

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Staff Presentation Worksheet**

Presentation Date: 10<sup>26</sup>/~~20~~/10      Time: 2:30 PM      Length: 30 Minutes  
Presentation Title:      Establish Refund Reserve for Comcast Corporation Property Tax Appeal  
Department:      Assessor  
Presenters:      Bob Vroman, Clackamas County Assessor

**POLICY QUESTION**

Should Clackamas County establish a refund reserve for the Comcast Corporation Property Tax Appeal (Oregon Tax Court Case # 4909) pursuant to ORS 311.814?

**ISSUE & BACKGROUND**

Last December the Department of Revenue notified the County that Comcast Corporation appealed their 2009-2010 property value. That year, Comcast was treated as a public utility account (centrally assessed) for the first time and valued by the Oregon Department of Revenue. In this appeal, the taxpayer's complaint does not plead a lower value; instead the complaint challenges the method used by the Department of Revenue in determining the 2009-2010 value. The tax payer also challenges whether the value was a correct calculation of maximum assessed value under Measure 50, that is, can you put intangible value on the roll as exception value. For the purpose of satisfying statutory requirements in estimating the potential refund reserve, the department estimated the amount of value in dispute to be the difference between the 2008-2009 locally assessed value and the 2009-2010 centrally assessed value. That difference is estimated at \$113,750,000 and results in a potential refund amount of \$1,812,575 without interest for the 2009-2010 tax year.

Why all taxing districts are potentially affected. In Oregon, we distribute property tax collections to the taxing districts based on a uniform distribution methodology. A portion of every dollar in revenue that is collected is distributed to each taxing district based on the ratio of the amount of tax imposed for that district to the total of all tax imposed for all districts in the county. That ratio is described as a percentage distribution. Conversely, when a refund is made, the impact of the refund is shared by all taxing districts based on this percentage distribution schedule. I have included an estimate of the 2009-2010 impact for all districts as a separate attachment.

The County has not taken any action at this time as this type of refund reserve is set up after the tax year under appeal has ended. Setting up a reserve account as described would require an action by the Board of County Commissioners. The reserve fund could then be added to every year the appeal remains unresolved. When the appeal is resolved, the reserve account is used to pay the refund, or if not needed for the refund, is distributed back to the taxing districts.

Trial for this case is scheduled for December 10th through December 31st of this year. The Tax Court appears to understand the need to expedite this case, however, there is a strong possibility the decision would be appealed to the Oregon Supreme Court and there is the potential for a request for a discretionary review by the U. S. Supreme Court if Comcast does not prevail.

**QUESTION(S) PRESENTED FOR CONSIDERATION**

Should the Board of County Commissioners direct the Treasurer to establish a refund reserve account pursuant to ORS 311.814; and direct that taxes collected in the current tax year be set aside in an interest bearing account in an amount representing the portion of taxes paid by the petitioner in the tax court case in dispute for each tax year until the appeal is resolved?

**OPTIONS AVAILABLE**

Because the dollar difference asserted by the property owner and the value asserted by the Department of Revenue exceeds one-fourth of 1% of the total assessed value of all property in Clackamas County, Oregon law provides a specific option to mitigate the impact to taxing districts of a potentially large refund. That option is for the County to set up a refund reserve fund in the amount paid by the appellant that is taken out of future tax collections to be used in case a refund is necessary.

**RECOMMENDATIONS**

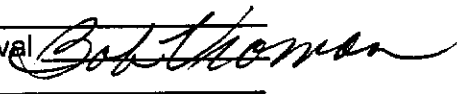
There are currently nine counties where the value of this appeal qualifies them to set up a refund reserve account. The Department of Revenue has recommended that counties take this action. Because of the magnitude of the contested value, the possibility of lengthy litigation, the potential adverse impact to taxing district revenue distributions and exposure to the liability for refund interest at 12% annually, I recommend the Board of County Commissioners authorize the County Treasurer to set up a refund reserve as allowed under ORS 311.814 and add to it on an annual basis until this appeal is resolved.

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_



For information on this issue or copies of attachments, please contact Bob Vroman @ 503/655-8302