

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Court Administration

FILED
OREGON TAX COURT

2013 NOV 14 AM 9:06

STATE COURT ADMINISTRATOR

IN THE MATTER OF THE ADOPTION)
OF A REVISION TO THE)
RULES OF THE OREGON TAX) **ORDER ADOPTING REVISION**
COURT - MAGISTRATE DIVISION) **TO MAGISTRATE DIVISION RULES**

The following revision is to the Magistrate Division Rules of the Oregon Tax Court.

Material being deleted is *italicized* and [*bracketed*]; material being added or altered is set forth in **bold** with underlining. If an existing rule with multiple subsections is being revised, subsections and footnotes containing no revisions are omitted and denoted by asterisks.

**RULES OF THE OREGON TAX COURT
MAGISTRATE DIVISION**

PREFACE

The Oregon Tax Court consists of two divisions: the Regular Division and the Magistrate Division. An appeal from a **final** decision of the Magistrate Division is to the Regular Division in a *de novo* proceeding; that is, a new trial. All proceedings in the Magistrate Division are original proceedings, tried without a jury.

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**RULE 1
FILING APPEALS**

A Filing Complaint; Fee. A party must deliver or mail to the court all of the following:

A(1) A written complaint on the form provided by the court, or in similar format; [*and*]

A(2) Two copies of the written Complaint; and

A(2)(3) A fee for each complaint filed. ORS 305.490; ORS 21.135. The fee must be tendered at the time of the filing of the complaint. The current fee is \$252.¹

¹ The Oregon Legislature may modify fees between publication dates of the Tax Court Rules. [*Interested persons should go to the website of the*] The Oregon Tax Court's website (<http://courts.oregon.gov/Tax>) [*to confirm*] states the current amount for fees.

~~A(3)~~(4) The plaintiff may, by application, request the court to consider deferral or waiver of the fee, as provided under ORS 21.685. Plaintiff shall make such application at the time of filing the complaint.

RULE 16
[FINAL] DECISIONS

Decisions and [F]final decisions of the Magistrate Division shall be made in writing. When a case is ready to be decided, the magistrate will take it under advisement pending the preparation of a written decision. A final decision including statutory appeal rights will be issued after a written decision. [*Selected written decisions are published in the Oregon Tax Reports.*]

RULE 17
CORRECTION OF CLERICAL MISTAKES; RECONSIDERATION; APPEAL NOTE

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B Reconsideration. Following issuance of a written decision or final decision, the court will not accept motions for reconsideration or to reopen the record; therefore, the provisions of TCR 80 are inapplicable in the Magistrate Division.

C Appeal Note. Any party seeking reconsideration of a case should instead follow the procedures for appeals of final decisions to the Regular Division of the Tax Court as set forth in ORS 305.501(5)(a) and TCR-MD 18.

RULE 18
APPEALS

A Appealable Acts. Final [D]decisions of magistrates may be appealed to the Regular Division of the Tax Court. ORS 305.501(5). Grant or denial of a motion for a protective order may be appealed to the Regular Division. ORS 305.430(4).

B Method of Appeal.

B(1) Appeals of Final Decisions. The appealing party shall, within 60 days after the date of entry of the magistrate's final decision, file a complaint in the Regular Division. The complaint shall specifically identify the case number of the Magistrate Division final decision. See TCR 1 B(1).

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RULE 19
ALLOWANCE AND AWARD OF COSTS AND DISBURSEMENTS

A Definition of Costs and Disbursements. “Costs and disbursements” are **reasonable and necessary expenses incurred in the prosecution or defense of an action other than for legal services, and include the filing fee; the fees of officers; the statutory fees for witnesses; the postage for summonses or notices; the necessary expense of copying of any public record, book, or document used as evidence in the trial; recordation of any document where recordation is required to give notice of the creation, modification, or termination of an interest in real property; a reasonable sum paid a person for executing any bond, undertaking, stipulation, or other obligation therein; and any other expense specifically allowed by agreement, by these rules, or by other rule or statute. The court, acting in its sole discretion, may allow as costs reasonable expenses incurred by a party for interpreter services. If such costs are not awarded and the beneficiary of the interpreter services is unable to pay, then interpreter services shall be paid for in the same manner as interpreters used in the circuit court. See ORS 45.275(4)(c).**

B Allowance of Costs and Disbursements. **In any action, costs and disbursements may be allowed to the prevailing party, unless these rules or other rule or statute direct that in the particular case costs and disbursements shall not be allowed to the prevailing party or shall be allowed to some other party, or unless the court otherwise directs.**

C Award of and Order for Costs and Disbursements.

C(1) Procedure for Seeking Costs and Disbursements. **A party seeking costs and disbursements shall, not later than 14 days after the entry of a magistrate’s decision, file with the court and provide a copy to the other parties a signed and detailed statement of costs and disbursements. (A sample statement of costs and disbursements can be found on the court’s website at <http://courts.oregon.gov/Tax/>.)**

C(2) Objections and Responses.

C(2)(a) Objections. **A party may file a written objection no later than 10 days after the filing of the statement of costs and disbursements. The written objection must be filed with the court and a copy mailed to the party seeking costs and disbursements.**

C(2)(b) Responses. **The party seeking costs and disbursements may file only with the leave of the court a written reply to an objection. If the court allows the party seeking costs and disbursements to file a written reply, the party must provide a copy of its written reply to all other parties.**

C(3) Hearing. **At the discretion of the magistrate, and upon the request of the parties, a hearing may be held to consider issues and evidence related to the request for costs and disbursements. No other issues or evidence will be considered at that hearing.**

C(4) Order. Following the period of time to object to a party's request for costs and disbursements, the magistrate will issue an order awarding or denying costs and disbursements. The magistrate may make findings of fact and conclusions of law on an award of costs and disbursements. That order will be incorporated into the magistrate's final decision.

**RULE [19]20
JUDGMENT**

*[All decisions of the magistrate shall become final if not appealed within 60 days after the date of entry of the magistrate's decision. After a decision becomes final, t]The magistrate will enter a judgment consistent with his or her **final decision if no appeal is filed within 60 days after the date of entry of the magistrate's final decision.** Judgments issued by the magistrate are not appealable.*

**RULE [20]21
ENFORCEMENT**

The court may enforce any decision, order, judgment, or other statement directing a party to perform a specific act by imposing sanctions on the party refusing or neglecting to comply. Sanctions may include, but are not limited to, dismissal of the case and may include sanctions for contempt as authorized by statute.

**RULE [21]22
MEDIA COVERAGE OF COURT PROCEEDINGS**

The Magistrate Division shall follow TCR 3, applying UTCR 3.180.

**RULE [22]23
SEGREGATION AND PROTECTION OF PERSONAL INFORMATION**

The Magistrate Division shall follow TCR 35.

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Being duly advised, the court adopts the revised rule as set forth above, effective November 14, 2013.

Dated this 14th day of November 2013.



Jill A. Tanner
Presiding Magistrate



Henry C. Breithaupt
Judge