

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

09/27/2018 5:30 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Interest rates, interest start dates

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/27/2018 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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955 Center St NE
Salem, OR 97301

Filed By:
Lois Williams
Rules Coordinator

HEARING(S)

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

DATE: 11/27/2018

TIME: 9:00 AM - 11:00 AM

OFFICER: Assigned Staff

ADDRESS: Fishbowl Conf Room,
Department of Revenue
955 Center St NE
Salem, OR 97301

NEED FOR THE RULE(S):

150-305-0140 – Amend rule to update annual interest rate charged on deficiencies and delinquencies from 5% to 6% based on increased IRS' 2018 third quarter interest rate; per ORS 305.220.

150-305-0142 – Amend rule to update annual interest rate paid on refunds from 5% to 6% based on increase of IRS' 2018 third quarter interest rate; per ORS 305.220.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

IRS Revenue Ruling 2018-18 that appears in Internal Revenue Bulletin 2018-26 (<https://www.irs.gov/pub/irs-drop/rr-18-18.pdf>)

FISCAL AND ECONOMIC IMPACT:

Interest paid to businesses and individuals requesting tax refunds will increase for interest periods beginning on or after January 1, 2019. Interest paid by businesses and individuals with outstanding liabilities will increase for interest periods beginning on or after January 1, 2019.

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 minimus effect on the counties and the public. These changes tend to be clarifying in nature and do not affect the cost.

(2)(a) Oregon has approximately 123,000 small businesses with fewer than 250 employees that employ 81% of the state's workforce*. Oregon has approximately 105,646 small businesses with fewer than 100 employees**. Based on this information and information from tax returns reporting the number of employees, we estimate Oregon has approximately 91,848 small businesses with fewer than 50 employees*** who are subject to this rule.

*Oregon Small Business Development Center Network (<https://bizcenter.org/about/oregon-sbdc-impact/>)

**Business Oregon (www.oregon4biz.com/assets/docs/DataPacket09.pdf)

***Oregon Department of Revenue Research Section, 10/14/13, Wage file extract – 2012 tax year

(b) There is a de minimus effect on those subject to the rule as these changes tend to be clarifying or interpretive in nature and does not affect projected reporting, recordkeeping or other administrative activities or costs.

(c) None known.

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

We communicated with and are working with small business liaison groups such as the Oregon State Bar Laws Committee and the Oregon Society of Certified Public Accountants to obtain their input into how these rules will impact their clients; some of whom are small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The determination of interest to be paid and charged by the department is a matter of mathematical calculation outlined in ORS 305.220. The department lacks authority to set interest rates other than as provided by law. The department is directed to announce interest rate changes by publishing rate changes in administrative rule.

RULES PROPOSED:

150-305-0140, 150-305-0142

AMEND: 150-305-0140

RULE SUMMARY: Amend rule to update interest rate for deficiencies and delinquencies from 5% to 6% based on increase of IRS' 2016 third quarter interest rate from 4% to 5%.

CHANGES TO RULE:

150-305-0140

Interest on Deficiencies and Delinquencies ¶¶

(1) Adjustment to statutory rate. For deficiencies owing on or after January 1, 2018~~9~~², unless otherwise provided by law, every deficiency and delinquency arising under any law administered by the department will bear interest at the rate of 0.013764 percent per day (~~five~~^{six} percent annually). For historic interest rates, see section (4) of this rule.

(2) Interest start date. The interest start date for deficiencies and delinquencies will be one day after the due date of the return, excluding extensions.

(3) Interest periods. An interest period is one full calendar day beginning with the interest start date. Interest will be computed on a daily basis. The daily rate is based on a 365-day year.

(4) Interest rates. The following table shows interest rates used by the department to compute interest due from taxpayers on deficiencies and delinquencies.

Percentage Rates.

Effective date - Annual rate - Monthly rate - Daily rate

Prior to January 1, 1969 - 6 - 0.5 - -

January 1, 1969 - 8 - 0.6667 - -

September 13, 1975 - 12 - 1.0 - -

June 1, 1982 - 18 - 1.5 - 0.0493

August 1, 1986 - 17 - 1.4167 - 0.0466

January 1, 1987 - 16 - 1.3333 - 0.0438

January 1, 1988 - 11 - 0.9167 - 0.0301

January 1, 1993 - 8 - 0.6667 - 0.0219

January 1, 1995 - 10 - 0.8333 - 0.0274

January 1, 1999 - 9 - 0.75 - 0.0247

January 1, 2001 - 10 - 0.8333 - 0.0274

February 1, 2002 - 8 - 0.6667 - 0.0219

February 1, 2003 - 7 - 0.5833 - 0.0192

January 1, 2004 - 6 - 0.5 - 0.0164

January 1, 2005 - 5 - 0.4167 - 0.0137

January 1, 2006 - 7 - 0.5833 - 0.0192

January 1, 2007 - 9 - 0.75 - 0.0247

January 1, 2009 - 6 - 0.5 - 0.0164

January 1, 2010 - 5 - 0.4167 - 0.0137

January 1, 2013 - 4 - 0.3333 - 0.0110

January 1, 2017 - 5 - 0.4167 - 0.0137

January 1, 2018 - 5 - N/A - 0.0137

January 1, 2019 - 6 - N/A - 0.0164

Example 1: Tom filed a 2015 return reporting tax to pay of \$500, with a payment of that amount, on February 25, 2018. The interest start date is April 19, 2016, the first day after the due date of the return. Interest is computed on a daily basis as follows:

