



Oregon

Kate Brown, Governor

Department of Revenue
955 Center St NE
Salem, OR 97301-2555
www.oregon.gov/dor

DATE: October 31, 2018
TO: Interested Parties
SUBJECT: Notices of Temporary Administrative Order and
Notices of Proposed Rulemaking

Attached please find copies of several Notices of Temporary Administrative Order for recently adopted temporary rules pertaining to:

- Corporation Tax
- Heavy Equipment Rental Tax
- Vehicle Use Tax

Additionally, please find copies of several Notices of Proposed Rulemaking, explaining that the Department of Revenue intends to adopt, amend, or repeal several administrative rules relating to a variety of tax programs, including:

- Corporation Tax
- Heavy Equipment Rental Tax
- Lodging Tax
- Personal Income Tax
- Property Tax
- Withholding and Statewide Transit Tax
- Vehicle Use Tax
- And other miscellaneous provisions

The newly adopted temporary rules and the proposed permanent rule changes are posted on the department's website at <http://www.oregon.gov/DOR/about/Pages/rules.aspx>.

A public hearing for the proposed changes is scheduled from 9:00 am to 11:00 am on Tuesday, November 27, 2018 in Salem at:

Fishbowl Conference Room
Revenue Building
955 Center St NE
Salem, OR 97301

We will accept public comment at that time; however, you may also send comments to the rules coordinator by e-mail, fax, or telephone until November 27, 2018 at 5:00 pm.

If you wish to testify at the hearing you will need to register prior to the hearing. Registration begins at 8:45 am on November 27, 2018 in the Fishbowl conference room. Please contact the rules coordinator in advance to make alternative arrangements for registration if you are not able to do so at 8:45 am on the day of the hearing. The hearing will close at 9:15 am if no person registers to testify.

In compliance with the Americans with Disabilities Act, this information is available in alternative formats upon request. Please contact me if you have questions.



Oregon

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Department of Revenue
955 Center St NE
Salem, OR 97301-2555
www.oregon.gov/dor

Lois Williams
Administrative Rules Coordinator
Director's Office
Direct telephone: 503-945-8029
E-mail: Rulescoordinator.dor@oregon.gov
FAX: 503-945-8290
Enclosures: Notices of Temporary Administrative Order
Notices of Proposed Rulemaking

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

REV 18-2018
CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/15/2018 9:02 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Allows subtraction to prevent double inclusion of listed jurisdiction income in Oregon taxable income

EFFECTIVE DATE: 10/15/2018 THROUGH 04/12/2019

AGENCY APPROVED DATE: 10/15/2018

CONTACT: Lois Williams	955 Center St NE	Filed By:
503-945-8029	Salem, OR 97301	Lois Williams
RulesCoordinator.dor@oregon.gov		Rules Coordinator

NEED FOR THE RULE(S):

OAR 150-317-0652 is needed to provide a method for taxpayers to compute a modification that will be necessary for certain tax returns filed no later than November 15, 2018.

JUSTIFICATION OF TEMPORARY FILING:

(1) Oregon corporate taxpayers were required to include ORS 317.716 listed jurisdiction income in their Oregon taxable income for tax years 2014, 2015, and 2016. This listed jurisdiction income may be taxed again in tax years 2017 and 2018 because of a one-time mandatory repatriation of earnings and profits at the federal level under IRC 965 that flows through to Oregon taxable income. During the 2018 regular session, the Oregon Legislature attempted to address this issue through SB 1529 that allowed taxpayers a tax credit equal to the lesser of a taxpayer's tax attributable to the 2014-2016 listed jurisdiction inclusion or the 2017 repatriation.

However, the tax credit provides no relief to taxpayers who have a repatriation obligation in tax year 2018. Also, the tax credit provides no relief to taxpayers who included listed jurisdiction income in at least one tax year between 2014 and 2016 but had no tax attributable to the listed jurisdiction income. ORS 317.038(1) provides that nothing in ORS chapter 317 "shall be construed to require a corporation to include an item of income * * * more than once in computing Oregon taxable income."

This temporary rule is intended to prescribe a method for taxpayers to compute a modification that will provide relief for taxpayers who are not granted relief under the tax credit and are otherwise required to include an item of income more than once in computing Oregon taxable income. The first returns affected by the issues described above were due to be filed May 15, 2018, but it is assumed that most affected taxpayers have obtained extensions to file on or before November 15, 2018. The basis for this assumption is that more returns for tax year 2017 will be filed on extension because significant federal and Oregon tax law changes applicable to tax year 2017 were passed between December

2017 and April 2018. Taxpayers need additional time to understand how tax law changes affect their filing position for tax year 2017.

There currently is no prescribed method for taxpayers to compute a modification and meet their November 15, 2018, filing obligations without this rule. Failure to immediately adopt a rule will increase taxpayer compliance costs and the enforcement costs of the department. Also, there will be the administrative costs for both taxpayers and the department associated with additional amended returns if this rule were not immediately put in place.

(2) Oregon corporate taxpayers with an IRC 965 repatriation obligation who will be required to include listed jurisdiction income previously included in Oregon income in their IRC 965 repatriation if the repatriation tax credit does not offer the taxpayer full relief. Also, the department will be affected as well.

(3) Note that most of the first returns affected by this modification are expected to be filed on extension no later than November 15, 2018. A permanent rule is expected to become effective no earlier than January 1, 2019. Without an immediate temporary rule, there will be no prescribed method to calculate the modification described above before returns are due to be filed on extension. Without guidance, taxpayers will either use their own method to calculate the modification for returns filed between November 15, 2018 and January 1, 2019 or claim a modification after January 1, 2019 through an amended return, which will increase administrative costs for both taxpayers and the department.

(4) Temporary action will avoid or mitigate these consequences by prescribing a method of computing the modification that will be in place well in advance of the November 15, 2018 filing deadline.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS available online: <https://www.oregonlegislature.gov/>;

2018 Oregon legislation (SB 1529)

<https://olis.leg.state.or.us/liz/2018R1/Measures/list/>

ADOPT: 150-317-0652

RULE TITLE: Modification for Listed Jurisdiction Amounts Previously Included in Income; Election in Lieu of Claiming the Repatriation Tax Credit

RULE SUMMARY: To provide guidance for calculating the modification allowed under ORS 317.038 (in lieu of the repatriation tax credit allowed under SB 1529, 2018 Session) for listed jurisdiction income previously included in Oregon income.

RULE TEXT:

(1) A taxpayer may elect to claim a modification under ORS 317.038 for tax year 2017, 2018, or, when applicable, both years, to subtract listed jurisdiction income amounts included in income due to the mandatory repatriation under IRC section 965, as amended by Section 14103 of H.R. 1 (2017) (an IRC 965 repatriation), to the extent those amounts were previously included in income for tax year 2014, 2015, or 2016 pursuant to ORS 317.715(2) (2013) or ORS 317.716 (2015). The election to claim the modification is made in lieu of claiming the repatriation tax credit under section 33 of SB 1529 (2018). The election may be claimed on an original or amended tax return.

(2)(a) A taxpayer may elect to claim a modification under section (1) of this rule or a repatriation tax credit under section 33 of SB 1529 (2018), but not both.

(b) A taxpayer who has an IRC 965 repatriation in tax years 2017 and 2018 must use the modification in both tax years if the taxpayer elected the modification described in section (1) in one tax year. The election by a taxpayer with an IRC 965 repatriation for tax years 2017 and 2018 to use the modification described in section (1) may not be changed on an amended tax return if the taxpayer's return for either one of tax years 2017 or 2018 is closed to refund or adjustment.

(3) The modification is claimed on Schedule OR-ASC-CORP using the subtraction code prescribed by department instructions for tax year 2017 or 2018. Use of the subtraction code prescribed by department instructions on Schedule OR-ASC-CORP signifies a taxpayer's election and agreement to claim the modification in lieu of the repatriation tax credit.

(4) The modification, if elected, affects the calculation of the amount of IRC 965 repatriation income eligible for subtraction under ORS 317.267(2) for tax years 2017 and 2018. When computing the subtraction under ORS 317.267(2) that is attributable to IRC 965 repatriation income, the repatriation income amount (upon which the dividend received subtraction percentage is applied) must be reduced by the amount of the modification.

Example 1: Corporation XYZ reports an IRC 965 repatriation in tax year 2017 that includes \$100 million of listed jurisdiction amounts that were previously included as an addition to income under ORS 317.716 for tax years 2015 and 2016. In lieu of claiming the tax credit under section 33 of SB 1529 (2018), Corporation XYZ elects to claim a modification on its 2017 return to subtract the \$100 million of listed jurisdiction income that was previously included under ORS 317.716. The election is made by claiming a \$100 million subtraction on Schedule OR-ASC-CORP using the subtraction code prescribed by department instructions. Use of the subtraction code prescribed by department instructions on Schedule OR-ASC-CORP signifies Corporation XYZ's election and agreement to claim the modification in lieu of the repatriation tax credit.

Example 2: Same facts as Example 1, except that after filing its original 2017 return Corporation XYZ files an amended 2017 return to change its election. The limitation period to claim a refund for tax year 2017 remains open at the time Corporation XYZ files its amended return. Corporation XYZ claims the repatriation tax credit on Schedule OR-ASC-CORP using the credit code prescribed by department instructions and removes the \$100 million subtraction. Use of the credit code prescribed by department instructions on the amended Schedule OR-ASC-CORP signifies Corporation XYZ's election and agreement to claim the repatriation tax credit in lieu of the modification. Because Corporation XYZ has elected to claim the repatriation tax credit on its 2017 return in lieu of the modification, Corporation XYZ is prohibited from claiming a modification on its 2017 and 2018 returns.

Example 3: Same facts as Example 2, except that Corporation XYZ was required to include \$150 million of listed jurisdiction income as an addition under ORS 317.716 for tax years 2015 and 2016, and \$50 million of that income is reported as an IRC 965 repatriation in tax year 2018. Because Corporation XYZ claimed the repatriation tax credit for tax year 2017 on its amended return, it may not claim a modification for tax year 2018.

Example 4: Same facts as Example 3, except that Corporation XYZ claimed the repatriation tax credit on its original Oregon return for tax year 2017 instead of a modification. In addition, Corporation XYZ did not file an amended return, Corporation XYZ's return for tax year 2017 is closed to refund or adjustment, and the return for tax year 2018 is open to refund or adjustment. Corporation XYZ may not claim a modification for tax year 2018 because Corporation XYZ claimed the repatriation tax credit on its 2017 return and the return for tax year 2017 is closed to refund or adjustment.

Example 5: For tax year 2017, Corporation XYZ has \$100 million in IRC 965 repatriation income from wholly owned foreign subsidiaries, \$80 million of which was previously included in income as a listed jurisdiction addition in tax year 2016. Corporation XYZ has no other income taxable as a dividend or deemed dividend for tax year 2017. Corporation XYZ elects to claim the modification under section (1) of this rule. As a result of the modification, Corporation XYZ calculates its dividend received subtraction by first subtracting the amount of the modification from the IRC 965 repatriation income for 2017 (\$100 million - \$80 million). Accordingly, Corporation XYZ's dividend received subtraction under ORS 317.267(2) is \$16 million (80 percent of \$20 million).

[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).]

Statutes/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 317.038

STATUTORY/OTHER AUTHORITY: ORS 305.100

STATUTES/OTHER IMPLEMENTED: ORS 317.038

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

REV 19-2018
CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 2:29 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Vehicle use tax alternative filing format for certain taxpayers purchasing taxable motor vehicles outside Oregon.

EFFECTIVE DATE: 10/26/2018 THROUGH 04/23/2019

AGENCY APPROVED DATE: 10/26/2018

CONTACT: Lois Williams 955 Center St NE
503-945-8029 Salem, OR 97301
RulesCoordinator.dor@oregon.gov

Filed By:
Lois Williams
Rules Coordinator

NEED FOR THE RULE(S):

OAR 150-320-0430 is needed to provide the taxpayer an alternative to filing daily tax returns based on an estimated purchase price and later filing amended returns to correct the true purchase price reflecting the correct tax amount.

JUSTIFICATION OF TEMPORARY FILING:

(1) The taxpayer will be required to continue filing vehicle use tax returns and make tax payments daily and amend tax returns when the retail sales price is not known at the time the vehicle use tax return is filed.

(2) Taxpayers who are licensed Oregon dealers purchasing taxable motor vehicles outside of Oregon for business use in Oregon.

(3) Immediate rulemaking will allow taxpayers to immediately cease filing returns and making payments daily.

(4) Temporary rulemaking will allow taxpayers to file one return and make one payment to report taxable motor vehicles purchased in the months of November and December in 2018.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes available at www.oregonlegislature.gov

ADOPT: 150-320-0430

RULE TITLE: Vehicle Use Tax Alternative Filing Format

RULE SUMMARY: This administrative rule will provide an alternative filing format for licensed Oregon dealers who submit title and registration application to DMV using the Electronic Vehicle Registration system, to report vehicle use

tax owed on purchases of taxable motor vehicles from dealers located outside of Oregon.

RULE TEXT:

(1) A person with a valid vehicle dealer certificate issued under ORS 822.020 who participates in the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) Electronic Vehicle Registration (EVR) Program, may report vehicle use tax imposed by ORS 320.410, on form OR-591-D - Oregon Vehicle Use Tax Quarterly Return.

(2) If a person described in section (1) of this rule elects to file a quarterly return, under ORS 305.229, the department will not impose a late payment or late filing penalty added to the amount of tax by ORS 314.400, unless the return is filed or payment is made later than the due date prescribed in ORS 320.445.

STATUTORY/OTHER AUTHORITY: ORS 305.100, 305.145, 305.229, 314.385, 320.480

STATUTES/OTHER IMPLEMENTED: ORS 305.145, 305.229, 314.385, 320.455, 320.480

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

REV 20-2018
CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 3:53 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Clarifies qualified heavy equipment rental provider and provides registration guidelines.

EFFECTIVE DATE: 10/26/2018 THROUGH 04/23/2019

AGENCY APPROVED DATE: 10/25/2018

CONTACT: Lois Williams 955 Center St NE
503-945-8029 Salem, OR 97301
RulesCoordinator.dor@oregon.gov

Filed By:
Lois Williams
Rules Coordinator

NEED FOR THE RULE(S):

OAR 150-307-0900 is necessary to provide taxpayers with the criteria necessary to determine whether they are a qualified heavy equipment rental provider prior to the registration deadline. Qualified heavy equipment rental providers are required to register with the Oregon Department of Revenue by December 31, 2018 and begin collecting the rental tax on January 1, 2019.

JUSTIFICATION OF TEMPORARY FILING:

(1) Describe the specific consequences that result from the failure to immediately adopt, amend, or suspend the rule(s):

Under Oregon Laws 2018, Chapter 64, businesses primarily engaged in renting heavy equipment are deemed qualified heavy equipment rental providers, required to register with the Oregon Department of Revenue by December 31, 2018 and begin collecting heavy equipment rental taxes on January 1, 2019. A temporary rule is needed to provide taxpayers with the information and guidance necessary to determine whether they are a qualified heavy equipment rental provider prior to the December registration deadline.

If the department fails to promulgate a temporary rule prior to December 31, 2018, rental providers will not have the requisite information to determine whether they are required to register in December 2018, and begin collecting the tax on January 1, 2019. Lack of guidance may lead businesses that are not subject to the tax to improperly register and collect rental tax from their customers. Alternatively, taxpayers subject to the rental tax may fail to register and collect the rental tax. The department is authorized to adopt rules pursuant to ORS 305.100 and Oregon Laws 2018, Chapter 64 §10.

(2) Who would suffer these consequences?

Qualified heavy equipment rental businesses that fail to register by December 31, 2018, and fail to collect the rental tax beginning January 1. Additionally, rental businesses that are not subject to the heavy equipment rental tax may improperly register and incorrectly collect tax from their customers.

(3) Why or how failure to immediately take rulemaking action will cause these consequences:

Note that taxpayers must register by December 31, 2018 and begin collecting the rental tax on January 1, 2019. A permanent rule is expected to go into effect no earlier than January 1, 2019. Without an immediate temporary rule there will be no guidelines for taxpayers to determine whether they are required to register and collect the tax prior to January 1, 2019.

(4) How temporary action will avoid or mitigate these consequences:

Temporary action will avoid negative consequences by providing taxpayers with the specific criteria and uniform guidance prior to the December 31, 2018 deadline.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2018 Oregon Laws, Chapter 64 – available online:

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2018orlaw0064.pdf

ADOPT: 150-307-0900

RULE TITLE: Qualified Heavy Equipment and Qualified Heavy Equipment Rental Providers – Definitions and Responsibilities

RULE SUMMARY: To clarify the definition of qualified heavy equipment and establish uniform guidelines for taxpayers registering as qualified heavy equipment rental providers.

RULE TEXT:

(1) Definitions set forth in Oregon Laws 2018, Chapter 64 are incorporated herein by reference.

(2) Qualified heavy equipment is held primarily for rent if it is publically offered for rent for a term of less than 365 consecutive days, or offered for rent for a term of less than 365 consecutive days with an option to purchase or lease.

(3)(a) A qualified heavy equipment rental provider must be primarily engaged in the business of renting qualified heavy equipment without an operator. A heavy equipment rental provider is primarily engaged in the business of renting heavy equipment without an operator if more than 50% of gross rental revenue earned during the rental provider's prior fiscal year was from the rental of heavy equipment, heavy equipment attachments, associated trailers, and other equipment and tools that:

(i) are mobile;

(ii) are rented without an operator but typically require an operator for use;

(iii) can be used for construction, mining, earthmoving or industrial applications.

(b) For the purpose of determining whether the minimum threshold has been met, rental revenue received from the following transactions is excluded:

(i) renting equipment with an operator;

(ii) renting equipment for a single defined term of more than 365 consecutive days;

(iii) renting equipment from a facility located outside of Oregon; and

(iv) renting equipment to an affiliate, as defined in Oregon Laws 2018, Chapter 64.

(4) Any person meeting the requirements in section (3) is a qualified heavy equipment rental provider for purposes of the heavy equipment rental tax established by Oregon Laws 2018, Chapter 64, and must register with the Oregon Department of Revenue annually, and collect and remit heavy equipment rental tax quarterly.

