active or inactive.¶~~

- (a) When an account continues as active, the department continues to pay the yearly property taxes to the county. The account balance continues in deferral, and interest continues to accrue on all taxes paid.¶
- (b) When an account continues in an inactive status, the department does not continue to pay property taxes to the county. The deferral account balance of past-deferred taxes, accrued interest, and recording fees remains deferred and interest continues to accrue on the past-deferred taxes.¶
- (3) If a surviving spouse or disabled heir did not apply jointly with the taxpayer for the original Senior or Disabled now-deceased applicant for the original property tax deferral or was not eligible for deferral, the spouse must file a new deferral application in order to continue the account as active or inactive.¶
- (a) For the deferral account to remain active, in addition to the timely filing of a new deferral application all the following is required:¶
- (A) The new applicant is:¶
- (i) A surviving spouse that is at least 59-1/2 years of age or is disabled on the date of the deceased applicant's death.¶
- (ii) A surviving spouse that is a person with a disability as defined in ORS 311.666(5)(8) on the day a circumstance in 311.684(1) to (3) occurs, or the date of the deceased applicant's death, or ¶
- (iii) A disabled heir.¶
- (B) The property is the homestead principal residence of the surviving spouse.¶
- (C) The total household income continues to be less than the allowable yearly limitation or disabled heir and they have or anticipate obtaining within two years of the deceased applicant's death a recorded deed to the property in their name, and,¶
- (D) The property ownership meets the requirement in ORS 311.670(1) surviving spouse or disabled heir and the property meet all other eligibility requirements. ¶
- (b) When If a surviving spouse meets all of the requirements of subsection (3)(a) of this rule except the age requirement of 59-1/2, or a disability as defined in ORS 311.666(5) requirement, the surviving spouse may only continue the deferral account in an inactive status by filing an initial application timely. The surviving spouse is responsible to pay all future property taxes to the county. The surviving spouse may later file a new application to change the deferral account status from inactive to active when by April 15 of any year the surviving spouse has turned 62 years of age before April 15 of any year, or if the surviving spouse or has becomes disabled and begins to receive or becomes eligible to receive federal Social Security disability benefits.¶
- (4) In the case of a divorce or termination of a registered domestic partnership, if the circumstances in ORS 311.684(3) occur before the divorce initial applicant becomes deceased before the divorce or termination of the domestic partnership becomes final, then the surviving spouse remaining in the homestead may file an application to continue the deferral. The requirements of sections (2) and (3) of this rule determine if the account remains active or becomes inactive.¶
- (5) All initial applications to continue deferral must be filed in the time and manner as provided in ORS 311.668 the county assessor by April 15 following the death of the preceding applicant. The department may determine that good and sufficient cause exists to accept a late filed application. The application may be filed within 180 days after the department mails or delivers to the applicant the deferred tax due and payable notice an application filed after April 15 but within 180 days after the department mails or delivers to the applicant the deferred tax due and payable notice. Late filing fees will not be charged on such applications. ¶
- (6) The department may request estate or trust information from a surviving spouse or disabled heir for purposes of substantiating their anticipated ownership in cases where they do not already have a recorded deed to the property. If such documentation is found by the department to indicate ownership will eventually rest in the surviving spouse or disabled heir, the department may reinstate deferral in active status. If such documentation fails to satisfy the department that ownership is anticipated to rest in the disabled heir or surviving spouse, the account may be placed in inactive deferral status pending confirmation of the deed. ¶
- (7) If a surviving spouse or disabled heir applying under ORS 311.688 does not obtain deed to the property within two years of the death of the preceding applicant, the account may be disqualified from deferral and the accrued balance, including taxes and interest deferred while awaiting confirmation of the deed, may become due and subject to collection.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 311.688