4/19/16-12/31/2016 - 257 days @ 0.0110% = \$14.14

1/1/2017-2/25/18 - 421 days @ 0.0137% = \$ 28.84

Total interest: \$42.98

Statutory/Other Authority: ORS 305.100, 305.220

Statutes/Other Implemented: ORS 305.220

AMEND: 150-305-0142

RULE SUMMARY: Amend rule to update interest rate for refunds from 5% to 6% based on increase of IRS' 2018 third quarter interest rate from 4% to 5%.

CHANGES TO RULE:

150-305-0142

Interest on Refunds ¶¶

(1) Adjustment to statutory rate. For refunds owing on or after January 1, 2018~~9~~, unless specifically provided by statute or by rule, every refund arising under any law administered by the department will bear interest at the rate of 0.0137~~64~~ percent per day (~~five~~six percent annually). For historic rates, see section (4) of this rule.¶¶

(2) Interest start date.¶¶

(a) As provided in OAR 150-314-0240, when a refund of individual income tax is attributable to tax withheld by an employer, or when a refund of individual income tax, corporate excise tax, or corporate income tax is attributable to estimated taxes, the interest starting date is 45 days after the return was due or 45 days after the return was filed, whichever is later.¶¶

(b) The interest start date for a refund of estate tax is 45 days after the return was due, 45 days after the original return was filed, or 45 days after the tax was paid, whichever is later.¶¶

(c) The interest start date for refunds not described in (2)(a) or (2)(b) is 45 days after the return was due or 45 days after the date the tax was paid, whichever is later.¶¶

(3) Interest periods. An interest period is one full calendar day beginning with the interest start date. Interest will be computed on a daily basis. The daily rate is based on a 365-day year.¶¶

(4) The following table shows interest rates used by the department to compute interest due to taxpayers on refunds.¶¶

Percentage Rates.¶¶

Effective date - Annual rate - Monthly rate - Daily rate¶¶

January 1, 1969 - 8 - 0.6667 - -¶¶

September 13, 1975 - 6 - 0.5 - -¶¶

June 1, 1982 - 12 - 1.0 - 0.0329¶¶

June 1, 1983 - 18 - 1.5 - 0.0493¶¶

August 1, 1986 - 17 - 1.4167 - 0.0466¶¶

January 1, 1987 - 16 - 1.3333 - 0.0438¶¶

January 1, 1988 - 11 - 0.9167 - 0.0301¶¶

January 1, 1993 - 8 - 0.6667 - 0.0219¶¶

January 1, 1995 - 10 - 0.8333 - 0.0274¶¶

January 1, 1999 - 9 - 0.75 - 0.0247¶¶

January 1, 2001 - 10 - 0.8333 - 0.0274¶¶

February 1, 2002 - 8 - 0.6667 - 0.0219¶¶

February 1, 2003 - 7 - 0.5833 - 0.0192¶¶

January 1, 2004 - 6 - 0.5 - 0.0164¶¶

January 1, 2005 - 5 - 0.4167 - 0.0137¶¶

January 1, 2006 - 7 - 0.5833 - 0.0192¶¶

January 1, 2007 - 9 - 0.75 - 0.0247¶¶

January 1, 2009 - 6 - 0.5 - 0.0164¶¶

January 1, 2010 - 5 - 0.4167 - 0.0137¶¶

January 1, 2013 - 4 - 0.3333 - 0.0110¶¶

January 1, 2017 - 5 - 0.4167 - 0.0137¶¶

January 1, 2018 - 5 - N/A - 0.0137¶¶

January 1, 2019 - 6 - N/A - 0.0164¶¶

Example 1: Tom filed his 2015 return and paid the tax due on April 6, 2016. On November 1, 2018, Tom filed a 2015 amended return to claim a refund of \$1,000. The refund was paid on December 11, 2018. The interest start date is June 4, 2016, the 45th day after the original return was due. The interest is computed as follows:

6/4/2016-12/31/2016 - 210 days @ 0.0110% = \$23.10

1/1/2017-12/11/2018 - 709 days @ 0.0137% = \$97.13

Total interest: \$120.23

Statutory/Other Authority: ORS 305.100, 305.220

Statutes/Other Implemented: ORS 305.220