(5) A person with no rental revenue from the prior fiscal year, but who expects to be primarily engaged in renting qualified heavy equipment in the next calendar year, must register as a qualified heavy equipment rental provider with the Oregon Department of Revenue in December of the current year and begin collecting and remitting heavy equipment rental tax starting January 1.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2018, Chapter 64, ORS 305.100

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2018, Chapter 64

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED

10/26/2018 4:28 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Allows subtraction to prevent double inclusion of listed jurisdiction income in Oregon taxable income.

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

OAR 150-317-0652 provides guidance for calculating the modification allowed under ORS 317.038 (in lieu of the repatriation tax credit allowed under SB 1529, 2018 Session) for listed jurisdiction income previously included in Oregon income.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS available online: <https://www.oregonlegislature.gov/>;
2018 Oregon legislation (SB 1529)
<https://olis.leg.state.or.us/liz/2018R1/Measures/list/>

FISCAL AND ECONOMIC IMPACT:

ORS 317.038(1) provides that "[n]othing contained in this chapter shall be construed to require a corporation to include an item of income . . . more than once in computing Oregon taxable income." The rule does not have a fiscal impact, because a modification is necessary to prevent double inclusion of the same item of income. The rule is expected to have a de minimis but positive economic impact on the public, insofar as providing a clear procedure to claim the modification authorized by ORS 317.038 will reduce compliance burdens on affected taxpayers.

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 or the counties, and a de minimis impact on the public, as explained in the Fiscal and Economic Impact section above.

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**. However, only corporate taxpayers who have been subject to the listed jurisdiction provisions before tax year 2017 because they have had a unitary subsidiary corporation in a listed foreign jurisdiction identified in ORS 317.716 are affected by the rule. The department estimates that approximately 300 corporate taxpayers have been subject to the listed jurisdiction provisions, including both large and small businesses. Therefore, no more than a maximum of approximately 300 large and small businesses combined are affected by the rule.

Based on readily available information, the department estimates that the majority of those corporate taxpayers are not small businesses. For those corporations that have been subject to the listed jurisdiction provisions and are also small businesses, the department's rule is expected to ease compliance burdens by providing a clear method to be used in conjunction with tax return forms and instructions to avoid double inclusion of listed jurisdiction income and is expected to have a de minimis positive economic impact.

b. There should be a de minimis effect on those small businesses subject to the rule, as it is intended to be clarifying or interpretive in nature and does not significantly affect projected reporting, record-keeping or other administrative activities or costs.

c. None known.

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

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

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

The Department of Revenue communicated with representatives from the Oregon State Bar Tax Section and the Oregon Society of Certified Public Accountants to obtain their input into how this rule will impact their clients, some of whom are small businesses.

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

The Department of Revenue did not use a formal Advisory Committee for this rule; however, we did seek and receive input from groups of industry representatives. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

ADOPT: 150-317-0652

RULE SUMMARY: To provide guidance for calculating the modification allowed under ORS 317.038 (in lieu of the repatriation tax credit allowed under SB 1529, 2018 Session) for listed jurisdiction income previously included in Oregon income.

CHANGES TO RULE:

150-317-0652

Modification for Listed Jurisdiction Amounts Previously Included in Income; Election in Lieu of Claiming the Repatriation Tax Credit

(1) A taxpayer may elect to claim a modification under ORS 317.038 for tax year 2017, 2018, or, when applicable, both years, to subtract listed jurisdiction income amounts included in income due to the mandatory repatriation under IRC section 965, as amended by Section 14103 of H.R. 1 (2017) (an IRC 965 repatriation), to the extent those amounts were previously included in income for tax year 2014, 2015, or 2016 pursuant to ORS 317.715(2) (2013) or ORS 317.716 (2015). The election to claim the modification is made in lieu of claiming the repatriation tax credit under section 33 of SB 1529 (2018). The election may be claimed on an original or amended tax return.

¶

(2)(a) A taxpayer may elect to claim a modification under section (1) of this rule or a repatriation tax credit under section 33 of SB 1529 (2018), but not both. ¶

(b) A taxpayer who has an IRC 965 repatriation in tax years 2017 and 2018 must use the modification in both tax years if the taxpayer elected the modification described in section (1) in one tax year. The election by a taxpayer with an IRC 965 repatriation for tax years 2017 and 2018 to use the modification described in section (1) may not be changed on an amended tax return if the taxpayer's return for either one of tax years 2017 or 2018 is closed to refund or adjustment. ¶

(3) The modification is claimed on Schedule OR-ASC-CORP using the subtraction code prescribed by department instructions for tax year 2017 or 2018. Use of the subtraction code prescribed by department instructions on Schedule OR-ASC-CORP signifies a taxpayer's election and agreement to claim the modification in lieu of the repatriation tax credit. ¶

(4) The modification, if elected, affects the calculation of the amount of IRC 965 repatriation income eligible for subtraction under ORS 317.267(2) for tax years 2017 and 2018. When computing the subtraction under ORS 317.267(2) that is attributable to IRC 965 repatriation income, the repatriation income amount (upon which the dividend received subtraction percentage is applied) must be reduced by the amount of the modification. ¶

Example 1: Corporation XYZ reports an IRC 965 repatriation in tax year 2017 that includes \$100 million of listed jurisdiction amounts that were previously included as an addition to income under ORS 317.716 for tax years 2015 and 2016. In lieu of claiming the tax credit under section 33 of SB 1529 (2018), Corporation XYZ elects to claim a modification on its 2017 return to subtract the \$100 million of listed jurisdiction income that was previously included under ORS 317.716. The election is made by claiming a \$100 million subtraction on Schedule OR-ASC-CORP using the subtraction code prescribed by department instructions. Use of the subtraction code prescribed by department instructions on Schedule OR-ASC-CORP signifies Corporation XYZ's election and agreement to claim the modification in lieu of the repatriation tax credit. ¶

Example 2: Same facts as Example 1, except that after filing its original 2017 return Corporation XYZ files an amended 2017 return to change its election. The limitation period to claim a refund for tax year 2017 remains open at the time Corporation XYZ files its amended return. Corporation XYZ claims the repatriation tax credit on Schedule OR-ASC-CORP using the credit code prescribed by department instructions and removes the \$100 million subtraction. Use of the credit code prescribed by department instructions on the amended Schedule OR-ASC-CORP signifies Corporation XYZ's election and agreement to claim the repatriation tax credit in lieu of the modification. Because Corporation XYZ has elected to claim the repatriation tax credit on its 2017 return in lieu of the modification, Corporation XZY is prohibited from claiming a modification on its 2017 and 2018 returns. ¶

Example 3: Same facts as Example 2, except that Corporation XYZ was required to include \$150 million of listed jurisdiction income as an addition under ORS 317.716 for tax years 2015 and 2016, and \$50 million of that income

is reported as an IRC 965 repatriation in tax year 2018. Because Corporation XYZ claimed the repatriation tax credit for tax year 2017 on its amended return, it may not claim a modification for tax year 2018.¶

Example 4: Same facts as Example 3, except that Corporation XYZ claimed the repatriation tax credit on its original Oregon return for tax year 2017 instead of a modification. In addition, Corporation XYZ did not file an amended return, Corporation XYZ's return for tax year 2017 is closed to refund or adjustment, and the return for tax year 2018 is open to refund or adjustment. Corporation XYZ may not claim a modification for tax year 2018 because Corporation XYZ claimed the repatriation tax credit on its 2017 return and the return for tax year 2017 is closed to refund or adjustment.¶

Example 5: For tax year 2017, Corporation XYZ has \$100 million in IRC 965 repatriation income from wholly owned foreign subsidiaries, \$80 million of which was previously included in income as a listed jurisdiction addition in tax year 2016. Corporation XYZ has no other income taxable as a dividend or deemed dividend for tax year 2017. Corporation XYZ elects to claim the modification under section (1) of this rule. As a result of the modification, Corporation XYZ calculates its dividend received subtraction by first subtracting the amount of the modification from the IRC 965 repatriation income for 2017 (\$100 million - \$80 million). Accordingly, Corporation XYZ's dividend received subtraction under ORS 317.267(2) is \$16 million (80 percent of \$20 million).¶

[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

Statutes/Other Implemented: ORS 317.038

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/29/2018 8:38 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Heavy equipment rental tax

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

150-307-0900 Qualified Heavy Equipment and Qualified Heavy Equipment Rental Providers – Definitions and Responsibilities – This administrative rule clarifies the definition of a qualified heavy equipment rental provider established in HB 4139 and provides uniform guidelines for taxpayers registering as qualified heavy equipment rental providers.

150-307-0905 Equipment and Tools Subject to Heavy Equipment Rental Tax – This administrative rule clarifies what equipment and tools are subject to the heavy equipment rental tax.

150-307-0910 Cost of Heavy Equipment Operator's Service Not Subject to Rental Tax – This administrative rule establishes that the cost of a heavy equipment operator's service is not subject to the tax on heavy equipment rentals.

150-307-0915 Heavy Equipment Rental Tax Exemptions – This administrative rule clarifies that equipment and tools rented to federal government agencies and instrumentalities are not subject to the rental tax.

150-307-0920 Long-Term Rental Agreements – This administrative rule provides uniform guidelines to correctly calculate the total length of a rental agreement for the purposes of the heavy equipment rental tax. The rule also provides taxpayers with guidance on long-term rental contracts, which are exempt from the rental tax.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Laws 2018, Chapter 64, Oregon Revised Statute 305.100, available online through Legislative Counsel.

FISCAL AND ECONOMIC IMPACT:

The rules are clarifying and interpretive in nature, and the Department of Revenue does not foresee a fiscal or economic impact from these rules.

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, units of local government, or the public. The rules are interpretive in nature and will not change the cost of complying with HB 4139.

2.a. Approximately 100 Oregon heavy equipment rental providers will be subject to the provisions in these rules. Small businesses make up 97.8% of businesses in Oregon*. Based on this information, we estimate that approximately 98 businesses with fewer than 50 employees will be subject to these rules.

b. The department believes the impact of these rules will be minimal as they are clarifying and interpretive in nature.

c. No equipment, supplies, labor, or increased administration is known to be required for compliance due to the administrative rules. The rules are intended only to clarify the requirements enacted in HB 4139.

*Small Business Profile, 2016; U.S. Small Business Administration;
<https://www.sba.gov/sites/default/files/advocacy/Oregon.pdf>

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

The Department of Revenue communicated with industry associations that work with heavy equipment rental businesses, including the Heavy Equipment Rental Tax Coalition and the American Rental Association to obtain input on how the rules will affect heavy equipment rental providers (both small and large businesses). In addition, the department also garnered input from heavy equipment rental providers – many of whom are small businesses – during the NW Rental Conference.

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

The Department of Revenue did not use a formal Advisory Committee for these rules; however, the department did

seek and receive input from groups of industry representatives (Heavy Equipment Rental Tax Coalition, American Rental Association), as well as the Oregon County Assessors Administrative Rule Committee. In addition, the department also garnered feedback directly from industry stakeholders during the NW Rental Conference. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

RULES PROPOSED:

150-307-0900, 150-307-0905, 150-307-0910, 150-307-0915, 150-307-0920

ADOPT: 150-307-0900

RULE SUMMARY: To clarify the definition of qualified heavy equipment and establish uniform guidelines for taxpayers registering as qualified heavy equipment rental providers.

CHANGES TO RULE:

150-307-0900

Qualified Heavy Equipment and Qualified Heavy Equipment Rental Providers - Definitions and Responsibilities

(1) Definitions set forth in Oregon Laws 2018, Chapter 64 are incorporated herein by reference. ¶

(2) Qualified heavy equipment is held primarily for rent if it is publically offered for rent for a term of less than 365 consecutive days, or offered for rent for a term of less than 365 consecutive days with an option to purchase or lease. ¶

(3)(a) A qualified heavy equipment rental provider must be primarily engaged in the business of renting qualified heavy equipment without an operator. A heavy equipment rental provider is primarily engaged in the business of renting heavy equipment without an operator if more than 50% of gross rental revenue earned during the rental provider's prior fiscal year was from the rental of heavy equipment, heavy equipment attachments, associated trailers, and other equipment and tools that: ¶

(i) are mobile; ¶

(ii) are rented without an operator but typically require an operator for use; ¶

(iii) can be used for construction, mining, earthmoving or industrial applications. ¶

(b) For the purpose of determining whether the minimum threshold has been met, rental revenue received from the following transactions is excluded: ¶

(i) renting equipment with an operator; ¶

(ii) renting equipment for a single defined term of more than 365 consecutive days; ¶

(iii) renting equipment from a facility located outside of Oregon; and ¶

(iv) renting equipment to an affiliate, as defined in Oregon Laws 2018, Chapter 64. ¶

(4) Any person meeting the requirements in section (3) is a qualified heavy equipment rental provider for purposes of the heavy equipment rental tax established by Oregon Laws 2018, Chapter 64, and must register with the Oregon Department of Revenue annually, and collect and remit heavy equipment rental tax quarterly. ¶

(5) A person with no rental revenue from the prior fiscal year, but who expects to be primarily engaged in renting qualified heavy equipment in the next calendar year, must register as a qualified heavy equipment rental provider with the Oregon Department of Revenue in December of the current year and begin collecting and remitting heavy equipment rental tax starting January 1.

Statutory/Other Authority: Oregon Laws 2018, Chapter 64, ORS 305.100

Statutes/Other Implemented: Oregon Laws 2018, Chapter 64

ADOPT: 150-307-0905

RULE SUMMARY: To clarify heavy equipment and tools subject to the heavy equipment rental tax established in Oregon Laws 2018, Chapter 64.

CHANGES TO RULE:

150-307-0905

Equipment and Tools Subject to the Heavy Equipment Rental Tax

(1) Definitions set forth in Oregon Laws 2018, Chapter 64 are incorporated herein by reference. ¶

(2) The heavy equipment rental tax applies to heavy equipment, heavy equipment attachments, associated trailers, and other equipment and tools rented from a qualified heavy equipment rental provider required to be registered with the Oregon Department of Revenue, provided that the heavy equipment, attachments, associated trailers, and equipment and tools:¶

(a) are mobile:¶

(b) can be used for construction, mining, earthmoving or industrial activities: ¶

(c) are rented for a term less than 365 consecutive days, or an open-ended, or undefined term. ¶

(3) When determining the length of a rental agreement, each term and any extensions or amendments extending the agreement beyond the initial term are considered separately.¶

(4) The heavy equipment rental tax does not apply to any equipment or tools rented from a person that is not a qualified heavy equipment rental provider required to be registered with the Oregon Department of Revenue. ¶

(5) The heavy equipment rental tax does not apply to equipment or tools rented under a rental agreement for a single defined term of 365 consecutive days or more.

Statutory/Other Authority: ORS 305.100, Oregon Laws 2018, Chapter 64

Statutes/Other Implemented: Oregon Laws 2018, Chapter 64

ADOPT: 150-307-0910

RULE SUMMARY: To clarify that the cost of a heavy equipment operator's services are not subject to the heavy equipment rental tax.

CHANGES TO RULE:

150-307-0910

Cost of Heavy Equipment Operators Service Not Subject to Rental Tax

The cost of a heavy equipment operator's services is not subject to the heavy equipment rental tax. The rental tax must be applied to the rental price of the equipment rental as if rented without an operator. The amount of rental tax charged for the rental of heavy equipment with an operator's services cannot be less than the tax that would have been charged if the equipment had been rented without an operator.

Statutory/Other Authority: ORS 305.100, Oregon Laws 2018, Chapter 64

Statutes/Other Implemented: Oregon Laws 2018, Chapter 64

ADOPT: 150-307-0915

RULE SUMMARY: This administrative rule is intended to clarify that federal government instrumentalities are exempt from the heavy equipment rental tax.

CHANGES TO RULE:

150-307-0915

Heavy Equipment Rental Tax Exemptions

(1) Definitions set forth in Oregon Laws 2018, Chapter 64 are incorporated herein by reference. ¶

(2) Qualified equipment and tools rented directly to the United States (U.S.) federal government or any of its agencies or instrumentalities (e.g., the Red Cross) are exempt from the heavy equipment rental tax. ¶

(3) The qualified heavy equipment rental provider must document the tax-exempt nature of rentals made to federal government agencies or instrumentalities and retain such documentation in its records.

Statutory/Other Authority: ORS 305.100, Oregon Laws 2018, Chapter 64

Statutes/Other Implemented: Oregon Laws 2018, Chapter 64

ADOPT: 150-307-0920

RULE SUMMARY: To establish how the length of a rental agreement is calculated for purposes of the heavy equipment rental tax and provide taxpayers with uniform guidelines regarding long-term rental contracts.

CHANGES TO RULE:

150-307-0920

Long-Term Rental Agreements

(1) Definitions set forth in Oregon Laws 2018, Chapter 64 are incorporated herein by reference. ¶

(2) For purposes of this rule, "rental agreement" means an agreement between a qualified heavy equipment rental provider and a renter for the use of qualified heavy equipment for a single defined term of less than 365 consecutive days, an open-ended term, or an undefined term. When determining the length of a rental agreement, each term and any extensions or amendments extending the agreement beyond the initial term are considered separately. ¶

(3) Qualified heavy equipment rented for a single defined term of 365 consecutive days or more is not subject to the heavy equipment rental tax and, therefore, no longer qualifies for the exemption from ad valorem property tax provided in Oregon Laws 2018, Chapter 64. ¶

(a) The qualified heavy equipment rental provider must notify the County Assessor according to ORS 308.290 and ORS 311.410. The heavy equipment must be added to the property tax rolls. ¶

(b) Any qualified heavy equipment rented under an agreement for a defined term of 365 consecutive days or more on July 1 is subject to ad valorem property tax as provided by ORS 311.410(1). ¶

Example 1: DCA Heavy Equipment Rental Company rents a bulldozer under a six-month rental agreement. The rental agreement is subsequently extended for a second term of seven months. Each term is considered separately. As neither the initial six-month term, nor the second seven-month term add up to 365 or more consecutive days, the equipment rented under the agreement is subject to the rental tax. ¶

Example 2: DCA Heavy Equipment Rental Company rents a bulldozer from their Jackson County location. The bulldozer is rented under a rental agreement with an initial term of six months. The rental agreement is subsequently extended for a second term of two years. Each term is considered separately. The initial term of six months is subject to the rental tax. The second term of two years is exempt from the heavy equipment rental tax. DCA Heavy Equipment Rental Company must notify the Assessor according to ORS 308.290 and ORS 311.410 that the bulldozer has been rented for a single defined term of two years, and is no longer exempt from ad valorem property tax.

