

### **150-316.202(3)**

#### **Withholding: Annual Report by Employer**

(1) Definitions.

(a) "Employer" has the meaning given that term in ORS 316.162.

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

(2) Withholding Statements.

(a) Every employer 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 must use a federal withholding statement (Form W-2) for purposes of section (2) of this rule. If the employer is withholding from certain periodic payments as described in ORS 316.189, the employer must use federal Form 1099-R for purposes of section (2) of this rule.

(c) The employer must provide a copy of the withholding statement to the employee within thirty-one 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 (Form W2) must be filed electronically with the department as follows:

(A) If the employer has 250 or more employees, electronic filing of W2s is required beginning with calendar year 2009 information returns;

(B) If the employer has less than 250 employees and uses a payroll service provider, electronic filing of W2s is required beginning with calendar year 2009 information returns;

(C) If the employer does not use a payroll service provider and has:

(i) Less than 250 employees, electronic filing of W2s is required beginning with calendar year 2010 information returns.

(ii) Less than 50 employees, electronic filing of W2s is required beginning with calendar year 2011 information returns.

(e) Under ORS 314.385, the due date for electronic filing of W2s for Oregon purposes is the same as the federal due date for electronically filed W2s; March 31 following the close of the calendar year.

### (3) Reconciliation Reports (Form WR).

(a) Every employer must file a summary of total compensation paid and Oregon tax withheld for each employee. This report must include a reconciliation of tax remitted to the department by the employer for the calendar year to the total of tax withheld from employees' pay for the calendar year.

(b) If the reconciliation report is not filed within 30 days of the department's notice to the employer of a failure to file, a \$100 failure-to-file penalty applies.

(c) If there is a difference between the amount paid to the department by the employer and the amount withheld by the employer from the employees' wages, the employer must explain the difference on the report.

(d) The report due date is the same as the due date of the corresponding federal report. If the employer ceases doing business, the report is due within 30 days of termination of business.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.202

Hist.: 1-69 as 150-316.202(2); 11-73; 12-74; 12-19-75, Renumbered; RD 10-1983, f. 12-20-83, cert. ef. 12-31-83; RD 10-1984, f. 12-5-84, cert. ef. 12-31-84; RD 13-1987, f. 12-18-87, cert. ef. 12-31-87; RD 7-1992, f. & cert. ef. 12-29-92; RD 5-1993, f. 12-30-93, cert. ef. 12-31-93, Renumbered from 150-316.202(2)-(B); RD 7-1994, f. 12-15-94, cert. ef. 12-30-94; REV 7-1999, f. 12-1-99, cert. ef. 12-31-99; REV 16-2008, f. 12-26-08, cert. ef. 1-1-09