

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form.

**FILED**  
12-7-15 4:17 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on 09/17/2015 by the  
Department of Revenue 150

Agency and Division

Administrative Rules Chapter Number

Deanna Mack

(503) 947-2082

Rules Coordinator

Telephone

955 Center St. NE, Salem, OR 97301

Address

To become effective 12/07/2015 through 06/03/2016.

**RULE CAPTION**

Personal Income Tax; Surplus refund (aka Kicker) donation to State School Fund when debt owed.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

150-305.792

**AMEND:**

**SUSPEND:**

**Statutory Authority:**

ORS 305.100

**Other Authority:**

**Statutes Implemented:**

ORS 291.349; 305.792

**RULE SUMMARY**

Clarifies how an election to donate the surplus refund credit to the State School Fund is calculated when the taxpayer also owes an outstanding debt.

Deanna Mack

deanna.d.mack@dor.state.or.us

Rules Coordinator Name

Email Address

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules  
accompanies this form

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Agency and Division

150  
Administrative Rules Chapter Number

Personal Income Tax; Surplus refund (aka Kicker) donation to State School Fund when debt owed.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adopting 150-305.792

**Statutory Authority:**

ORS 305.100

**Other Authority:**

**Statutes Implemented:**

ORS 291.349; 305.792

**Need for the Temporary Rule(s):**

To clarify how the department will treat a donation of the surplus refund credit to the State School Fund when the taxpayer also owes an outstanding debt.

**Documents Relied Upon, and where they are available:**

Oregon Revised Statutes are available online or from agency upon request.

**Justification of Temporary Rule(s):**

It is unclear given current statute and rule how to handle the surplus refund (kicker) when the taxpayer elects to have their kicker donated to the State School Fund. This is due to the kicker statute (ORS 291.349) and the State School Fund election statute (ORS 305.792) not aligning well with each other. The uncertainty surrounds offsets against current liabilities and other debt when electing to have the kicker go to the State School Fund. The temporary rule will help clarify that the department will treat the kicker like other refundable credits and offset against outstanding debt and current liabilities and then divert any remaining amounts to the State School Fund.

The department needs this clarification on a temporary basis so that it may publish the 2015 tax booklets and Publication 17.5 which are both used by taxpayers to accurately complete their tax returns. These publications must be completed by the end of 2015. Additionally, the department will need to process tax returns filed in the beginning of 2016 prior to any legislative correction made, during the 2016 session, becoming effective.

Deanna Mack

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Printed Name

Email Address

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12-8-15 2:41 PM  
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I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on 12/03/2015 by the  
Department of Revenue 150  
\_\_\_\_\_  
Agency and Division Administrative Rules Chapter Number  
Deanna Mack (503) 947-2082  
\_\_\_\_\_  
Rules Coordinator Telephone  
955 Center St. NE, Salem, OR 97301  
\_\_\_\_\_  
Address  
To become effective 01/04/2016 through 07/01/2016.

**RULE CAPTION**

Establishes rules for Early Start marijuana point-of-sale taxation of limited marijuana retail products.  
\_\_\_\_\_  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

- ADOPT:**  
150-150-475B.710-(A), 150-150-475B.710-(B), 150-150-475B.710-(C)
- AMEND:**
- SUSPEND:**

**Statutory Authority:**  
ORS 305.100, ORS 475B.710 (OR Laws 2015, Ch 699, Sec 3)

**Other Authority:**

**Statutes Implemented:**  
ORS 475B.710 (OR Laws 2015, Ch 699)

**RULE SUMMARY**

Establishes rules for Early Start marijuana point-of-sale taxation of limited marijuana retail products.

Deanna Mack deanna.d.mack@dor.state.or.us  
\_\_\_\_\_  
Rules Coordinator Name Email Address

Secretary of State  
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Department of Revenue

150

Agency and Division

Administrative Rules Chapter Number

Establishes rules for Early Start marijuana point-of-sale taxation of limited marijuana retail products.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adopt 150-475B.710-(A); 150-475B.710-(B); 150-475B.710-(C)

**Statutory Authority:**

ORS 305.100, ORS 475B.710 (OR Laws 2015, Ch 699, Sec 3)

**Other Authority:**

**Statutes Implemented:**

ORS 475B.710 (OR Laws 2015, Ch 699)

**Need for the Temporary Rule(s):**

To establish rules for Early Start marijuana point-of-sale taxation of limited marijuana retail products.

**Documents Relied Upon, and where they are available:**

HB 2041 (OR Laws 2015, Ch 699)

**Justification of Temporary Rule(s):**

The legislature expects taxation of limited marijuana retail products to occur on January 4, 2016, as established in HB 2041. Due to short timelines for marijuana tax implementation, these rules require prompt adoption to provide clear direction to medical marijuana dispensaries to maintain compliance in collecting, remitting and reporting marijuana point-of-sale taxes to the department in a timely and accurate manner. These rules will be supplanted by permanent rules in spring 2016.

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