Statutory/Other Authority: ORS 305.100, Oregon Laws 2018, Chapter 64

Statutes/Other Implemented: Oregon Laws 2018, Chapter 64

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 2:32 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Lodging tax information sharing

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

OAR 150-320-0060 is needed to provide clarity to local governments of requirements to participate in the lodging tax information exchange under ORS 320.332.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes available at www.oregonlegislature.gov

FISCAL AND ECONOMIC IMPACT:

The rule does not create any additional fiscal or economic impacts.

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 or the public. Local governments who choose to participate in the lodging tax information exchange may incur costs to comply with the statutory requirements clarified in this rule. Those costs are

unknown to the department.

2. a. Small businesses are not impacted by this administrative rule.

b. The new rule clarifies the statutory requirement for a local government to report local lodging tax information to the department if the local government chooses to participate in the lodging tax information exchange.

c. None known.

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

Small businesses are not impacted by this administrative rule.

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

The Department of Revenue did not use a formal Advisory Committee for this rule; however, we did seek and receive input from local governments impacted by the administrative rule if they choose to participate in lodging tax information sharing. No Administrative Rule Advisory Committee was convened because the above stakeholders were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

ADOPT: 150-320-0060

RULE SUMMARY: To provide clarity to local governments of requirements to participate in the lodging tax information exchange under ORS 320.332.

CHANGES TO RULE:

150-320-0060

Lodging Tax Information Sharing with Local Governments

(1) The Department of Revenue and units of local government will exchange transient lodging tax information quarterly as authorized in ORS 320.332. ¶

(2)(a) A unit of local government may receive access to information received by the department under ORS 320.305 to 320.340 upon written request. The request must be on the form provided by the department.¶

(b) By submitting the written request, the unit of local government agrees this is a reciprocal exchange of transient lodging tax information. ¶

(3) The unit of local government will comply with the Department of Administrative Services Statewide Information Security Standards. ¶

(4) A unit of local government that receives state transient lodging tax information is required to provide identity theft protection to state transient lodging taxpayers, in the event that there is a breach of the local government's computer as required in ORS 646A.604. ¶

(5) The unit of local government may use state transient lodging tax information described in ORS 320.332 for the administration of the local transient lodging tax. Unlawful use of the information is prohibited as a violation of ORS 314.835 and ORS 320.332. Such use will terminate participation in the transient lodging tax information exchange.¶

(6) The unit of local government will limit access to the state transient lodging tax information to those officers, employees, and agents with a need to know in order to perform their duties.¶

(7)(a) The unit of local government will provide the department with valid secrecy certificates signed by all

- officers, employees, and agents who may have access to the state transient lodging tax information before the department will allow access. ¶
- (b) To maintain compliance with ORS 320.332, the unit of local government must provide the department with the valid signed secrecy certificates within 30 days for all newly hired officers, employees, and agents who may have access to the state transient lodging tax information. ¶
- (c) The secrecy certificate must be on a form provided by the department and must be renewed annually. ¶
- (8)(a) The department will provide the unit of local government a limited number of accesses for the purpose of exchanging transient lodging tax information. ¶
- (b) The unit of local government must electronically access their account to download the state transient lodging tax information and upload the local government's transient lodging tax information using a template provided by the department. ¶
- (c) The file will remain available until it is replaced with the next quarterly file. ¶
- (9) The unit of local government must submit a written request to cease participation in the transient lodging tax information exchange on a form prescribed by the department unless automatically terminated by a violation of any provision of this rule.

Statutory/Other Authority: ORS 305.100, 320.332

Statutes/Other Implemented: ORS 314.835, 314.840, 320.332

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/29/2018 11:08 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Net Operating Losses, Last Known Address, Moving Expenses, First Time Home Buyer Saving Accounts

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

150-316-0607 – Inform financial institutions of additional items required on annual statements for first-time home buyer savings accounts allowed under Oregon Laws 2018, Chapter 109. Specify a time limit for transfers from one first-time home buyer savings account to another account for the account holder to avoid penalty or addition.

150-305-0210 – Modify the rule to accurately describe the process for updating addresses when a taxpayer files a return with an address that is different than the address currently documented in the department's computer system. Delete an inaccurate example.

150-314-0250 – Remove the references to federal net operating loss carryback rules and update years in examples.

150-316-0035 – Update rule to correct definitions, correct instructions for nonresidents and part-year residents, add tables to the examples, clarify that Oregon follows federal carryback rules, and remove amnesty information that is no longer needed.

150-316-0181 – Due to recent changes in federal tax law, the moving expense deduction will only be allowed for active-duty military personnel, and in certain limited cases, their spouses. As a result of these changes, which are in effect for tax years from 2018 through 2025, the rule is modified to reflect the changes.

150-316-0005 – This rule is for net operating losses generated before 1985 and is no longer applicable to those tax years or the years where losses could have been carried forward.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes: ORS 316.028, 314.415, 316.127, 305.084-305.094, 305.265, Oregon Laws 2018, Chapter 109, and 316.007, available online through Legislative Counsel.

FISCAL AND ECONOMIC IMPACT:

Although the statute (Or Laws 2018, ch 109, sections 1-8) for the first time home buyer savings account rule (150-316-0607) will have some fiscal and economic impact, it is relatively small, and the impact is due to the statute. The rule does not create any additional fiscal or economic impacts. The other rules being amended or repealed do not create any fiscal or economic impact either, as they are clarifying in nature.

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. Any impact for the first time home buyer savings account subtraction under Or Laws 2018, ch 109, sections 1-8, on taxpayers is due to the statute, rather than the proposed rule (150-316-0607). For the other proposed rules, there is no impact to state agencies, units of local government or the public. These changes tend to be clarifying in nature and do not impact any 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.

b. The majority of these rule changes are clarifying in nature and place no new burden of compliance. The new rule (150-316-0607) for the first time home buyers savings account subtraction may add minimal administrative costs for financial institutions; however, the department worked closely with those affected to keep these anticipated costs to a minimum.

c. None known.

*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

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 Department of Revenue did not use a formal Advisory Committee for these rules; however, we did seek and receive input from groups of industry representatives. For the first time home buyers savings account subtraction rule the financial institution industry was specifically consulted in the development of the rule. No Administrative Rule Advisory Committee was convened because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

RULES PROPOSED:

150-305-0210, 150-314-0250, 150-316-0005, 150-316-0035, 150-316-0181, 150-316-0607

AMEND: 150-305-0210

RULE SUMMARY: Modify the rule to accurately describe the process for updating addresses when a taxpayer files a return with an address that is different than the address currently documented in the department's computer system. Delete an inaccurate example.

CHANGES TO RULE:

150-305-0210

Last Known Address ¶¶

(1) Notices of Deficiency and Notices of Assessment are required to be mailed to the last-known address or via other means as agreed upon by the taxpayer. Pursuant to ORS 305.127, the department may provide notice to a person by means other than regular mail if a notification agreement exists ~~between~~with the department and the person affirmatively indicates that the department may use means other than regular mail for any required notice to the person. ¶¶

(2) The department will use the address on the most recently filed return as the last-known address unless the taxpayer has notified the department in writing, electronically, or through a documented phone call that this address is incorrect. ¶¶

(a) "In writing" means a letter written to the department, a completed Form 150-800-738 Change of Address/Name, or a completed Form 150-211-156 Oregon Combined Payroll Tax Business Change in Status submitted to the department by the taxpayer or the taxpayer's authorized representative. ¶¶

(b) "Electronically" means a taxpayer provides the department with a new address or other contact information via their online taxpayer account. ¶¶

(c) "Documented phone call" means a call that is noted or described in a contemporaneous record of the substance of the phone call, made by the taxpayer, the taxpayer's authorized representative or an employee of the department and must include the date and time of the call and the names of the parties involved in the conversation. ¶¶

(3) When the department receives information indicating that the last-known address is incorrect or outdated, the

department may use the following methods to determine the last-known address:¶

(a) An Address Information Request, which is a letter sent to the United States Postal Service by the Department of Revenue requesting verification of the taxpayer's address.¶

(b) Address information received from the United States Postal Service or from a service using an address-updating method approved by the United States Postal Service.¶

(c) Address information received from other third-parties, except that other third-party information will be accepted only after contact is made with the taxpayer and the taxpayer has verified that the address is a permanent address.¶

Example 1: The department sends a letter to X Company to obtain employment information regarding Alice, a taxpayer that is employed by X Company. When X Company responds, they indicate a new address for Alice. The department must contact Alice to verify that the new address is correct before Alice's last-known address is changed.¶

(4) If a taxpayer has never filed an income tax return with the department, or if the most recently filed income tax return was filed more than two years prior to the date the notice is mailed, the department may, in addition to those procedures described in section (3) of this rule, use address information received from another government agency to determine last-known address. That agency must follow strict policies regarding address verification, such as:¶

(a) Address documentation must be in writing and be signed by the taxpayer.¶

(b) The agency must use at least one method from section (3) of this rule to verify address changes.¶

Example 2: Tom has not filed income tax returns with Oregon for the last two years. He holds a business license regulated by a governmental agency that meets the criteria above. The department may use an address provided by the other agency as Tom's last-known address. The department may send notices of deficiency and notices of assessment to Tom at this address.¶

(5) If a clear typographical error has been made on the taxpayer's most recently filed return, the department may take the following actions:¶

(a) If the address on the return is the same address on the taxpayer's account except for a typographical error, the department will revert back to the current account address. A change in street number or apartment number is not to be considered a typographical error.¶

Example 3: Carl's account is 1234 Main Street, Salem, OR 97301, but the return indicates 1234 Main Street, Slaem, OR 97301. The department will retain the current account address.¶

(b) If the address on the return is wholly different than the address on the taxpayer's account, which includes a typographical error, the department will use the ~~procedures described in sections (3) and (4) of this rule to determine a taxpayer's last-known address~~address that is listed on the taxpayer's last-filed return, as provided in section (2) of this rule.¶

Example 4: Linda's account shows an address of 1234 Main Street, Salem, OR 97301, but Linda's return has an address of 5678 1st Street, Slaem, OR 97301, ~~+~~The department will first attempt to modify Linda's account at Linda before attempting other methods of verification to indicate 5678 1st Street, Salem OR 97301 as the account address.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 305.265

AMEND: 150-314-0250

RULE SUMMARY: Remove the references to federal net operating loss carryback rules and update years in examples.

CHANGES TO RULE:

150-314-0250

Refunds; Net Operating Loss and Net Capital Loss Carryback Claims ¶

(1) Application. For purposes of this rule, provisions applying to individuals also apply to estates and trusts. ¶

(2) Extended period for refund claim. ¶

(a) A special period of limitations is provided under ORS 314.415(5)(a) to claim a refund or credit attributable to an individual net operating loss (NOL) or corporation net capital loss carryback. A refund claim for an individual net operating loss or corporation net capital loss carryback year must be filed within three years from the due date (including extensions) of the taxable year of the net operating loss or net capital loss which results in the carryback. ¶

Example 1: Edward filed his ~~1996, 1997, 1998, 1999~~2007, 2008, 2009, 2010, and 200011 returns by their respective due dates. On March 15, 200314, Edward filed his 20012 return on which he claimed a net operating loss. The refund claims for the carryback years (~~1996~~2007 through 200011) must be filed by April 15, 200416, three years after the due date of the 20012 net operating loss year return. ¶

(b) The provision allowing refunds of tax within two years of the date of payment is not extended. ¶

Example 2: Assume the same facts as in Example 1 except that the original 20012 return was not filed until March 15, 200516, was filed as a paid return and did not claim a net operating loss. On June 15, 200516, Edward filed an amended return (refund claim) for 20012 to claim an additional business expense. The amended return creates a net operating loss for 20012. Edward is allowed a refund for the 20012 taxes paid within the two years preceding his refund claim. Refund claims for the net operating loss carryback years (~~1996~~2007 through 200011) must have been filed by April 15, 200416, three years after the due date of the 20012 net operating loss year return. The date of filing of the net operating loss claim (June 15, 200516) does not extend the date of filing of the refund claims for the carryback years beyond the three-year period. ¶

(3) Carryback periods for individuals. ~~In the case of an individual taxpayer's net operating loss: ¶~~

~~(a) For tax years beginning before August 6, 1997, the net operating loss carryback period is generally three years and the carryforward period is fifteen years. ¶~~

~~(b) For tax years beginning on or after August 6, 1997, the carryback period is generally two years and the carryover period is twenty years. ¶~~

~~(c) For tax years beginning on or after January 1, 1998, a five year carryback period is allowed to claim a refund or credit attributable to a net operating loss for a farming business. ¶~~

~~(d) For tax years beginning on or after January 1, 2001, the carryback period is generally five years and the carryover period is twenty years. ¶~~

~~(e) For tax years beginning on or after January 1, 2003, the carryback period is generally two years and the carryover period is twenty years~~The total number of years to which an NOL may be carried back or forward is the same for Oregon and federal (including exceptions and limitations). ¶

(4) Limitations on credit or refund. ¶

(a) If a claim for a credit or refund is based on an overpayment attributable to an individual net operating loss or corporation net capital loss carryback, the credit or refund may exceed the amount of tax paid within three years of when the return was filed or within two years immediately preceding the filing of the claim but only to the extent the overpayment is attributable to the net operating loss or net capital loss carryback. ¶

Example 3: Jake amended his timely filed 200213 return November 1, 200617 to claim a refund for a carryback arising from a 200415 net operating loss. In addition to reducing income for the net operating loss carryback, Jake claimed a subtraction for U.S. government interest and an additional exemption credit. The refund claim is limited to the portion of the overpayment attributable to the net operating loss carryback. The subtraction for interest and the additional exemption credit are outlawed by the period of limitations under ORS 314.415(2). ¶

(b) If a claim for a credit or refund is based not only on an overpayment attributable to an individual net operating loss or corporation net capital loss carryback, but also on other items, the credit or refund may not exceed the sum of:¶

(A) The amount of the overpayment attributable to the individual net operating loss or corporation net capital loss carryback, and¶

(B) The balance of such overpayment not to exceed the amount of taxes paid within the periods provided in ORS 314.415(2)(a).¶

Example 4: Assume the same facts as in Example 3 except that Jake paid additional tax for the ~~2002~~2013 taxable year on May 1, ~~2005~~16. He may receive a refund for any overpayment of taxes attributable to the net operating loss carryback plus any remaining balance of overpayment, but not in excess of the amount of any taxes paid for ~~2002~~2013 during the two years immediately preceding November 1, ~~2006~~17, the date the claim was filed.¶

(c) Delinquent returns. If a taxpayer filed an original return after the three-year period for requesting a refund provided in ORS 314.415(2)(a), but amends the same return for an individual net operating or corporation net capital loss carryback within the period allowed by ORS 314.415(5)(a), a refund will be allowed. The refund will be limited to the amount of net tax liability shown on the original return. Any additional refund requested on the amended return is barred by ORS 314.415(2)(a).¶

Example 5: Chuck files his ~~2002~~2014 return on September 30, ~~2006~~18, more than three years beyond the original due date of the return. His return showed tax liability of \$500 and he requested a refund of \$300 for overpayment of estimated tax. The refund was denied based on ORS 314.415(2)(a). On October 15, ~~2006~~18, Chuck filed an amended ~~2002~~2014 return carrying back a ~~2005~~17 net operating loss. Chuck requests a refund of \$800 since he filed within the additional three-year period allowed by ORS 314.415(5)(a). Chuck will receive a refund of \$500 ~~which that~~ is attributable to the net operating loss carryback. The additional \$300 refund is not allowable based on ORS 314.415(2)(a).¶

(5) Treatment of carryover amounts. Although refunds for NOL years, individual net operating loss, or corporation net capital loss carryback years may be closed or limited under ORS 314.415 and this rule, the balance of any individual NOL or corporation net capital loss carryover amounts not fully absorbed in carryback years may be used in the computation of Oregon taxable income for all applicable carryover years to the same extent includable for federal.¶

Example 6: Jay filed his original ~~1998~~2010 return showing a net operating loss of \$20,000 on July 1, ~~2006~~18. Refunds for the carryback years ~~1996~~2008 and ~~1997~~2009 and the carryforward years of ~~1999~~2011, ~~2000~~12, ~~2001~~13, and ~~2002~~14 are barred by the statute of limitations. However, any portion of the net operating loss deduction not fully absorbed in those years may be used to determine Oregon taxable income for ~~2003~~15 and later years in accordance with ORS 316.028 and the related rules. The limitation of the refunds for the closed years will not limit the carryover amounts to be used in subsequent years.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 314.415

REPEAL: 150-316-0005

RULE SUMMARY: This rule is for net operating losses generated before 1985 and is no longer applicable to those tax years or the years where losses could have been carried forward.

