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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

REV 12-2018

CHAPTER 150
DEPARTMENT OF REVENUE

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Financial Institution Data Match

EFFECTIVE DATE: 06/20/2018 THROUGH 12/16/2018

AGENCY APPROVED DATE: 06/20/2018

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NEED FOR THE RULE(S):

Financial institution data match for delinquent debtors is a new Oregon program for debts other than delinquent child support debt. This rule is necessary to provide clarity to financial institutions regarding certain components of the data match program. The rule is mandated by ORS 305.094, as incorporated from the implementing legislation SB 254 (2017).

JUSTIFICATION OF TEMPORARY FILING:

(1) ORS 305.094 requires the department to implement rule(s) for the financial institution data match system by July 1, 2018. Without providing guidance to financial institutions by that date on the procedures the department will use to administer the data match program, financial institutions will not know:

- security standards or protocols designed to prevent unauthorized or unintentional disclosure of data,
- a procedure by which financial institutions that lack the technical ability to participate in the data match system may transmit to the department a list of all account holders, and
- a method for verifying financial institutions' actual costs of participating in the data match system.

(2) Financial institutions operating in Oregon.

(3) If the department fails to have a rule in place by July 1, 2018, financial institutions may not be able to fully participate in the data match system.

(4) The statute requires a rule be implemented by July 1, 2018. Meeting that deadline and achieving the desired consensus amongst advisory committee members regarding the rule's content necessitated that this rule be filed on a temporary basis. The department will continue to seek input from affected parties as the department implements the financial institution data match program and continues developing a permanent rule later in 2018.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

12 C.F.R. 325.103(B) and 12 C.F.R. 702-102(a) were relied upon to draft the rule and are available online at <https://www.fdic.gov/regulations/laws/rules/2000-4500.html>.

ADOPT: 150-305-0085

RULE TITLE: Financial Institution Data Match

RULE SUMMARY: ORS 305.094 requires the department to implement rules describing the procedure the department will use to perform financial institution data matching, including security standards or protocols designed to prevent unauthorized or unintentional disclosure of data, a procedure by which financial institutions that lack the technical ability to participate in the data match system may transmit to the department a list of all account holders, and a method for verifying the actual costs to a financial institution of participating in the data match system.

RULE TEXT:

- (1) For purposes of this rule, "third-party aggregator" means a third-party provider of computer software that aggregates information from multiple sources, with which the department has entered an agreement to provide services in facilitating data matching with financial institutions.
- (2) The department must enter into a written agreement with each financial institution required to participate in the data match system under ORS 305.084. The agreement must include required information security standards or protocols designed to prevent unauthorized or unintentional disclosure of data transmitted to and from the department, or third-party aggregator, under the data match system. Financial institutions, the third-party aggregator, and the department will ensure compliance with all applicable federal and state laws and administrative rules governing the confidentiality of information and will apply any additional security controls required to maintain the privacy and security of Oregon taxpayers and the integrity of the data accessed. Furthermore, all exchanged data will be maintained in a secure location, in the United States, and protected from any release or disclosure that is not specifically authorized by the agreement.
- (3)(a) The department will use a third-party aggregator selected by the department to facilitate information sharing for the purpose of conducting data matches. The department will inform financial institutions of the company or companies selected for this process. Financial institutions may choose between two methods for conducting data matches through the third-party aggregator.
 - (A) Method 1. A financial institution may provide a list of account holders' names and social security numbers or other taxpayer identification numbers to the third-party aggregator. The third-party aggregator will compare the list provided by the financial institution to a list of delinquent debtors' names and social security numbers or taxpayer identification numbers provided by the department, to determine if there is a match and send the department a list of any matching names, social security numbers or taxpayer identification numbers. The frequency and format of the lists provided to the third-party aggregator by a financial institution may be determined pursuant to the written agreement between the department and the financial institution. In no case will the lists provided by a financial institution to the third-party aggregator be required more than once a calendar quarter.
 - (B) Method 2. A financial institution may choose to have the third-party aggregator provide a list of delinquent debtors' names and social security numbers or other taxpayer identification numbers to the financial institution. The financial institution will compare the list provided by the third-party aggregator to a list of account holders' names and social security numbers or other taxpayer identification numbers, to determine if there is a match, and send the third-party aggregator a list of any matching names, social security numbers or other taxpayer identification numbers. The frequency and format of the lists provided to the third-party aggregator by a financial institution may be determined pursuant to the written agreement between the department and the financial institution. In no case will the lists provided by a financial institution to the third-party aggregator be required more than once a calendar quarter.
- (b) A financial institution wanting to use an alternative method of data matching must submit a written request to the department that demonstrates, to the department's satisfaction, that a technological or financial hardship prevents the

financial institution from conducting automated data matching through the third-party aggregator under section (3)(a) of this rule. If the alternative method of data matching is approved by the department, the financial institution must submit its account holder list pursuant to a written agreement with the department describing the content, frequency, and format of those submissions.

(c) A financial institution demonstrating, to the department's satisfaction, that it has a technological or financial hardship described in ORS 305.084(5)(b) or (c) that prevents it from providing the type of submissions described in section 3(a) or (b) of this rule may request a temporary waiver from complying with the data match system requirements. If the temporary waiver is approved by the department, the financial institution does not have to participate in the data match system for a time period specified by the department, not to exceed three years.

(A) A financial institution applying for a temporary waiver from the data match system must follow the form and process as prescribed by the department for obtaining the waiver.

(B) The waiver request must demonstrate, to the department's satisfaction:

(i) That the financial institution has a current financial or technological hardship that prevents it from conducting data matching; or

(ii) That the financial institution's supervisory banking authority has determined that the financial institution is undercapitalized, significantly undercapitalized, or critically undercapitalized, as those terms are defined under 12 C.F.R. 325.103(B) or 12 C.F.R. 702-102(a).

(C) A waiver request must be resubmitted at least once every three years following the grant of the initial waiver, and no later than the date that is three years from the date that the prior waiver was issued by the department.

(4) Unless waived by the financial institution in the agreement with the department, the department must pay a fee to financial institutions for the costs of complying with the data match system under ORS 305.084(3).

(a) The process for submitting a fee payment request may be set forth in a written agreement between the department and the financial institution.

(b) Financial institutions must retain documentation for two years following the submission of a fee payment request that substantiates the actual costs requested to be reimbursed.

(c) The department will notify the financial institution if it intends to review the actual cost substantiation.

(d) In any review, the department will compare the cost substantiation documents against costs of similar financial institutions, in asset size and amount of Oregon deposits, to determine the reasonableness of the costs.

(5) The department may impose penalties under ORS 305.994 on any financial institution that fails to either participate in the data matching program or obtain the waiver described in section (3) of this rule.

[Publications: Contact the Oregon Department of Revenue for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and ORS 183.355(1)(b).]

STATUTORY/OTHER AUTHORITY: ORS 305.100, 305.094

STATUTES/OTHER IMPLEMENTED: ORS 305.084 - 305.094