

Homeowners Associations

Purpose: The purpose of this Oregon Revenue Bulletin (ORB) is to inform you that the department intends to amend administrative rule 150-317.067 to provide additional guidance for homeowners associations on the Oregon filing requirements and the corporation minimum tax. However, this additional guidance in the rule won't be available until sometime this fall. Because you are filing returns now, this ORB also explains how to prepare or amend a return if you or your clients are impacted by the rule.

Tax program: Corporation Excise Tax

Statute(s) and rule(s): Oregon Revised Statute (ORS) 317.067, Oregon Administrative Rule (OAR) 150-317.067

Other references: Internal Revenue Code Section (IRC §) 528

Issue: A homeowners association that elects to be treated as a tax-exempt organization is subject to Oregon tax as a corporation under ORS chapter 317 when the association has taxable income.

Background: Per ORS 317.067, a homeowners association is subject to Oregon tax as a corporation when it has taxable income. Homeowners association taxable income is defined in OAR 150-317.067 as the taxable income of a homeowners association as determined for federal purposes pursuant to IRC § 528. A homeowners association that elects to be treated as a tax-exempt organization is subject to Oregon tax as a corporation under ORS chapter 317 if the association has positive taxable income as determined for federal purposes pursuant to IRC § 528.

Discussion: If a homeowners association that elects to be treated as a tax-exempt organization has positive taxable income, the association is subject to the greater of the calculated corporation excise tax or the minimum tax. However, if the allowed deductions exceed the gross income (excluding any exempt function income) the homeowners association is not required to file an Oregon Corporation Excise Tax Return (Form 20) and is not subject to the minimum tax.

Example: XYZ Homeowners Association reports gross income (excluding exempt function income) on its 2012 federal Form 1120-H of \$550. After subtracting the allowed deductions directly connected with the production of the gross income (excluding exempt function income) of \$475 and a specific deduction of \$100, the association does not have positive taxable income. XYZ Homeowners Association is not subject to Oregon tax as a corporation under ORS chapter 317. The association is not required to file an Oregon Form 20 for tax year 2012 and is not subject to the minimum tax. To elect tax-exempt status for 2012, XYZ Homeowners Association must submit a copy of the 2012 federal Form 1120-H that it filed with the IRS to the Oregon Department of Revenue no later than the time prescribed by law for filing the 2012 Oregon return.

Corporation minimum tax: The corporation minimum tax is based on Oregon sales. The minimum tax ranges in amount from \$150 for corporations with less than \$500,000 in Oregon sales to \$100,000 for corporations with Oregon sales of \$100 million or more. For homeowners associations, the minimum tax is computed based only upon the Oregon sales included in the gross income reported on the association's federal Form 1120-H (exempt function income is excluded).

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Filing amended returns: If a homeowners association did not have taxable income but incorrectly filed an Oregon Form 20 and paid the minimum tax, the association may be able to file an amended return to request a refund of the tax paid. Due to system limitations, amended homeowners association returns that are filed to request a refund of minimum tax must be processed manually. If you are filing an amended homeowners association return to claim a refund of minimum tax paid, please write “homeowners association – not subject to tax” in ink on the front of the amended Oregon Form 20.

Effect of this document: ORBs provide general information to the public and don’t replace the need for competent legal or accounting advice. ORBs don’t have the force or effect of law and are not binding.

Anyone using these publications should be alert for changes that may result from legislative action, court decisions, Attorney General opinions, or from enactments or amendments to Oregon Revised Statutes or Oregon Administrative Rules.

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Do you have a suggestion for a future ORB topic? Let us know at corp.tax.library@state.or.us.

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