CHANGES TO RULE:

~~150-316-0005~~

~~Oregon Net Operating Losses—Treatment Before 1985 ¶¶~~

~~(1) Applicability of this Rule.¶¶~~

~~(a) The provisions set forth in this rule shall apply to the computation of net operating losses occurring in loss years beginning before January 1, 1985; net operating loss deductions allowed in tax years beginning before January 1, 1985, from losses that originated in loss years beginning before January 1, 1985; and net operating loss carrybacks and carryovers applied in tax years beginning before January 1, 1985, that originated in loss years beginning before January 1, 1985.¶¶~~

~~(b) For the computation and application of Oregon net operating losses; net operating loss deductions with regard to loss years and net operating loss carrybacks and net operating loss carryovers originating after December 31, 1984, see OAR 150-316-0035.¶¶~~

~~(2) Negative Oregon Taxable Income Defined. For purposes of this rule, negative Oregon taxable income means federal taxable income as defined in the laws of the United States, with the modifications, additions and subtractions provided in ORS Chapter 316, which is less than zero.¶¶~~

~~(3) The Computation of a Net Operating Loss for Loss Years Beginning before January 1, 1985.¶¶~~

~~(a) For purposes of this rule, "loss years" means those tax years in which a net operating loss occurs. The computation of a net operating loss for Oregon purposes begins with negative Oregon taxable income. Internal Revenue Code Section 172 is generally applied to items of income, deduction and modification on the Oregon return in both the year of the loss and in the year or years to which the loss deduction is carried.¶¶~~

~~(b) There are five items that may reduce negative Oregon taxable income. These are: net operating loss deduction from other years; exemption deductions, if applicable; the nonbusiness deductions less nonbusiness income modification required by IRC Section 172; Oregon capital gains deduction; and the net Oregon capital loss deduction. The amount of negative Oregon taxable income remaining after the above items have been taken into account, shall be considered the amount of the taxpayer's Oregon net operating loss deduction.¶¶~~

~~Example: Sandy and Joe filed federal and Oregon tax returns for 1984. On their federal return they reported wages of \$12,000, a business loss of \$40,000 (a part of which was attributable to depreciation), a gain on the sale of stock of \$400 (net of \$600 capital gains deduction), interest income of \$800, and a taxable pension from the U.S. Government of \$2,000. They paid no federal or state taxes in 1984 and reported total itemized deductions of \$6,800. These deductions were considered nonbusiness.¶¶~~

~~On their Oregon return Sandy and Joe also reported \$500 municipal bond interest from California that was exempt from federal income tax, they were allowed to deduct \$1,000 more depreciation for Oregon purposes than for federal purposes, and, they were allowed to deduct the entire pension income on their Oregon return as a U.S. Public Retirement subtraction. Their allowable Oregon net operating loss is computed as follows:~~

~~[Computation not included. See ED. NOTE.]¶¶~~

~~(4) Oregon Net Operating Losses—Reduction Due to the Net Oregon Capital Loss Deduction. Oregon net operating losses shall be reduced by the amount of net Oregon capital loss deduction claimed on the Oregon return. The net capital loss deduction is generally the same as the amount deducted on the federal return. However, there are modifications that are required under Oregon law which cause the capital loss deduction to be different for Oregon purposes. These modifications must be taken into account in determining the amount of capital loss deduction that is part of negative Oregon taxable income. This difference may be due to depreciation differences upon the sale of a capital asset.¶¶~~

~~Example: Gary sells a capital asset to Helen for \$10,000. The federal adjusted basis is \$9,000 and the Oregon adjusted basis is \$12,000. For federal purposes Gary has a gain of \$1,000. However, Gary has a capital loss for~~

Oregon purposes of \$2,000 (\$10,000 - \$12,000). For purposes of this example, assume the loss is a short-term capital loss. Gary's negative Oregon taxable income is reduced by \$2,000, the amount of the capital loss deduction for Oregon purposes.¶¶

(5) Oregon Net Operating Losses-Reduction Due to Nonbusiness Deductions in Excess of Nonbusiness Income. In order to compute an Oregon net operating loss, the taxpayer's negative Oregon taxable income is reduced by the amount of excess nonbusiness deductions over nonbusiness income. Oregon modifications, additions, and subtractions used in computing negative Oregon taxable income may reduce the allowable Oregon net operating loss. Use the following list to help determine which of the more common Oregon modifications, additions or subtractions are considered business or nonbusiness. The list is not complete. It is intended to be a guide. [List not included. See ED-NOTE.]¶¶

(6) Part-year residents and Nonresidents.¶¶

(a) Tax years beginning before January 1, 1983. The base for computing an Oregon net operating loss for a part-year resident or a nonresident shall be negative Oregon taxable income. To compute an Oregon net operating loss, negative Oregon taxable income shall be modified as provided in (3) above by those modifications which relate to items of Oregon income or deduction only.¶¶

(b) Tax years beginning after December 31, 1982 and before January 1, 1984. A part-year resident or nonresident shall be allowed an Oregon net operating loss deduction only if the taxpayer had negative Oregon taxable income as defined in (2) of this rule, in the year of the loss.¶¶

(c) Tax years beginning after December 31, 1983 and before January 1, 1985. In computing an Oregon net operating loss, for part-year residents, negative Oregon taxable income shall be modified as provided in (3) above by those modifications which relate to items of Oregon income or deduction only. Nonresidents shall calculate their Oregon net operating loss as provided in (6)(a) above.¶¶

(7) Non-Oregon Source Net Operating Losses. If a non-Oregon source net operating loss arises while the taxpayer is a nonresident, the resulting net operating loss deduction shall not be allowed when computing Oregon taxable income.¶¶

(8) Oregon Source Net Operating Losses.¶¶

(a) Taxpayers shall be allowed a deduction for Oregon source net operating losses as determined in section (3) of this rule. Taxpayers may also carryover the Oregon net operating loss deduction in a manner consistent with IRC Section 172.¶¶

(b) Generally, if a taxpayer carries a net operating loss deduction back for federal purposes, the taxpayer shall carry the Oregon net operating loss back for Oregon purposes also. The same principle applies to net operating loss carryovers and carryforwards.¶¶

(c) An exception to this rule arises if the taxpayer is not required to file an Oregon return for all the years to which the federal net operating loss deduction is applied. In this case, the following rule applies: In the case of a net operating loss carryback, if the taxpayer was not required to file an Oregon return for the third year prior to the Oregon net operating loss, the Oregon net operating loss deduction shall be carried over to the year succeeding the carried back year. If the taxpayer was not required to file an Oregon tax return in that year, the Oregon net operating loss deduction shall be carried over to that year in which the loss may be first applied. The total number of years to which a net operating loss deduction may be carried back or forward shall be the same for Oregon and federal net operating losses. The number of years allowed is determined by IRC Section 172(b).¶¶

Example: Jane computed her allowable Oregon source net operating loss deduction for tax year 1984. For federal purposes, she carried back her federal net operating loss deduction back to tax year 1981. Since she carried her loss back for federal purposes, she shall carry her loss back for Oregon purposes to her 1981 Oregon tax return. If she was not required to file an Oregon tax return for 1981, she may carry her Oregon net operating loss deduction to her 1982 Oregon tax return.¶¶

(9) Filing Status.¶¶

(a) Oregon net operating losses may be split among spouses. Taxpayers who change their filing status, for example, generally need to identify their separate items of income, deductions, Oregon modifications, etc., to compute their separate Oregon net operating loss deduction.¶¶

~~(b) Items of income are split between the spouses in a manner consistent with Treasury Regulation Section 1.172-7. Modifications to federal adjusted gross income (AGI), as required under Chapter 316, are allocated between the spouses. Each spouse is entitled to those modifications that belong only to him or her. For those modifications which are not clearly attributable to any one spouse, multiply the dollar amount by the following percentage:¶¶~~

~~(c) Other deductions, such as itemized deductions, are treated in the same manner as modifications described in the preceding paragraph. Those deductions that specifically belong to a spouse are used in computing that spouse's separate itemized deductions. All other itemized deductions shall be allocated each spouse based on the percentage described above. State taxes are to be allocated in a manner consistent with Revenue Rulings 80-6 and 80-7.¶¶~~

~~(10) For Oregon's exemption deduction and/or credit, each spouse may claim his or her own personal exemption. Each spouse may also claim dependents based on provision of support or a spousal agreement.¶¶~~

~~[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]~~

~~Statutory/Other Authority: ORS 305.100~~

~~Statutes/Other Implemented: ORS 316.007~~

AMEND: 150-316-0035

RULE SUMMARY: Update rule to correct definitions, correct instructions for nonresidents and part-year residents, add tables to the examples, clarify that Oregon follows federal carryback rules, and remove amnesty information that is no longer needed.

CHANGES TO RULE:

150-316-0035

Oregon Net Operating Losses - Treatment After 1984 ¶

(1) Applicability of this Rule.¶

~~(a)~~ This rule applies to the computation of a net operating losses (NOL) occurring in loss years beginning after December 31, 1984; and a net operating loss deductions (NOLD) allowed or allowable in tax years beginning after December 31, 1984.¶

~~(b) For the computation and application of Oregon net operating losses for loss years beginning before January 1, 1985; net operating loss deductions with regard to loss years beginning before January 1, 1985; and net operating loss carrybacks and net operating loss carryovers applied in tax years beginning before January 1, 1985 that also originated in tax years beginning before January 1, 1985, see OAR 150-316.007.¶~~

(2) Definitions for Purposes of this rule.¶

~~(a) Prohibited amounts.~~ "Prohibited amounts" means those amounts that the state of Oregon is prohibited from taxing, such as all stocks, bonds, Treasury notes, and other obligations of the United States as provided in 31 United States Code Section 3124. Prohibited amounts do not include such items as federally taxable social security benefits since Oregon is not prohibited from indirectly taxing such types of income and must be removed from any NOL calculation for Oregon.¶

~~(b) "Oregon Adjusted Gross Income (Oregon AGI)."~~ For a full-year resident, ~~Oregon AGI~~ is generally the same as federal adjusted gross income (federal AGI). For a nonresident, "Oregon AGI" means the items included in federal adjusted gross income AGI as defined in IRC Section 62 that relate to Oregon sources without modifications.¶

~~(c) "Modified Oregon Taxable Income."~~ "Modified Oregon taxable income" for a full-year resident is generally the same as federal taxable income as modified in IRC Section 172(d). For a nonresident, it means Oregon AGI reduced by the sum of the following:¶

~~(A) Oregon Federal itemized deductions.~~ For a resident, ~~Oregon itemized deductions are generally the same amount as federal~~ or standard deductions;¶

~~(i) Federal itemized deductions.~~ For part-year and nonresident taxpayers, ~~Oregon itemized deductions are only the Oregon percentage of federal itemized deductions;~~ ~~or~~¶

~~(B) Oregon are used; or~~¶

~~(ii) Federal standard deduction.~~ For part-year and nonresident taxpayers, only the Oregon percentage of the federal standard deductions can be is used;¶

~~(C) Federal personal exemption(s); and~~¶

~~(D) Prohibited amounts included in Oregon AGI.~~¶

(3) ~~Computation of an NOL for a~~ RNOL for a full-year resident.¶

(a) For Oregon purposes, a resident's ~~net operating loss~~ NOL is computed in the same manner as for federal purposes without Oregon modifications. Generally, the Oregon NOL is the same as the federal NOL. The only modification necessary is to subtract prohibited amounts.¶

(b) The computation of the Oregon NOL begins with the Oregon ~~adjusted gross income (AGI)~~ to arrive at modified Oregon taxable income. ~~Then the m~~ Modified Oregon taxable income is then adjusted as required by IRC Section 172(d).¶

Example 1. Susan and Joe filed joint 2009 federal and Oregon tax returns. On their federal return, they reported wages of \$26,000, a business loss of \$50,000, a gain on the sale of stock of \$400, and interest income of \$800 from a bank. They also reported total itemized deductions of \$12,800 which were all nonbusiness and claimed personal exemptions of \$7,300. On their Oregon return, Susan and Joe also reported \$500 municipal bond interest from

California that was exempt from federal income tax. Their allowable Oregon NOL is computed as follows:

[Formula not included. See ED. NOTE.]¶¶

Note: Except for prohibited amounts, the Oregon NOL is computed based on the federal NOL method and definitions without Oregon modifications.¶¶

Example 2. The facts are the same as in Example 1, except that the interest of \$800 is from U.S. government securities (prohibited amounts). The Oregon NOL for Susan and Joe is (\$24,800) computed as follows: [Formula not included. See ED. NOTE.]¶¶

Note: The U.S. government interest (prohibited amounts) is not used in computing Oregon NOL.¶¶

(4) Computation of an NOL for a Part-year Resident and a Nonresident¶¶

(a) A nonresident is allowed an Oregon NOL for any loss year when the NOL is attributable to Oregon sources. A taxpayer is not allowed an NOL or carryover on the Oregon return if the loss was incurred while the taxpayer was a nonresident and the loss was not attributable to Oregon. The computation of the allowable net operating loss for Oregon purposes begins with Oregon adjusted gross income as defined in this rule. Any modifications provided in IRC Section 172(d) apply to all items of income and deduction as they apply to modified Oregon taxable income with the exception of prohibited amounts.¶¶

(b) The IRC Section 172(d) modifications attributable to Oregon sources are the following:¶¶

(A) Oregon NOL deduction from prior years included in Oregon income after adjustments.¶¶

(B) Net Oregon capital loss deduction.¶¶

(C) Federal personal exemption amount.¶¶

(D) Excess of nonbusiness deductions over nonbusiness income included in modified Oregon taxable income.¶¶

Example 3. Herb and Sallie are married nonresidents and file a joint 2009 return. On their federal return, they have itemized deductions of \$14,000 (all nonbusiness) and claimed exemptions of \$10,950. They also had a business loss of \$25,000 from Oregon sources and \$1,000 non-Oregon source corporate bond interest. On their Oregon nonresident return, the Oregon percentage is zero (0). They compute their Oregon NOL as follows:

[Formula not included. See ED. NOTE.]¶¶

Note: The Schedule A itemized deductions are 0 for Oregon purposes because their Oregon percentage is zero.¶¶

(5) Application of an NOL.¶¶

(a) General rule. An Oregon net operating loss: [See PDF link below]¶¶

(4) Application of an NOL for a full-year resident.¶¶

(a) General rule. An Oregon NOL for any loss years is applied in the same manner as the federal net operating loss NOL as provided in IRC Section 172(b). If the loss was not attributable to Oregon sources and was incurred while the taxpayer was a nonresident, there is no Oregon NOL to carry over even if the taxpayer later becomes an Oregon resident. In such cases, the amount of the NOL carryover that is not attributable to Oregon sources is added back on the Oregon resident tax return. If a taxpayer carries back a federal NOL, the taxpayer is treated as carrying the loss back for Oregon purposes as well. If a taxpayer makes an election to carry over the federal NOL, the taxpayer is treated as making the same irrevocable election for Oregon purposes as well.¶¶

(b) Exceptions.¶¶

(A) If a taxpayer has an Oregon NOL but does not have a federal NOL, the taxpayer may elect to carry the Oregon NOL over to the next succeeding year, if the taxpayer make. This is an irrevocable election on the that a taxpayer makes on a timely filed Oregon loss year return (including extensions). If no such election is made, then the taxpayer may only carry the Oregon loss forward or back in the same manner as provided in IRC Section 172(b).¶¶

(B) If a taxpayer is not required to file an Oregon return for all years to which the federal NOL deduction (NOLD) is applied, the Oregon NOL is carried back to the year in which the loss may be first applied.¶¶

(C) The total number of years to which an NOL may be carried back or forward is the same for Oregon and federal; and is generally determined as follows:¶¶

(i) For net operating losses incurred in tax years beginning on or after January 1, 2003, the carry back period is two years with a twenty year carryover period. Oregon follows any exceptions allowed under federal law for these tax years.¶¶

(ii) For net operating losses incurred in tax years beginning on or after January 1, 2001 and before January 1,

2003, the carryback period is five years with a twenty year carryover period.¶¶

(iii) For net operating losses incurred in tax years beginning on or after August 5, 1997 and before January 1, 2001, the carryback period is two years with a twenty year carry over period.¶¶

(iv) For net operating losses incurred in tax years beginning prior to August 6, 1997, the carryback period is three years with a fifteen year carryover period. See IRC 172 and the related regulations for exceptions to the general carryback periods for net operating losses attributable to certain casualty losses, disaster areas and farming losses.¶¶

Example 4. Joe has a net operating loss for federal and Oregon (including exceptions and limitations).¶¶

Example 2: Kian has an NOL for federal and Oregon purposes for tax year 2009~~16~~. For federal purposes, Joe Kian carried his federal NOL back to 2007~~14~~. Since he carried back his loss for federal purposes, he must carry back the loss for Oregon purposes to his 2007~~14~~ Oregon tax return. If he is not required to file an Oregon tax return for 2007~~14~~, he may carry his Oregon NOL to his 2008~~15~~ Oregon tax return.¶¶

Example 5.3: Assume the same facts as in Example 4~~2~~. However, Joe Kian was not required to file an Oregon tax return prior to tax year 2009~~16~~. Kian may carry his Oregon NOL over to his 2010~~7~~ Oregon tax return even if the loss was carried back for federal purposes.¶¶

Example 6. As the result of a stimulus bill passed by Congress in 2009, Kerry~~4~~: Marc, an Oregon resident and small business owner, incurs a loss in 2016. He is eligible to carry back heris loss up to five~~three~~ years (instead of the normal two years). Kerry because the loss was due to fire. Marc chose to carry heris loss back five~~three~~ years on her is federal return, so she must use the same five~~three~~-year carry-back for purposes of heris Oregon return.¶¶

Example 7. Devin, a Washington resident, incurs a \$25,000 NOL in 2009 from his Washington area business and elects to carry the loss forward. Devin moves to Oregon on January 1, 2010. Since the loss was incurred while Devin was a nonresident of Oregon and the loss is not from an Oregon source, there is no Oregon NOL and Devin must make an addition on his 2010 Oregon return to add back the \$25,000 NOL included in federal adjusted gross income.¶¶

(6) A Net Operating Loss Deduction, Carryback and Carryover Amount.¶¶

(a) A taxpayer's net operating loss deduction ((5) NOLD carryback and carryover amount for a full-year resident.¶¶

(a) A taxpayer's NOLD), carryback, and carryover amount is computed in the same manner as for federal purposes. The method to compute the carryback and carryover amount is not modified for Oregon purposes.¶¶

(b) For a full-year resident, generally an NOLD, carryback, and carryover amount is the same as for federal purposes except that prohibited amounts as defined in section (2)(a) of this rule are not taken into consideration.¶¶

Example 8. John and Joyce incurred losses in 2009 from partnerships and S corporations. They compute an NOL of \$12,000 and elect to carry the loss back. The 2007 return shows negative taxable income, so the 2009 NOL is first applied to 2008 where the loss is completely absorbed. John and Joyce have a federal AGI in 2008 of \$50,000. The fully absorbed 2009 NOL is applied as follows: [Formula not included. See ED. NOTE.]¶¶

Example 9. Assume the same facts in Example 8, except that John and Joyce elect to carry forward the 2009 NOL for federal and Oregon purposes. In 2010, John and Joyce have federal AGI of \$15,000 and have reported additions of \$8,000 and subtractions of \$3,000. John and Joyce will apply the NOL to 2010 and compute the amount carried over to 2011 as follows: [Formula not included. See ED. NOTE.]¶¶

(c) A part-year resident and a 5: [See PDF link below]¶¶

(6) NOL for a part-year resident and a nonresident.¶¶

(a) A nonresident is allowed an Oregon NOL for any loss year when the NOL is attributable to Oregon sources. A taxpayer is not allowed an NOL or carryover on the Oregon return if the loss was incurred while the taxpayer was a nonresident and the loss was not attributable to Oregon. The computation of the allowable NOL for Oregon purposes begins with Oregon AGI as defined in this rule, which is generally income after federal adjustments in the Oregon column. ¶¶

(b) Next, calculate federal modified taxable income as it relates to Oregon. Starting with Oregon AGI, subtract federal itemized or standard deductions as multiplied by the Oregon percentage (as calculated on the Oregon return). Note: Federal exemptions are not required to be used in this calculation and may be ignored. Nonresident use the federal method without d, because they always have a net effect. ¶¶

(c) Add back any modifications, except that prohibited amounts are not taken into consideration, and the NOLD, carryback and carryover are based only upon amounts attributable to Oregon sources.

Example 10. In 2008, while residents of California, Ron and Valerie incurred losses from an Oregon partnership creating an Oregon only NOL in the amount of \$85,000. Prior to 2008, neither Ron nor Valerie needed to file Oregon returns. In 2009, Ron and Valerie moved to Oregon and filed a part-year Oregon return. They reported federal income after adjustments of \$385,000, Oregon income after adjustments of \$235,000, and itemized deductions of \$10,000. Ron and Valerie calculate their 2009 Oregon taxable income as follows: [Formula not included. See ED. NOTE.]

Example 11. Scott and Jill live in Vancouver, Washington and Scott operates a business in Oregon. In 2008, Scott and Jill filed a nonresident Oregon return reporting a provided in IRC Section 172(d) applied to all items of income and deduction included in Oregon AGI or federal deductions. The IRC Section 172(d) modifications attributable to Oregon sources are the following:

(A) Oregon NOLD from prior years included in Oregon income after adjustments.

(B) Net Oregon capital loss deduction.

(C) Excess of nonbusiness deductions over nonbusiness income that are from Oregon sources. Do not include the standard deduction or itemized deductions or non-Oregon items in this calculation.

(D) Nonbusiness federal itemized deductions or standard deduction multiplied by the Oregon percentage.

(d) Add back prohibited amounts as defined in this rule.

Example 6: [See PDF link below]

(7) Application of an NOL for a part-year resident and a nonresident.

(a) General rule. An Oregon only NOL of \$6,000. Scott and Jill elected to carry the NOL forward. In 2009, Scott and Jill reported Oregon income after adjustments of \$1,600, federal income after adjustments of \$32,000, and federal itemized deductions of \$9,200. Their Oregon itemized deductions are \$460 $[(\$1,600/\$32,000) \times \$9,200]$. Scott and Jill calculate their net operating loss deduction for 2009 and the carryover to 2010 as follows: [Formula not included. See ED. NOTE.] NOL for any loss years is applied in the same manner as the federal NOL as provided in IRC Section 172(b). If the loss was not attributable to Oregon sources and was incurred while the taxpayer was a nonresident, there is no Oregon NOL to carry over. If a taxpayer carries back a federal NOL, the taxpayer is treated as carrying the loss back for Oregon purposes as well. If a taxpayer makes an election to carry over the federal NOL, the taxpayer is treated as making the same irrevocable election for Oregon purposes as well.

(b) Exceptions.

(7A) Net Operating Loss Carrybacks to Amnesty Years A net operating loss deductif a taxpayer has an Oregon NOL but does not have a federal NOL, the taxpayer may elect to carry the Oregon (NOLD)-carried back to an amnesty return (as that term is defined in OAR 150-305.100-(C)) may not result in a refund of any tax reported and paid pursuant to the amnesty program. However, forward or back in the same manner as provided in IRC Section 172(b).

(B) If a taxpayer is not required to file an Oregon return for all years to which the federal NOLD ifs applied, the Oregon NOLD is carried back to a the year in which a taxpayer participated in amnesty, a refund that the loss may be first applied.

(C) The total number of years to which an NOL may be carried back or forward is otherwise allowed may be granted to the extent that the taxpayer has adequate income reported outside the amnesty program to absorb the loss (or portion thereof). A NOLD resulting in a denied refund due to participation in the amnesty program does not change the net operating loss deduction calculatio same for Oregon and federal (including exceptions and limitations).

Example 7: Barbara has an NOL for federal and Oregon purposes for tax year 2016. For federal purposes, Barbara carried her federal NOL back to 2014. Since she carried back her loss for federal purposes, she must carry back the loss for Oregon purposes to her 2014 Oregon tax return. If she is not required to file an Oregon tax return for the amount that can be carried to another tax year.

Example 12. Ed, an Oregon resident, qualified for amnesty in November 2009 and received penalty and interest relief for tax year 2005 under the program. Ed's original 2005 return (which was filed timely on April 17, 2006)

showed a tax liability of 2014, she may carry her Oregon NOL to her 2015 Oregon tax return.

Example 8: Assume the same facts as in Example 7. However, Barbara was not required to file an Oregon tax return prior to tax year 2016. Barbara may carry her Oregon NOL over to her 2017 Oregon tax return even if the loss was carried back for federal purposes.

Example 9: Devin, a Washington resident, incurs a \$205,000, which Ed paid when he filed his original 2005 return. The amended return for 2005 filed under amnesty increased his tax by an additional \$15,000 for a total of \$35,000 in Oregon tax liability. In tax year 2009 his business experienced a loss that created a net operating loss for tax year 2009. Ed elects to carry the loss back to tax year 2005 and amends his 2005 federal return. On June 1, 2010, he amends NOL in 2016 from his Washington area business and elects to carry the loss forward. Devin moves to Oregon on January 1, 2017. Since the loss was incurred while Devin was a nonresident of Oregon and the loss is not from an Oregon source, there is no Oregon NOL. Devin must make an addition on his 2005 17 Oregon return to claim the net operating loss deduction (NOLD). After applying the NOLD, Ed claims an Oregon refund of \$30,000 for 2005. (Ed's 2005 net tax liability has been decreased to \$5,000.) The department agrees with Ed's calculations but only allows a refund of \$20,000 because that is the amount of tax Ed paid for 2005 before the amnesty program. The refund is limited because the law add back the \$25,000 NOL included in federal AGI.

(8) NOLD carryback and carryover amount for a part-year resident and a nonresident.

(a) A taxpayer's NOLD, carryback, and carryover amount is computed in the same manner as for federal purposes. The method to compute the carryback and carryover amount is not modified for Oregon purposes.

(b) A part-year resident and a nonresident use the federal method without modifications, except that prohibits refund amounts of tax paid under amnesty. Ed's carryover of the NOLD is not changed because of the amnesty refund denial. Even though are not taken into consideration, and the NOLD, carryback and carryover are based only upon amounts attributable to Oregon sources.

Example 10: [See PDF link below]

Example 11: [See PDF link below]

[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).]

[ED. NOTE: Formulas referenced are available from 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

Statutes/Other Implemented: ORS 316.028

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

OAR 150-314-0035

Example 1: Susan and Joe filed joint 2015 federal and Oregon tax returns. On their federal return, they reported wages of \$26,000, a business loss of \$50,000, a gain on the sale of stock of \$400, and interest income of \$800 from U.S. government securities (prohibited amounts). They also reported total federal itemized deductions of \$12,800, which were all nonbusiness deductions, and claimed federal personal exemptions of \$7,300. On their Oregon return, Susan and Joe also reported \$500 municipal bond interest from California that was exempt from federal income tax. The Oregon NOL for Susan and Joe is (\$24,800) computed as follows:

Federal Tax Return

Wages	\$26,000
Interest from U.S. Securities	800
Schedule C loss	(50,000)
Schedule D stock gain	<u>400</u>
Federal AGI	(\$22,800)
Federal personal exemptions	(7,300)
Federal Schedule A deductions	<u>(12,800)</u>
Federal taxable income	<u>(\$42,900)</u>

Computation of Oregon NOL

Oregon AGI	(\$22,800)
U.S. Government Interest	(800)
Federal personal exemptions	(7,300)
Federal Schedule A deductions	<u>(12,800)</u>
Modified Oregon taxable income	<u>(\$43,700)</u>
Adjustments:	
Federal personal exemptions	7,300
All nonbusiness deductions	12,800
All nonbusiness income	<u>(1,200)</u>
Nonbusiness deductions in excess of nonbusiness income	<u>11,600</u>
Oregon NOL	<u>(\$24,800)</u>

Note: The U.S. government interest (prohibited amounts) is not used in computing their Oregon NOL. Except for prohibited amounts, the Oregon NOL is computed based on the federal NOL method and definitions without Oregon modifications.

Example 5: John and Joyce incurred losses in 2016 from partnerships and S corporations. They compute an NOL of \$12,000 and elect to carry the loss back. The 2014 return shows negative taxable income, so the 2016 NOL is first applied to 2015 where the loss is completely absorbed. John and Joyce have a federal AGI in 2015 of \$50,000. The fully absorbed 2016 NOL is applied as follows:

Federal AGI on the Oregon return to which the loss is carried	\$50,000
Standard or itemized deductions recomputed for revised federal AGI	<u>(15,000)</u>
Modified Oregon taxable income	<u><u>\$35,000</u></u>

Because their 2015 modified Oregon taxable income is greater than their 2016 NOL, John and Joyce are able to use the entire \$12,000 NOLD on their 2015 return.

Example 6: Herb and Sallie are married nonresidents and file a joint 2015 return. On their federal return, they have federal itemized deductions of \$14,000 (all nonbusiness) and claimed federal exemptions of \$10,950. They had a business loss of \$25,000 from Oregon sources. They also had \$1,000 of corporate bond interest (nonbusiness) that they won't use in the calculation because it's not from an Oregon source. On their Oregon nonresident return, the Oregon percentage is zero (-0-). They ignore the federal exemptions because of the net effect and compute their Oregon NOL as follows:

Oregon AGI		(\$25,000)
Federal Schedule A deductions	(\$14,000)	
x Oregon percentage	0.00%	
Oregon percentage of federal itemized deductions		<u>-0-</u>
Modified Oregon taxable income		(\$25,000)
Adjustments:		
Nonbusiness itemized deductions	14,000	
x Oregon percentage	0.00%	
Oregon percentage of nonbusiness itemized deductions		<u>-0-</u>
Oregon source nonbusiness deductions (except itemized)	-0-	
Oregon source nonbusiness income	<u>(-0-)</u>	
Oregon source nonbusiness deductions in excess of nonbusiness income		<u>-0-</u>
Oregon NOL		<u><u>(\$25,000)</u></u>

Example 10: In 2015, while residents of California, Ron and Valerie incurred losses from an Oregon partnership creating an Oregon-only NOL of \$85,000. Prior to 2015, neither Ron nor Valerie needed to file Oregon returns. In 2016, Ron and Valerie moved to Oregon and filed a part-year Oregon return. They reported federal income after adjustments of \$385,000, Oregon income after adjustments of \$235,000, and itemized deductions of \$10,000. Ron and Valerie calculate their 2016 Oregon taxable income as follows:

	Federal	Oregon
Income after adjustments	\$385,000	\$235,000
Less: NOLD	<u>(85,000)</u>	<u>(85,000)</u>
Modified income after adjustments	300,000	150,000
Plus: "Additions" per Oregon return	7,000	7,000
Less: "Subtractions" per Oregon return	<u>(5,850)</u>	<u>(5,850)</u>
Modified income	<u>\$301,150</u>	<u>\$151,150</u>
Oregon percentage: $\$151,150/\$301,150 = 50.2\%$		
Less: Standard or itemized deductions recomputed for federal AGI	(\$20,000)	
Federal tax subtraction	<u>(5,850)</u>	
Total income as revised	<u>\$275,300</u>	

Example 11: Scott and Jill live in Vancouver, Washington, and Scott operates a business in Oregon. In 2015, Scott and Jill filed a nonresident Oregon return reporting an Oregon-only NOL of \$6,000. Scott and Jill elected to carry the NOL forward. In 2016, Scott and Jill reported Oregon income after adjustments of \$1,600, federal income after adjustments of \$32,000, and federal itemized deductions of \$9,200. Their Oregon itemized deductions are \$460 $[(\$1,600/\$32,000) \times \$9,200]$. Scott and Jill calculate their NOLD for 2016 and the carryover to 2017 as follows:

NOL carryover		(\$6,000)
Oregon income after adjustments on return in year to which loss is carried	\$1,600	
Add: Oregon capital loss deduction	<u>-0-</u>	
Modified Oregon AGI as revised	1,600	
Less: Prohibited amounts	-0-	
Oregon percentage of itemized deductions recomputed for revised federal AGI	<u>(460)</u>	
Modified Oregon taxable income (NOLD for 2016)		<u>\$1,140</u>
Carryover of NOLD available for 2017		<u>(\$4,860)</u>

AMEND: 150-316-0181

RULE SUMMARY: Due to recent changes in federal tax law, the moving expense deduction will only be allowed for active-duty military personnel, and in certain limited cases, their spouses. As a result of these changes, which are in effect for tax years from 2018 through 2025, the rule is modified to reflect the changes.

CHANGES TO RULE:

150-316-0181

Moving Expense Deduction - for Part-year and Nonresidents ¶¶

(1) A moving expense deduction will be allowed only if it applies to taxable years beginning prior to January 1, 2018 and the requirements described in subsection (2) are met. For tax years beginning after December 31, 2017 and before January 1, 2026, only active-duty military personnel may claim a deduction if the requirements described in subsection (2) are met. ¶¶

(2) To be deductible from the Oregon portion of federal adjusted gross income, moving expenses must be connected with employment within Oregon. Thus, for a part-year or nonresident taxpayer, the moving expenses incurred are deductible only if the taxpayer's new principal place of work is within Oregon. Moving expenses incurred by a part-year or nonresident taxpayer for the purpose of beginning work at a new principal place of employment outside of Oregon are not deductible. ¶¶

Example 1: Matt moves from Oregon to California to begin work there. The moving expenses are not deductible. ¶¶

Example 2: Paul moves from Utah to Oregon to begin work in Oregon. The moving expenses are deductible. ¶¶

Example 3: Sally moves from Oregon to Washington to begin work in Oregon. The moving expenses are deductible. ¶¶

Example 4: Greg moves from Nevada to Washington to begin work in Oregon. The moving expenses are deductible. ¶¶

Example 5: Anne moves from Montana to Oregon to begin work in Washington, lives in Oregon temporarily and then settles in Washington. The moving expenses are not deductible. ¶¶

Example 6: Sue moves from Florida to Oregon to begin work in Idaho. While the expenses are not related to Oregon employment, they are deductible if they were paid after Sue became a full year resident of Oregon.

Reimbursement of moving expenses shall be included in the Oregon portion of federal adjusted gross income if the moving expenses are connected to Oregon employment. ¶¶

Example 7: John moves from California to Oregon to begin work in Oregon. His employer reimburses him \$10,000, which includes \$4,000 of qualified moving expenses under IRC 132. John includes \$6,000 of income in the Oregon portion of federal adjusted gross income. The reimbursement of \$4,000 is not included in income and is not claimed as a deduction.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 316.127

ADOPT: 150-316-0607

RULE SUMMARY: Inform financial institutions of additional items required on annual statements for first-time home buyer savings accounts allowed under Oregon Laws 2018, Chapter 109. Specify a time limit for transfers from one first-time home buyer savings account to another account for the account holder to avoid penalty or addition.

CHANGES TO RULE:

150-316-0607

First-time Home Buyer Savings Account

(1) Annual statement. Financial institutions must issue an annual statement (or certificate) to each account holder at the end of each calendar tax year, by January 31 of the following year. The annual statement must include all transactions that occurred during the calendar year, along with the following information:¶

(a) A title or account type indicating that the account is a first-time home buyer savings account;¶

(b) The name of the account holder, or account holders if a joint account; ¶

(c) The date the account was created;¶

(d) The date and amount of each deposit into the account during the calendar year;¶

(e) The date and amount of each withdrawal from the account during the calendar year;¶

(f) The amount of earnings accumulated in the account; and¶

(g) The balance of the account at the beginning and end of the calendar year.¶

(2) Transfers. ¶

(a) An account holder cannot have more than one first-time home buyer savings account at a time. ¶

(b) An account holder may withdraw funds from a first-time home buyer savings account and deposit the funds into a new first-time home buyer savings account at the same or a different financial institution. To avoid the penalty for early withdrawal (five percent of the withdrawal) and the requirement to add back previously subtracted amounts, transfer of funds withdrawn from the existing account into the new account must be completed within 60 calendar days of the withdrawal. If all of the funds are not transferred into the new account, the account holder may avoid the penalty and add back on the funds kept in the old account if those funds are spent on eligible costs within the 60-day period or if the account holder is exempt from imposition of the penalty.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: Oregon Laws 2018, Chapter 109

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/29/2018 12:48 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Senior Deferral, Property Tax Valuation, Boundary Changes, Vertical Housing, Oil and Gas

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

150-307-0800 – In 2017, legislation transferred administration of the Vertical Housing Development Zone (VHDZ) program from Oregon Housing and Community Service (OHCS) to cities and counties. Due to the result of 2017 statute change, OHCS has taken steps to repeal all the rules it promulgated to administer the VHDZ program. This new rule retains and rewrites some of their rules according to the language change of the statute as some of the rules would remain helpful to administer the VHDZ program for the cities, counties, and county assessors.

150-308-0120 - In 2015, the legislature changed the word "demolishment" in ORS 308.146(8) to "demolition." Program would like to change the word "demolishment" in our rule to "demolition" to match the statute.

150-308-0220 - The last sentence of this rule reads, "The new MAV of the disqualified portion is the RMV multiplied by the appropriate changed ratio." It should read, "The new MAV of the disqualified portion is the RMV multiplied by the appropriate changed property ratio." Program would like to add the word "property" to make it "changed property ratio."

150-308-0310 - In 2016, the department renumbered OAR 150-308-0205-(A) to 150-308-0240. The reference to this rule needs to be corrected and removing the expired references in section (9).

150-308-0355 - ORS 308.225 requires taxing districts to submit a legal description and map to the department for approval before the boundary change can be recognized on the tax roll. This rule will define the words "final" and "final approved form" as they appear in the statute. Second, is to identify which map should be provided to districts on which to show the boundary change, and the specific elements that must be shown on the map.

50-311-0240 - The rule provides the requirements and methodology to correct maximum assessed value when the assessor's records contain an error in square footage. Due to a legislative change in 2015, a simpler but mathematically equivalent methodology than prescribed by the rule is available. The rule is being amended to allow for the simpler methodology

150-311-0690 - This rule amendment is intended to clarify the criteria for collection from transferees of tax-deferred property.

150-324-0025 - Remove language allowing a producer to file on behalf of the purchasers. This provision is not covered in the ORS.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes and Oregon Administrative Rules, both of which are available online or from the Agency.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal or economic impact due to these rule changes. The statutes implemented are what cause the impact.

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 minimis effect on the counties and the public. These changes tend to be clarifying or interpretive in nature and do not affect the cost to comply.

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 number of employees, we estimate Oregon has approximately 91,848 small businesses with fewer than 50 employees*** who are subject to these rules.

b. There is a de minimis affect on those subject to the rules, as these changes tend to be clarifying or interpretive in nature and does not affect projected reporting, record-keeping or other administrative activities, or costs.

c. None known.

*Oregon Small Business Development Center Network www.bizcenter.org/about/our-impact

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

***Oregon Department of Revenue Research Section, 10-14-2013 Wage file extract 2012 tax year

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

We communicated and worked with small business liaison groups such as the Oregon State Bar Tax Section and the Oregon Rental Housing Association to obtain their input into how these rules will affect their clients, some of whom are small businesses. We also reached out to the Oregon State Association of County Assessors, Oregon Association of County Engineers and Surveyors, Professional Land Surveyors of Oregon, League of Oregon Cities, Special District Association of Oregon, Oregon School Boards Association, and Metro for their input into how these rules would affect the community.

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

The Department of Revenue did not use a formal Advisory Committee for these rules; however, we did seek and receive input from industry representatives as well as from the counties and other taxpayer groups on these rule changes. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

RULES PROPOSED:

150-307-0800, 150-308-0120, 150-308-0220, 150-308-0310, 150-308-0355, 150-311-0240, 150-311-0690, 150-324-0025

ADOPT: 150-307-0800

RULE SUMMARY: To define the term "residential use" in relation to the vertical housing property tax exemption program, and to provide clarification on how newly formed or annexed districts can opt out of the vertical housing exemption, and limits on vertical housing project and zone boundaries.

CHANGES TO RULE:

150-307-0800

Vertical Housing Development Zone Program

(1) "Residential use" means regular, sustained occupancy of a residential unit in the project by a person or family as the person's or family's primary domicile, but not units and related areas used primarily as:

(a) Hotels, motels, hostels, rooming houses, bed and breakfast operations or other such transient accommodations; or

(b) Nursing homes, hospital-type in-patient facilities or other living arrangements, even of an enduring nature, where the character of the environment is predominately care-oriented rather than solely residential; or

(c) Nonresidential use as defined in ORS 307.841(5).

(2) A new district that forms after the approval of a vertical housing development zone (VHDZ), or a district that annexes territory that is included in an existing VHDZ may opt out of participating in a VHDZ. To opt out, the district must provide:

(a) Written notice to the assessor and VHDZ city or county post-marked on or before a due date set by the city or

county by rule; and¶

(b) A copy of a resolution or other appropriate official instrument duly adopted and issued by the governing body of the district affirming its decision to opt out of the VHDZ designation.¶

(3) In the application for exemption under ORS 307.857, proposed projects must be described in terms of entire tax lots. Certified projects may not include partial tax lots. ¶

(4) VHDZ boundaries may not overlap. A project may only be located in one VHDZ.¶

(5) For purposes of calculating the partial property tax exemption, the equalized floor quotient is rounded down to the nearest whole number reflecting only fully equalized floors.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 307.841 - 307.867

AMEND: 150-308-0120

RULE SUMMARY: In 2015 the legislature changed the word "demolishment" in ORS 308.146(8) to "demolition." The department is changing the word "demolishment" in its rule to "demolition" to match the statute. Also updating language in the example in section (3).

CHANGES TO RULE:

150-308-0120

Reduction of Maximum Assessed Value (MAV) When a Building is Demolished or Removed ¶¶

(1) As used in ORS 308.146(8)(a), "reduction in real market value" means the total real market value (RMV) after adjustment is less than it would otherwise have been, had the ~~demolishment~~ demolition or removal not occurred.¶

(2) As used in section (3) of this rule, the "year" in which the RMV is reduced due to ~~demolishment~~ demolition or removal is either:¶

(a) The assessment year, or¶

(b) The tax year, if RMV is determined as of July 1 under ORS 308.146(6).¶

(3) When a building is demolished or removed, use the following procedure to adjust the maximum assessed value (MAV) for the year in which the ~~demolishment~~ demolition or removal is reflected by a reduction in RMV.¶

~~Not~~ Example: An example is incorporated into the steps with the following assumptions:¶

2007-08 MAV = \$87,379¶

2007-08 (1-1-07) total RMV = \$100,000.¶

2007-08 AV = \$87,379.¶

There is no market trending in this area.¶

On September 1, 2007 the house is demolished. The RMV of the house for 1-1-07 was \$75,000.¶

Step 1: Perform the 103% test as if the property had not changed. Multiply the prior year assessed value (AV) by 1.03. Compare the result to the prior year MAV to determine the larger amount. The larger amount becomes the current year MAV (unadjusted) as if the account had not changed.¶

Larger of: Prior year AV x 1.03 or prior year MAV = current year MAV of unchanged account.¶

~~Example~~ Outcome of step 1: Larger of: \$87,379 x 1.03 = \$90,000 or \$87,379. Current year MAV = \$90,000.¶

Step 2: Determine the prior year RMV for the affected portion. The affected portion is the building or buildings that were demolished or removed. The RMV of the loss is the RMV of the affected portion.¶

~~Example~~ Outcome of step 2: RMV of affected portion = \$75,000.¶

Step 3: Determine the prior year RMV for the unaffected portion. Subtract the RMV of the affected portion (from Step 2) from the prior year total RMV to determine the RMV of the unaffected portion.¶

Prior year total RMV - RMV of the affected portion = RMV of the unaffected portion.¶

~~Example~~ Outcome of step 3: \$100,000 - \$75,000 = \$25,000.¶

Step 4: Determine the percentage of the unaffected property. Divide the RMV of the unaffected portion (from Step 3) by the total prior year RMV to determine the percentage of the unaffected property.¶

RMV of the unaffected portion / total prior year RMV = percentage of the unaffected property.¶

~~Example~~ Outcome of step 4: \$25,000 / \$100,000 = 25%¶

Step 5: Determine the MAV that has been adjusted to reflect the loss. Multiply the unadjusted MAV (from Step 1) by the percentage of the unaffected property (from Step 4) to determine an MAV that has been adjusted to reflect the loss from ~~demolishment~~ demolition or removal (MAV attributable to the unaffected portion only).¶

Unadjusted MAV x percentage of unaffected property = MAV adjusted to reflect the loss from ~~demolishment~~ demolition or removal.¶

~~Example~~ Outcome of step 5: \$90,000 x 25% = \$22,500.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 308.146

AMEND: 150-308-0220

RULE SUMMARY: To provide clarification in the last sentence of the rule, revising "changed ratio" to "changed property ratio".

CHANGES TO RULE:

150-308-0220

Exemption, Partial Exemption or Special Assessment Disqualification - Allocating MAV ¶

~~[Reserved]~~When an exempt, partially exempt or specially assessed property is disqualified after January 1 of the assessment year preceding the current assessment year and before January 1 of the current assessment year, a new MAV for the account must be calculated. The new MAV total will be the MAV of any unchanged portion and the new MAV of any disqualified portion. The new MAV of the disqualified portion is the RMV multiplied by the appropriate changed property ratio.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 308.156

AMEND: 150-308-0310

RULE SUMMARY: Correct reference rule numbering error in section (7)(a) and remove expired section (9).

CHANGES TO RULE:

150-308-0310

Real Market Value and Property Classification as Part of Assessment Roll ¶¶

(1) In addition to the assessed value of property, the assessment roll must show:¶¶

(a) The real market value (RMV) of the land, excluding all buildings, structures, and improvements thereon;¶¶

(b) The RMV of all buildings, structures, and improvements; and¶¶

(c) The total RMV for each parcel of real property not required to be assessed as a unit.¶¶

(d) For properties subject to ORS Chapter 100, for example, condominiums and time shares that are required to be assessed as a unit, the assessment roll must show the RMV as well as the assessed value of each unit.¶¶

(2) The assessment roll must include the property classification code number for each parcel of real property in the county, except for those properties assessed by the department under ORS 308.505 to 308.605. The assessor must classify and assign a property classification code number to each parcel as provided in section (8) of this rule.¶¶

(3) The assessor must maintain the proper classification on each parcel of property.¶¶

(4) A county must separately identify and adjust land and improvement values for each property class for each market area to bring real property to RMV. These adjustments to value must be developed from market studies or by any other method approved by the department as provided under ORS 309.200.¶¶

(5) The class code numbers that this rule establishes must be used for computing the real property class ratios required by ORS 309.200.¶¶

(6) An assessor must obtain written approval from the Department of Revenue before deviating from the basic property classes defined in section (8) of this rule.¶¶

(7)(a) All classification must be based upon highest and best use of the property. The term "highest and best use" is defined in OARs 150-308-02405(A) and 150-308-0205(D). The class associated with the property may or may not be its current use.¶¶

(b) Unique properties can be classified under the "miscellaneous" category in section (8). The "miscellaneous" category can also be used for property requiring a separate trend.¶¶

(c) The property classification system must not be used to categorize market data that is more accurately described by other characteristics, such as the quality class of the improvements, market areas, or neighborhoods.¶¶

(d) The property class for mixed-use or transitional properties will be assigned based upon the use that contributes the most to the real market value on the current assessment date.¶¶

(A) A mixed-use property is one in which different parts of the property are used differently, such as a commercial use on one part, and a residential use on another part.¶¶

(B) A transitional use property is one in which the real market value on the current assessment date, at its current highest and best use, is being influenced in the market by an anticipated change in future use, such as residential property that is likely to sell for a commercial use in the future, but is not in commercial use on the assessment date.¶¶

(8) DEFINITIONS FOR PROPERTY CLASSIFICATION SYSTEM. [~~Classification not included. See ED. NOTE.~~]¶¶

~~(9) Starting with the 2006-07 tax year, each assessor must prepare an annual plan that outlines how the county will comply with the provisions of this rule no later than the January 1, 2009 assessment date. The plan must be submitted as part of the sales ratio study and accompanying appraisal plan submitted under ORS 309.200 and 309.203. The plan must address how the county complies with, or intends to comply with the provisions of this rule for the initial tax year and all subsequent tax years up to the 2009-2010 tax year.¶¶~~

[~~ED. NOTE: Classification referenced is available from the agency. See PDF link below.~~]

Statutory/Other Authority: ORS 305.100, 308.215

Statutes/Other Implemented: ORS 308.215

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

OAR 150-308-0310

BASIC PROPERTY CLASSES

First Digit	Second Digit	Third Digit
0-Miscellaneous	0-No Significance	0-Vacant
1-Residential	1-Residential zone	1-Improved
2-Commercial	2-Commercial zone	2-Condominium
3-Industrial	3-Industrial zone	3-State responsibility
4-Tract	4-Unzoned farmland	4-Partially exempt
5-Farm	5-Exclusive Farm Use (EFU)	5-Taxable leased
6-Forest	6- Small Tract Forestland (STF)	6-Waterfront
7-Multi-family	7-Permanent Farm-Use (Disqualified due to ORS 215.236)	7-Mobile home parks
8-Recreation	8-Multiple special	8- (Left blank)
9-Exempt	9-Potential development	9-Manufactured Structure

1-0-0 Residential land only is an unimproved property that has residential use as its highest and best use, and the primary zoning is residential.

1-0-1 Residential property is an improved property that has residential use as its highest and best use. *2-0-0 Commercial land only* is an unimproved property that has commercial use as its highest and best use, and the primary zoning is commercial.

2-0-1 Commercial property is an improved property that has commercial use as its highest and best use. This highest and best use is as income-producing property. Examples of commercial property include, but are not limited to: retail stores, supermarkets, discount stores, department stores, convenience marts, financial institutions, office buildings, small retail laundries, dry cleaners, medical and dental office buildings, recreational vehicle parks, hospitals, restaurants, theaters, automobile service stations and truck stops, automotive service centers, parking garages, car dealerships, hotels, and motels.

3-0-0 Industrial land only is an unimproved property that has industrial use as its highest and best use, and the primary zoning is industrial.

3-0-1 Industrial property is an improved property that has industrial use as its highest and best use. Industrial property includes, but is not limited to, those properties described by ORS 306.126, OAR 150-306.126(1) and ORS 308.408. Industrial property is typically located in an industrial zone, but may be located in areas with other types of zoning, for example, if it is a pre-existing or conditional use. Property-use characteristics typically include assembly, processing or manufacturing products from raw materials or fabricated parts and includes factories that render service, for example, large non-retail laundries and dry cleaners. Examples of industrial property include, but are not limited to, steel plants, foundries, chemical plants, and assembly plants; saw mills, plywood plants, and wood pulp or paper mills; high technology facilities, research and development facilities, science parks, and light and heavy manufacturing facilities; storage and distribution warehouses; natural resource processing and refining facilities such as natural gas wells and rock quarries. Classification of property as industrial is a separate determination from appraisal responsibility. Department or county responsibility for appraising industrial property is described in OAR 150-306.126(1).

4-0-0 Tract land only is parcels of varying sizes of unimproved acreage where the highest and best use is for development to a suburban or rural homesite, but the land is not divided into urban-type lots.

4-0-1 Tract property is parcels of varying sizes of improved acreage where the highest and best use is for a suburban or rural homesite, but the land is not divided into urban-type lots.

5-0-0 Farm and range land is vacant land where the highest and best use is for the production of agricultural crops, feeding or management of livestock, or any other agricultural use, and the land is not specially assessed for farm use.

5-0-1 Farm and range property is land improved with buildings where the highest and best use is for the production of agricultural crops, feeding or management of livestock, or any other agricultural use, and the land is not specially assessed for farm use.

5-4-0 Non-EFU zone farm and range land is vacant land that is under special farm-use assessment by application.

5-4-1 Non-EFU zone farm and range property is land improved with buildings that is under special farm-use assessment by application.

5-5-0 EFU zoned farm and range land is vacant land that is under special farm-use assessment by zoning.

5-5-1 EFU zoned farm and range property is land improved with buildings that is under special farm- use assessment by zoning.

6-0-0 Forestland is vacant land with a highest and best use for growing and harvesting trees of a marketable species.

6-0-1 Forest property is land improved with buildings with a highest and best use for growing and harvesting trees of a marketable species.

6-4-0 Forestland is vacant land for which the highest and best use is one other than growing and harvesting of trees of a marketable species but the land has been designated as forestland by application.

6-4-1 Forest property is land improved with buildings for which the highest and best use is something other than growing and harvesting trees of a marketable species but the land has been designated as forestland by application.

6-6-0 Small Tract Forestland property is vacant land that is under special forestland assessment as Small Tract Forestland by application.

6-6-1 Small Tract Forestland property is land improved with buildings that is under special forestland assessment as Small Tract Forestland by application.

7-0-0 Multi-family land is unimproved land that has multiple housing (five or more living units) as its highest and best use, and the primary zoning is multi-family.

7-0-1 Multi-family property is an improved property that has multiple housing (five or more living units) as its highest and best use. Multi-family property includes property developed as a manufactured housing park.

8-0-0 Recreation land is unimproved land that has recreational use as its highest and best use.

8-0-1 Recreation property is an improved property that provides recreational opportunity as its highest and best use.

Use of Second Digit

0 - Indicates highest and best use and zoning are the same.

1, 2, 3 - Indicates highest and best use and zoning are nonconforming. Example: A property has an improved residence and its highest and best use is for residential use, but it is located in a commercial zone. The property class would be 1-2-1.

4, 5 - Indicates special assessment for farm-use and forest-use lands.

6 - Indicates special assessment for Small Tract Forestland.

7 - Indicates property permanently disqualified from farm or forestland use due to ORS 215.236 (non-farm dwelling).

8 - Indicates property carries more than one special assessment, for example, combination of farm-use and designated forestland or other combination of special assessments; or indicates government-restricted multi-unit rental housing that is specially assessed under ORS 308.701 – ORS 308.724.

9 - Indicates property has potential for further development, for example, it has been subdivided or it is sub-dividable.

Miscellaneous Property: Class 0-0-0

The first digit denotes the major class: Miscellaneous Property.

The second digit indicates the basic class to which the property relates:

0-0 Miscellaneous Property

0-1 Miscellaneous Residential

0-2 Miscellaneous Commercial

0-3 Miscellaneous Industrial

0-4 Miscellaneous Tract

0-5 Miscellaneous Farm

0-6 Miscellaneous Forest

0-7 Miscellaneous Multi-family

0-8 Miscellaneous Recreational

0-9 Miscellaneous Exempt

The third digit is unique to the class:

0- Unbuildable size, Department of Environmental Quality, easement or right-of-way

1- Improvement only

2- Mineral interest

3- Centrally assessed

4- Historic

5- Open space

6- (Left blank)

7- Timeshare property

8- Enterprise zone

9- Manufactured structure

0-0-9 Real property manufactured structure

0-1-9 Personal property manufactured structure

Exempt Property: Class 9-0-0

The first digit defines the property as exempt.

The second digit identifies the type of property or ownership:

9-0 Student housing

9-1 Church

9-2 School

9-3 Cemetery

9-4 City

9-5 County

9-6 State-owned

9-7 Federally owned

9-8 Benevolent, fraternal ownership

9-9 Port properties or other municipal properties

The third digit is unique to this class and acts as an additional identifier:

0- Vacant

1- Improved

2- Partially exempt

3- Taxable leased property

4- In lieu of value

5- Temporarily exempt

6- Native American holdings

7- (Left blank)

8- Mineral interest

9- Manufactured structure

Examples:

9-0-1 OSU student housing

9-1-2 Church property with for-profit bookstore

ADOPT: 150-308-0355

RULE SUMMARY: ORS 308.225 requires taxing districts to submit a legal description and map to the department for approval before a boundary change can be recognized on the tax roll. This rule defines the terms "final" and "final approved form" as they appear in the statute. This rule also provides guidance, identifying which map should be provided to districts on which the boundary change should be shown, and clarifies the specific elements that must be shown on the map.

CHANGES TO RULE:

150-308-0355

Filing Requirements for Boundary Changes

(1) A boundary change or a proposed boundary change is final when it is legally effective as determined by the person, legislative or administrative body with jurisdiction to approve the boundary change in accordance with the applicable boundary change statute.

(2) A legal description and an accurate map are filed in "final approved form" when the Department of Revenue can approve them with no amendments or corrections needed.

(3) The legal description submitted to the department must comply with the requirements set out in ORS 308.225(2)(b) and the following:

(a) The point-of-beginning of the legal description must be clear. The point-of-beginning is best described by bearing and distance from a section corner, a donation land claim (DLC) corner, or another well-monumented corner.

(b) Bearings and distances must be given for each course around the boundary description unless the description uses the alternatives in ORS 308.225(2)(b)(A)(i) through (vi) or those in ORS 308.225(2)(b)(B).

(c) If a deed reference is used as a point-of-call, a copy of the deed must also be submitted. The description must be consistent with or derived from the most recently recorded deed(s) for the affected property.

(d) Tax lot numbers cannot be used for the legal description.

(e) If the area is large, township, range and section numbers, and quarter-quarter sections may be used in the legal description.

(f) If a point-of-call is to a highway or county road, the description must state to which edge or to the centerline.

(g) If a point-of-call is to a river or stream, the description must state whether it is on the mean high water, mean low water, thread, ordinary high water, or ordinary low water line. The bearing requirement can be dismissed along rivers and streams.

(h) If the boundary change involves a whole county, then the description can refer to its statutory description. Example: "All of Wallowa County as described in ORS 201.320."

(4) The map required by ORS 308.225(2) must comply with the following:

(a) The base map(s) used must either be provided by the Department of Revenue or the county assessor, or downloaded from ORMAP.

(b) The map submitted by the district must contain sufficient information to allow confirmation that the map is a true and correct representation of the legal description.

(c) If a deed reference is used as a point-of-call in the legal description, the deed number must be included on the map.

(5) A taxing district that files a legal description and map for approval by the Department of Revenue must submit with them a copy of the ordinance, order, or resolution approving the boundary change.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 308.225

AMEND: 150-311-0240

RULE SUMMARY: The rule provides the requirements and methodology to correct maximum assessed value when the assessor's records contain an error in square footage. Due to a legislative change in 2015, a simpler but mathematically equivalent methodology than prescribed by the rule is available. The rule is being amended to allow for the simpler methodology.

CHANGES TO RULE:

150-311-0240

Procedure to Correct MAV When Square Footage Error Exists ¶¶

(1) For purposes of this rule, "Current RMV", as used in subsection (4)(b), is defined as the RMV for the tax year of the petition. For example, a petition submitted in August 2016 will use the roll values for the 2016-2017 tax year to calculate the adjustment.¶

(2) To correct the maximum assessed value (MAV) of a property for an error in square footage, the assessor must receive a petition from either the current owner of the property or other person obligated to pay taxes imposed on the property. The petition must be filed with the county assessor on or before December 31 of the current tax year on a form prescribed by the department.¶

(3) The correction to MAV by the assessor must be in proportion to the correction to RMV due to the error in square footage.¶

(4) The proportion of error and resulting MAV are calculated as follows by the assessor:¶

(a) For properties described by a single component (for example, land only), use the following procedure to adjust MAV.¶

~~NOTE~~Example A: An example is incorporated into the steps with the following assumptions:¶

The assessor's records show that a parcel has 435,600 sq. ft. (10 acres), when, in fact, it only has 392,040¶
sq. ft. (9 acres).¶

The existing RMV is \$80,000.¶

The corrected RMV is \$75,000.¶

The existing MAV is \$50,000.¶

Step 1: Divide the correct RMV by the RMV as currently shown in the assessment records to determine the proportional RMV correction.¶

~~Example~~Outcome: $\$75,000 / \$80,000 = 0.9375$.¶

Step 2: Multiply the proportional RMV correction (Step 1) by the existing MAV for the property to determine the corrected MAV for the property.¶

~~Example~~Outcome: $0.9375 \times \$50,000 = \$46,875$, which is the corrected MAV for the property.¶

(b) For properties described by multiple components (for example, land and buildings, or more than one building or structure, or buildings and machinery), use either the following procedure or the mathematically equivalent procedures in the short method or the long method in example B to adjust MAV.¶

~~NOTE~~Example B: An example is incorporated into the steps with the following assumptions:¶

A property consists of a 3-acre land parcel and two buildings.¶

Building 1 was incorrectly valued as having 2,000 square feet, when in fact it has only 1,500 square feet.¶

Current Real Market Value (RMV) of the building with the error is \$80,000.¶

Corrected RMV of the building with the error is \$65,000.¶

The square footage on the land and other building is correct.¶

The property's total RMV is \$400,000.¶

The property's total MAV is \$300,000.¶

Short method: Step 1: Divide the correct total RMV by the total RMV as currently shown in the assessment records to determine the proportional RMV correction.¶

Outcome: $\$370,000 / \$400,000 = 0.925$ ¶

Step 2: Multiply the proportional RMV correction (Step 1) by the existing MAV for the property to determine the

corrected MAV for the property.

Outcome of short method: $0.925 \times \$300,000 = \$277,500$, which is the corrected MAV for the property.

Long method: Step 1: Determine which component has the square footage error.

Example: Building 1 is the component with the error in square footage.

Step 2: Determine the portion of the property's total RMV that is contributed by the component with the square footage error.

Example: Building 1 RMV is given as \$80,000.

Step 3: Calculate the ratio of the RMV of the component with the error to the RMV of the entire property.

Example/Outcome: Building 1 RMV (\$80,000) divided by Total RMV (\$400,000) = 0.20.

Step 4: Multiply the property's total MAV by the ratio obtained from Step 3 to determine the MAV attributable to the component with the error in square footage.

Example/Outcome: $\$300,000 \times .20 = \$60,000$.

Step 5: Subtract the MAV attributable to the component with the error in square footage (Step 4) from the property's total MAV to determine the base MAV.

Example/Outcome: $\$300,000 - \$60,000 = \$240,000$.

Step 6: Divide the correct RMV of the component by the RMV of the component as currently shown in the assessment records to determine the proportional RMV correction ratio.

Example/Outcome: $\$650,000 / \$80,000 = 0.7625$.

Step 7: Multiply the proportional square footage error ratio (Step 6) by the MAV attributable to the component with the square footage error (Step 4) to determine the corrected MAV attributable to the component.

Example/Outcome: $0.7625 \times \$60,000 = \$45,037,500$, which is the corrected MAV attributable to the component.

Step 8: Add the corrected MAV attributable to the component (Step 7) to the base MAV (Step 5) to determine the corrected MAV for the entire property.

Example: $\$45,037,500 + \$240,000 = \$285,077,500$, which is the corrected MAV for the property.

(5) For a building that is valued by summing the individual value contributions from distinct portions of that building, the particular building portion affected by the square footage error may be considered as a separate component such as in (4)(b) example B above when making the correction to MAV. Examples of this type of building include but are not limited to a warehouse with attached offices or a house with an attached garage.

(6) Notwithstanding that a property's MAV has been corrected due to a square footage error, the corrected MAV remains subject to adjustments required by ORS 308.146 to 308.166.

(7) Roll corrections pursuant to ORS 311.234 are to be made using the procedures in 311.205.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 311.234

AMEND: 150-311-0690

RULE SUMMARY: This rule amendment is intended to clarify the criteria for collection from transferees on tax-deferred property.

CHANGES TO RULE:

150-311-0690

Timing and Repayment of Disqualified, Cancelled or Inactivated Accounts Under the Property Tax Deferral Program ¶¶

(1) The Department of Revenue will pay property taxes to the county on behalf of each applicant that has been approved for the property tax deferral programs under ORS 311.666 to 311.701. Once the application is approved, the department will pay the taxes each year for as long as the property and deferral program applicant remain eligible. A lien will be placed on the property. The department tax-deferred property account will include the deferred taxes, lien fees, and interest on the deferred taxes.¶¶

(2) ~~"Disqualification" means an account~~"Cancelled" means that the tax-deferred property has been removed from the deferral program at the written request of the tax-deferred property applicant, and not for reason of any of the events listed in ORS 311.684. ¶¶

(a) If a tax-deferred property account is cancelled prior to September 1, the department will not pay the current year taxes to the county on behalf of the deferral program applicant.¶¶

(b) The department will pay the current year taxes to the county on behalf of the deferral program applicant if a tax-deferred property account is cancelled on or after September 1.¶¶

(c) A cancelled tax-deferred property account may be paid in full at any time after cancellation but no later than as required by ORS 311.686.¶¶

~~(3) "Disqualified" means the tax-deferred property is no longer subject to property tax deferral and the department will no longer pay taxes on behalf of the applicant. ¶¶~~deferral program applicant. In addition, the department will send notice of disqualification to the applicant which includes a statement that repayment is required~~deferral program applicant requiring repayment of all deferred taxes, fees and interest by August 15 of the year following the calendar year in which any one of the following event~~events set forth in ORS 311.684 occurs.¶¶

~~(a) The applicant(s) dies;¶¶~~

~~(b) The property is sold or transferred and a person other than the applicant(s) ¶¶~~"Inactivated" means the department has determined that the deferral program applicant or tax-deferred property has become the owner of the property;¶¶

~~(c) The property is no longer the homestead of the taxpayer, except in the case the applicant(s) is required to be absent from the home due to medical reasons; or¶¶~~

~~(d) The property is a manufactured structure or floating home that is moved out of the state.¶¶~~

~~(3) "Cancellation" means that an account has been removed from~~ineligible for deferral of future property taxes due to failure to meet eligibility requirements. If a tax-deferred property account is inactivated, the department will send the deferral program applicant a notice of inactivation and not pay current or future year taxes to the county on behalf of the deferral program applicant, but the department's lien for deferred property taxes will remain on the property.¶¶

(5) The department will seek to collect a deferral debt from a transferee, as defined in ORS 311.666, in the following circumstances.¶¶

(a) The transferee is occupying or using the tax-deferred property following the deferral program at the written request of the applicant, and not for reason of any of the events listed in subsection (2) of this rule. plicant's death, including use of the property as a lessor, and is a potential recipient of the property under intestate succession or by devise. ¶¶

(ab) If an account is cancelled prior to September 1, the department will not pay the current year taxes to the county on behalf of the applicant.¶¶

~~(b) The department will pay the current year taxes to the county on behalf of the applicant if an account is cancelled on or after September 1.~~¶

~~(c) A cancelled account may be paid in full at any time after cancellation but no later than the date the transferee received the tax-deferred property from the estate of the deceased applicant, or~~¶

~~(c) The transferee received a right to the property by gift or assignment from an insolvent deferral program applicant.~~¶

~~(6) If a probate proceeding has been initiated, the department shall suspend collection activity under subsections (5)(a) and (b) until the homestead has been transferred out of the estate.~~¶

~~(7) Notwithstanding section (5), bona fide purchasers or a person or entity that receives property outside of an estate, such as by operation of law, are not considered transferees unless they fall within section 5(c).~~¶

~~(4) "Inactivated" means the department has determined that the applicant or property has become ineligible for deferral of future property taxes due to failure of transferees unless they fall within section 5(c).~~¶

~~(8) The department may collect from a transferee or transferees the lesser of the following:~~¶

~~(a) The amount of the balance due per the department's deferred property tax lien, including deferred taxes, interest and fees, or~~¶

~~(b) The positive amount remaining after subtracting outstanding debts under liens with higher priority than the department's deferred property tax lien from the real market value on the last certified property tax roll preceding the disqualifying event for the county in which the property is located.~~¶

~~(5) The department will release its lien on the tax-deferred property only after all deferred taxes, interest and fees that were deferred have been paid.~~¶

~~(a) Repayment of a disqualified account is due and payable to the department on or before August 15 of the year following the calendar year in which a disqualifying circumstance occurred.~~¶

~~(b) By itself, cancellation or inactivation of an account is not an event requiring repayment of all deferred taxes, interest and fees.~~

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 311.666, 311.684, 311.686, 311.695

AMEND: 150-324-0025

RULE SUMMARY: Remove language in section (2)(b) that allows a producer to file on behalf of the purchasers. This provision is not covered in ORS 324.110.

CHANGES TO RULE:

150-324-0025

Purchasers Filing Responsibility ¶

(1) "Purchaser" means the first purchaser of the gas regardless of the physical point at which ownership changes.¶

(2) A purchaser of gas shall remit the tax due for the calendar quarter of purchase to the department on or before May 15, August 14, November 14, and February 14 following the end of the first through fourth quarters of the calendar year respectively.¶

~~(a3)~~ A producer or other agent may pay the production tax on behalf of any or all purchasers of the taxable natural gas.¶

~~(Aa)~~ Such producer payments must identify the purchaser on whose behalf payment is being remitted and include a natural gas production tax return showing the calculation of the tax for each purchaser for whom payment is made.¶

~~(Bb)~~ Responsibility for timely payment remains with the purchaser as provided in ORS 324.110.¶

~~(Cc)~~ The purchaser shall be responsible for payment of interest in the event of late production tax payment.¶

~~(b)~~ A producer or other agent who is paying the production tax on behalf of any purchaser may also file, with the natural gas production tax return and payment, the purchaser's data report.¶

~~(A)~~ If the producer files the purchaser's data report, the purchaser's data report need not duplicate any information contained in the producer's data report for the same calendar quarter provided that both reports pertain to the same gas.¶

~~(B)~~ Responsibility for timely filing of the purchaser's data report remains with the purchaser as provided in ORS 324.120.¶

~~(3)~~ payment. ¶

~~(4)~~ A purchaser shall file with the quarterly tax payment the following reports using forms prescribed by the department:¶

~~(a)~~ Natural gas production tax return showing calculations of tax which that is being paid for the calendar quarter.¶

~~(b)~~ Purchaser's data report for the quarter. A purchaser may file, in lieu of the department data report, a true verified copy of the regular settlement sheet in use by the purchaser if it contains all the information required in ORS 324.120.¶

~~(45)~~ A purchaser's data report shall be made for each well which that produced any gas purchased by the reporting purchaser during the quarter covered by the report.¶

~~(56)~~ It is the producer's responsibility of the purchaser to obtain from the product to provide to the purchaser, on a timely basis, the required data so that the purchaser's data report may be filed with the quarterly remittance of the production tax.

Statutory/Other Authority: ORS 305.100, 324.320

Statutes/Other Implemented: ORS 324.050, 324.110, 324.120

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 3:57 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Employer reporting of statewide transit tax withheld, remove payer requirement to report statewide transit tax.

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

150-316-0305 – Amends rule to remove references to statewide transit tax subjectivity. HB 4059 (2018) removed provisions that subjected periodic payments (ORS 316.189) to statewide transit taxes in the codified law (ORS 320.550). Also, removes section (11) of this rule that refers to the exemption of withholding of “statewide transit taxes” to align with state income tax limitation of retirement income for nonresidents.

150-316-0359 – Amends rule to require employers to report statewide transit taxes withheld in Box 14 of the federal Form W-2. Further, this rule is amended to clarify requirements for employer to report income tax and statewide transit tax withheld on the annual reconciliation report in addition to clarifying payer requirement for only reporting state income tax withheld from periodic payments on the annual reconciliation report.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes, available online through Legislative Counsel.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal impact due to these rule changes. Rule amendments for OAR 150-316-0305 are necessary to conform with amendments to ORS 320.550 as a result of HB 4059 (2018) passing into law.

Rule amendments for OAR 150-316-0359 clarify the employer requirement to report statewide transit taxes withheld for each employee in Box 14 of the federal Form W-2 under ORS 316.202. The department also established the additional requirement for employers to report statewide transit tax withheld on an annual reconciliation report. Withholding added space to the Form OR-WR to provide one area both for electronic filing and paper filing (if there's a hardship provided). Additionally, HB 4059 (2018) removed the requirement for payers to withhold, report, and remit statewide transit taxes from periodic payments made under ORS 316.189. This rule required an amendment to remove a payer's statewide transit tax filing requirement on the annual reconciliation report (as amended in fall 2017 to conform to the law at that time).

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.

b. The laws that these rules clarify require additional projected reporting and recordkeeping which may increase administrative activities or costs. However, the department has enacted processes and requirements for filing returns and paying the statewide transit tax to mirror filing and payment requirements for state income tax withholding. Therefore, we expect a negligible effect on those subject to these rules as these changes tend to be clarifying or interpretive in nature.

c. None known.

*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

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 Department of Revenue did not use a formal Advisory Committee for these rules; however, we did seek and receive input from groups of industry representatives. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rules; therefore a committee is unlikely to provide further benefit.

RULES PROPOSED:

150-316-0305, 150-316-0359

AMEND: 150-316-0305

RULE SUMMARY: Amends rule to remove references to statewide transit tax subjectivity. HB 4059 (2018) removed provisions that subjected periodic payments (ORS 316.189) to statewide transit taxes in the codified law (ORS 320.550). Also, removes section (11) of this rule that refers to the exemption of withholding of "statewide transit taxes" to align with state income tax limitation of retirement income for nonresidents.

CHANGES TO RULE:

150-316-0305

~~Withholding Income Taxes and Statewide Transit Taxes~~ on IRAs, Annuities, and Compensation Plans ¶¶

- (1) The withholding of income taxes from commercial annuities, employer deferred compensation plans, and individual retirement plans is mandatory. However, an individual may elect, under certain circumstances, to have no withholding of income taxes. Such an election will remain in effect until revoked by the individual. ¶¶
- (2) An individual may not make an election to have no withholding of income taxes from the amount of a payment from a plan which is wages as defined in ORS 316.162. Therefore, an individual may not make an election if the individual is receiving payments from an employer deferred compensation plan as defined in IRC 457 or a nonqualified plan under IRC 403 if the contributions to the plan or payments from the plan are wages. ¶¶
- (3) The payer of any periodic payment must withhold income taxes as if the payment were wages using the withholding tables prepared and furnished by the department. The exemptions for state withholding purposes will be the same as listed on federal Form W-4P. If no withholding election form has been filed by the payee, the withholding status is single and the number of exemptions is zero. ¶¶
- (4) The payer of any nonperiodic distribution must withhold income taxes from such a payment at a rate of eight percent of the amount of money or the fair market value of other property received in the distribution. ¶¶
- (5) The minimum amount of income tax withholding per payee must be no less than 10 dollars per distribution. The payer is not required to determine benefits subject to Oregon tax when figuring income tax withholding. ¶¶
- (6) If an individual has elected to have no federal income tax withholding from payments or distributions, there must be no state income tax withholding unless the individual notifies the payer, in writing, otherwise. ¶¶
- (7) The payer must provide a form to each payee, prior to the first periodic payment, which must explain the payee's right to elect to have no income tax withheld. A completed form must be returned to the payer no later than 30 days after the mailing date. If the payee does not elect out of income tax withholding, it is the payee's responsibility to provide the payer with a completed Form W-4P which properly reflects the income tax withholding needed for Oregon purposes. If a completed Form W-4P is not provided, the payer must withhold income taxes as directed in sections (3) to (5) of this rule. A separate election form must be provided to the payee prior to each nonperiodic distribution. The election form must be returned to the payer no later than 30 days but can be returned as early as necessary to meet the date of distribution. If a completed form is not returned, the payer must withhold income tax at the established rate. The payer may use federal Form W-4P or a form that includes the same information as the Form W-4P. ¶¶
- (8) The payee may revoke the election to have income tax withholding or may change the amount of income tax withholding. The payee must send a written request to the payer using federal Form W-4P or an appropriate form

furnished by the payer. The revocation or change will be effective within 45 days after receipt by the payer. ¶

(9) The payer must be considered an employer and subject to the same income tax withholding rules as are imposed under ORS 316.162 to 316.212 for withholding of income taxes from wages. The department must provide appropriate forms, instructions and an account identification number necessary for reporting and remitting payments. ¶

~~(10) Except as provided in section (11) of this rule, the withholding of statewide transit taxes from commercial annuities, employer deferred compensation plans, and individual retirement plans is mandatory. The payer of any periodic payment must withhold statewide transit taxes, as required under ORS 320.550, as if the payment were wages paid by an employer to an employee. The department must provide appropriate forms, instructions, and an account identification number necessary for reporting and remitting payments. ¶~~

~~(11) Payers are not subject to withholding statewide transit taxes with respect to a periodic payment of retirement income, as defined in 4 USC section 114 that is made to an individual who is not a domiciliary or resident of Oregon at the time of the payment. ¶~~

[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, ~~320.550~~

Statutes/Other Implemented: ORS 316.189

AMEND: 150-316-0359

RULE SUMMARY: Amend rule to require employers to report statewide transit tax subject wages and taxes withheld in Box 14 of the federal Form W-2. Additionally, amending rule to clarify requirements for employer to report income tax and statewide transit tax withheld on the annual reconciliation report; in addition to clarifying payer requirement for only reporting income tax withheld from periodic payments on the annual reconciliation report.

CHANGES TO RULE:

150-316-0359

Withholding: Annual Report by Employer ¶¶

(1) Definitions. As used in this rule: ¶¶

(a) "Employer" has the meaning given that term in ORS 316.162 and also includes lenders, sureties, and other persons subject to withholding and reporting requirements under ORS 316.169. ¶¶

(b) "Payer" has the meaning given that term in ORS 316.189(1)(g). ¶¶

(c) "Payroll service provider" is any person that prepares payroll tax returns on behalf of another person for remuneration. ¶¶

(d) "W-2" means the federal Form W-2 required to be filed under 26 USC § 6051 with the addition of the information required under section (3) of this rule. ¶¶

(e) "Wages" has the meaning given that term in ORS 316.162. ¶¶

(f) "Periodic payment" has the meaning given that term in ORS 316.189(1)(h). ¶¶

(2) Withholding Statements. ¶¶

(a) Every employer or other payer must complete an individual withholding statement for each employee. The Oregon withholding statement must contain the same information as is required to be reported on a federal withholding statement including: ¶¶

(A) Total state and local wages; ¶¶

(B) State and local tax withheld during the calendar year; and ¶¶

(C) The Oregon business identification number of the employer. ¶¶

(b) The employer or other payer must use a federal withholding statement (W-2) for purposes of section (2) of this rule. If the employer or other payer is withholding from certain periodic payments, the employer or payer must use federal Form 1099-R for purposes of section (2) of this rule. ¶¶

(c) The employer or other payer must provide a copy of the withholding statement to the employee within 31 days of the close of the calendar year. If an employee is terminated and requests a copy of the withholding statement, the employer must provide the form to the employee within 30 days of either the request or the final wage payment, whichever is later. ¶¶

(d) The information in the withholding statement (W-2) must be filed electronically with the department. ¶¶

(e) Under ORS 314.385, the due date for electronic filing of W-2s for Oregon purposes is the same as the federal due date for electronically filed W-2s. ¶¶

(3) Employers must report statewide transit tax withheld in Box 14 of the W-2 with the designation ORSTT W/H in addition to the requirements in subsection (2)(a) of this rule. ¶¶

Example: ORSTT W/H - \$15.00. ¶¶

(4) Employer Reconciliation Reports (Form WR and Statewide Transit Tax Annual Report). ¶¶

(a) Every employer ~~or payer~~ must file a summary of total compensation ~~and periodic payments~~ paid, Oregon income tax withheld, and statewide transit tax withheld for each employee ~~or payee~~. Each reconciliation report must include a reconciliation of income tax and statewide transit tax remitted to the department by the employer ~~or payer~~ for the calendar year to the total of income tax and statewide transit tax withheld from employees' ~~or payees'~~ pay for the calendar year. ¶¶

(b) The reconciliation reports for income tax withholding and statewide transit tax must be filed electronically with the department. ¶¶

(c) If the reconciliation reports for income tax withholding and statewide transit tax are not filed within 30 days of

the department's notice to the employer ~~or payer~~ of a failure to file, a \$100 failure-to-file penalty applies for each instance. ¶

(d) If there is a difference between the amount paid to the department by the employer ~~or payer~~ and the amount withheld by the employer ~~or payer~~ from the employees' wages ~~or payees' periodic payments~~, the employer ~~or payer~~ must explain the difference on the report. ¶

(e) The due date for each reconciliation report is the same as the due date of the corresponding federal report for income tax withholding. If the employer ~~or payer~~ ceases doing business, each reconciliation report is due within 30 days of termination of business. ¶

(f) Subsection (34)(b) is effective for tax years beginning on or after January 1, 2017 for income tax withholding reconciliation reports. Subsection (34)(b) is effective for tax periods beginning on or after July 1, 2018, for statewide transit tax reconciliation reports.¶

(g) The department may grant an exception to the filing requirement in section (34) of this rule upon a showing of undue hardship. Undue hardship is based on the facts and circumstances specific to each employer and determined on a case-by-case basis. ¶

(5) Payer Reconciliation Reports.¶

(a) Every payer must file a summary of total periodic payments paid and Oregon income tax withheld for each payee. Each reconciliation report must include a reconciliation of income tax remitted to the department by the payer for the calendar year to the total of income tax withheld from payees' pay for the calendar year.¶

(b) The reconciliation report for income tax withholding must be filed electronically with the department.¶

(c) If the reconciliation reports for income tax withholding are not filed within 30 days of the department's notice to the payer of a failure to file, a \$100 failure-to-file penalty applies for each instance.¶

(d) If there is a difference between the amount paid to the department by the payer and the amount of income tax withheld by the payer from the payees' periodic payments, the payer must explain the difference.¶

(e) The due date for each reconciliation report is the same as the due date of the corresponding federal report for income tax withholding. If the payer ceases doing business, each reconciliation report is due within 30 days of termination of business.¶

(f) Subsection (5)(b) is effective for tax years beginning on or after January 1, 2017 for income tax withholding reports.¶

(g) The department may grant an exception to the filing requirement in section (5) of this rule upon a showing of undue hardship. Undue hardship is based on the facts and circumstances specific to each payer and determined on a case-by-case basis.¶

(46) Penalties. The department will assess penalties, as described in ORS 316.202(5), if an employer or other payer fails to file W-2s by the due date as required under subsection (2)(e) of this rule or the employer or other payer files incorrect or incomplete W-2s. ¶

(a) A W-2 is incorrect or incomplete if one or more of the following occur: ¶

(A) Identifying employee information is missing, such as the first or last name or social security number. ¶

(B) The W-2 contains an incorrect statement of state income tax withheld, federal income, or state income amounts. Obvious math or clerical errors are not considered an incorrect statement for this purpose. ¶

(C) Other information is missing or incorrect on the W-2. ¶

(b) An employer or other payer knowingly fails to file a W-2 by the due date if: ¶

(A)(i) The W-2 was not received by the department on or before the due date of the corresponding federal Form W-2 for the tax year under consideration; ¶

(ii) The employer or other payer has been assessed the penalty under ORS 316.202(5)(a) for one or more filing periods preceding the period at issue; and ¶

(iii) The employer or other payer fails to file the W-2 upon written request to file by the department; or ¶

(B) The department determines that the facts and circumstances in the particular case warrant penalty assessment. ¶

(c) An employer or other payer knowingly files an incomplete, false, or misleading W-2 if one or more of the following occur: ¶

- (A) The employer or other payer has a pattern of repeatedly filing incorrect W-2s; ¶
- (B) The employer or other payer failed to correct the W-2 upon discovering incorrect information; ¶
- (C) The employer or other payer issued a corrected W-2 upon written request of the department; ¶
- (D) The amount of the potential penalty is less than the cost of complying with the requirement to include correct information on the W-2; ¶
- (E) The department determines that the facts and circumstances in the particular case warrant penalty assessment. ¶
- (d) A penalty may be assessed under ORS 316.202(5)(b) even though a prior penalty assessed under ORS 316.202(5)(a) was waived under OAR 150-305-0062. ¶
- (5) If the employer or other payer fails to produce documentation to support the information on the W-2 or the number of W-2s required to be filed, the department will use the best information available to determine the appropriate penalty assessment amount. ¶

[Publications: Contact the Oregon Department of Revenue ~~to learn~~ 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

Statutes/Other Implemented: ORS 316.202, 320.550

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 4:39 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Vehicle use tax alternative filing format for certain taxpayers purchasing taxable motor vehicles outside Oregon

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

OAR 150-320-0430 is needed to provide the taxpayer an alternative to filing daily tax returns based on an estimated purchase price and later filing amended returns to correct the true purchase price reflecting the correct tax amount.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes available at www.oregonlegislature.gov

FISCAL AND ECONOMIC IMPACT:

The rule does not create any additional fiscal or economic impacts.

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, units of local government or the public.

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 number of employees, we estimate Oregon has approximately 91,848 small businesses with fewer than 50 employees*** who are subject to these rules.

b. The new rule does not impose any additional reporting, recordkeeping, or administrative activities beyond the current requirements for daily tax reporting and remittance. The new rule is intended to streamline and lessen the burden of more frequent reporting.

c. None known.

*Oregon Small Business Development Center Network www.bizcenter.org/about/our-impact

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

***Oregon Department of Revenue Research Section, 10-14-2013 Wage file extract 2012 tax year

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

We communicated with and are working with representatives of the impacted taxpayers, such as the Oregon State Bar Laws Committee 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 Department of Revenue did not use a formal Advisory Committee for this rule; however, we did seek and receive input from industry representatives. No Administrative Rule Advisory Committee was convened because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

ADOPT: 150-320-0430

RULE SUMMARY: This administrative rule will provide an alternative filing format for licensed Oregon dealers who submit title and registration application to DMV using the Electronic Vehicle Registration system, to report vehicle use tax owed on purchases of taxable motor vehicles from dealers located outside of Oregon.

CHANGES TO RULE:

150-320-0430

Vehicle Use Tax Alternative Filing Format

(1) A person with a valid vehicle dealer certificate issued under ORS 822.020 who participates in the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) Electronic Vehicle Registration (EVR) Program, may report vehicle use tax imposed by ORS 320.410, on form OR-591-D - Oregon Vehicle Use Tax Quarterly Return. ¶

(2) If a person described in section (1) of this rule elects to file a quarterly return, under ORS 305.229, the department will not impose a late payment or late filing penalty added to the amount of tax by ORS 314.400, unless the return is filed or payment is made later than the due date prescribed in ORS 320.445.

Statutory/Other Authority: ORS 305.100, 305.145, 305.229, 314.385, 320.480

Statutes/Other Implemented: ORS 305.145, 305.229, 314.385, 320.455, 320.480

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 4:29 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Financial Institution Data Match

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

150-305-0085 – ORS 305.094 requires the department to create rules describing certain components of the financial institution data match program. A temporary rule has been in effect since July 1, 2018.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes: 305.084-305.094, available online through Legislative Counsel.

FISCAL AND ECONOMIC IMPACT:

The rule does not create any fiscal or economic impacts. It makes permanent a temporary rule that has been in place since July 1, 2018.

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. The proposed rule has no impact to state agencies, units of local government or the public. The change makes

permanent a rule in place since July 1, 2018.

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.

b. Making the temporary rule for the financial institution data match program permanent (150-305-0085) does not add any new requirements than those under the temporary rule. The costs for administrative activities in implementing the financial institution data match program by financial institutions were anticipated in the statute and require reimbursement by DOR up to a certain cap.

c. None known.

*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

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 Department of Revenue did not use a formal Advisory Committee for this rule; however, we did seek and receive input from groups of industry representatives. For this rule the financial institution industry was specifically consulted in the development of the rule, as required by SB 254 (2017). No Administrative Rule Advisory Committee was convened because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

ADOPT: 150-305-0085

RULE SUMMARY: ORS 305.094 requires the department to implement rules describing the procedures 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. A temporary rule has been in affect since July 1, 2018. There is no proposed modifications to the temporary rule language.

CHANGES TO RULE:

150-305-0085

Financial Institution Data Match

(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 305.094, 305.100

Statutes/Other Implemented: ORS 305.084 - 305.094

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/26/2018 4:27 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Administrative Rulemaking Notices and Tie to DOJ Model Rules of Procedure under the APA

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.

CONTACT: Lois Williams
503-945-8029
RulesCoordinator.dor@oregon.gov

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):

150-183-0020: Update to tie department rulemaking processes to the most current version of the Department of Justice' Model Rules of Procedure under the Administrative Procedures Act.

150-305-0012: Repeal rule as unnecessary. Department rulemaking notice practices are aligned with ORS Chapter 183, the Administrative Procedures Act.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS Chapter 183; available online from Legislative Counsel.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal and economic impact from these changes. The department provides notices in line with statutory requirements (ORS Chapter 183). Additionally, the changes to the Model Rules of Procedure under the APA that the department plans to align with are minor procedural changes that do not have a fiscal or economic impact.

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 other state agencies, units of local government, or the public. Rulemaking notices are provided to interested persons per statutory requirements and in line with the Model Rules of Procedure under the APA. A different rule (OAR 150-183-0030) also informs interested parties of how to request notification of the department's intended rulemaking activities.

2.a. Oregon has approximately 120,500 small businesses with fewer than 250 employees* that employ 64% of the state's workforce**. Oregon has approximately 99,300 small businesses with fewer than 100 employees. Based on this information, we estimate Oregon has approximately 97,000 small businesses with fewer than 50 employees***. However, it is anticipated that no small businesses will be affected by these changes because these rule changes affect the department's actions in notifying interested parties about intended rulemaking actions. Small businesses and industries with small businesses will still receive notice of rulemaking activity, upon request, or through the Oregon Bulletin.

b. There are no costs of compliance to small businesses as a result of these rule changes.

c. None.

*Oregon Employment Department https://www.qualityinfo.org/-/most-oregon-employers-have-fewer-than-10-employees?utm_campaign=November2016&utm_medium=email&utm_source=newsletter&utm_content=Oregon%20Statewide

**[1,515,708-405,702-138,712](https://www.qualityinfo.org/-/most-oregon-employers-have-fewer-than-10-employees?utm_campaign=November2016&utm_medium=email&utm_source=newsletter&utm_content=Oregon%20Statewide)/[1,515,708](https://www.qualityinfo.org/-/most-oregon-employers-have-fewer-than-10-employees?utm_campaign=November2016&utm_medium=email&utm_source=newsletter&utm_content=Oregon%20Statewide)

***Oregon Employment Department <https://www.qualityinfo.org/documents/10182/79531/111616%20-%20Businesses%20by%20Size%20of%20Firm%2050%20or%20Fewer%20Employees>

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

Small businesses were not involved in the development of these rules, as the rule changes are not expected to have any impact to small businesses.

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

The department did not use a formal Advisory Committee for this rule, as it is anticipated that there will be little to no impact to taxpayers; the proposed rule changes impact the department's procedures in relation to the rulemaking process.

RULES PROPOSED:

150-183-0020, 150-305-0012

AMEND: 150-183-0020

RULE SUMMARY: Update to tie department rulemaking processes to the most current version of the Department of Justice' model rules under the Administrative Procedures Act.

CHANGES TO RULE:

150-183-0020

Oregon Attorney Generals Model Rules of Procedure Under the Administrative Procedures Act

The Department of Revenue, for its rulemaking functions, adopts the following Model Rules of Procedure under the Administrative Procedures Act as those rules were in effect January 1, 2006~~19~~:

- (1) Definitions, 137-001-0005;
- (2) Public Input Prior to Rulemaking, 137-001-0007;
- (3) Assessment for Use of Collaborative Process in Rulemaking, 137-001-0008;
- (4) Use of Collaborative Dispute Resolution in Rulemaking, 137-001-0009;
- (5) Permanent Rulemaking Notice, 137-001-0011;
- (6) Limitation of Economic Effect on Small Businesses, 137-001-0018;
- (7) Conduct of Rulemaking Hearings, 137-001-0030;
- (8) Rulemaking Record, 137-001-0040;
- (9) Agency Rulemaking Action, 137-001-0050;
- (10) Secretary of State Rule Filing, 137-001-0060;
- (11) Petition to Promulgate, Amend, or Repeal Rule, 137-001-0070;
- (12) Temporary Rulemaking Requirements, 137-001-0080;
- (13) Objections to Statements of Fiscal Impact, 137-001-0087;
- (14) Statement of the Objective of Proposed Rules, 137-001-0095.
- (15) Review of New Rules, 137-001-0100.

Statutory/Other Authority: ORS 183.341, 305.100

Statutes/Other Implemented: ORS 183.341

REPEAL: 150-305-0012

RULE SUMMARY: Repeal rule as unnecessary. Department rulemaking notice practices are aligned with Chapter 183, the Administrative Procedures Act.

CHANGES TO RULE:

~~150-305-0012~~

~~Notice of Rule Making~~

~~Prior to the adoption, amendment or repeal of any rule (except temporary rules adopted under ORS 183.335(5)), the Department of Revenue shall give notice of the proposed adoption, amendment or repeal:¶~~

~~(1) In the Secretary of State's Oregon Bulletin referred to in ORS 183.360, at least fifteen (15) days prior to the effective date.¶~~

~~(2) By mailing a copy of the Notice to persons on the Department of Revenue's mailing list established pursuant to ORS 183.335(7).¶~~

~~(3) By mailing or furnishing a copy of the notice to:¶~~

~~(a) Associated Press;¶~~

~~(b) The Capitol Press Room; and¶~~

~~(c) Persons and organizations which the department from time to time, and from its experience, knowledge and expertise, determines are interested persons under ORS 183.335(1)(a). A list of those persons and organizations, as amended from time to time, shall be maintained in the office of the Director of the Department of Revenue.~~

~~Statutory/Other Authority: ORS 305.100~~

~~Statutes/Other Implemented: ORS 305.100~~