NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED
10/25/2019 9:44 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Composite Tax Returns and Pass-through Entity Withholding

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/26/2019 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)

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

DATE: 11/26/2019
TIME: 9:00 AM - 11:00 AM
OFFICER: Assigned Staff
ADDRESS: Room 467; Revenue
Building
955 Center St NE
Salem, OR 97301

NEED FOR THE RULE(S):

150-314-0510 Amend the rule to align with statutory changes of ORS 314.778 in HB 2101 (2019).

150-314-0515 Amend the rule to conform to the statutory changes of ORS 314.778 in HB 2101 (2019) and to provide additional guidance on the new provisions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 314.778, OAR 150-314-0510, and OAR 150-314-0515. Available online or from the agency.
Oregon Laws 2019, chapter 132 (HB 2101). Available on Oregon Legislature's website.
Internal Revenue Manual Section 20.1.3.2.4 (Internal Revenue Manual Section 20.1.3.2.4).

FISCAL AND ECONOMIC IMPACT:

Although the amendments to the composite returns rules will have some fiscal and economic impact, the impact is due to the statutory change. 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. Any impact to nonresident owners of pass-through entities or the pass-through entities themselves, is due to changes to ORS 314.778, rather than the proposed changes to OAR 150-314-0510 and OAR 150-314-0515. Costs to state agencies, units of local government or the public are minimal in nature.

2.a. These rules affect business entities such as partnerships and S corporations and are commonly referred to collectively as pass-through entities (PTE). The rules will affect all types of industries. For a PTE to be subject to the composite rules, it must have at least one owner who is a nonresident.

To determine the number of small businesses as defined by ORS 183.310(10) subject to the rules, the department needs to know the number of W-2s and 1099s issued by the businesses. Information on W-2s and 1099s is not readily available for PTE employment outside of Oregon. Accordingly, the department cannot accurately estimate the number of small businesses that are subject to the rules. For this statement's purposes, the number of small businesses will be estimated using a proxy which is the number from Form OR-WRs that report more than 1 and fewer than 100 of W-2s and 1099s issued by the PTE. The number of small businesses is based on 2017 data. Out of 105,552 PTEs with Oregon addresses (Oregon PTEs), 219 filed composite returns and 26 of those filed OR-WRs with between 1 and 100 W-2s and 1099s as issued. Assuming a similar proportion of non-Oregon PTEs are small businesses, the department estimates the number of small businesses with nonresident owners electing to have composite returns filed that will be subject to the rules is less than 50.

b. These rule changes should place no new burdens for compliance. The administrative burden on businesses is largely dictated by the decisions made by the businesses' owners. If an owner elects to be included in a composite return, the business is required to file a return and pay the tax due regardless of the total number of owners electing to be included in the composite return or the amount of tax the business will pay on behalf of the owners.

c. No known or foreseen need for increase in equipment, supplies, labor and administration.

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

We communicated with business liaison groups such as the Oregon State Bar Tax Section's Laws Committee (Oregon Bar) and the Oregon Society of Certified Public Accountants (OSCPA) to obtain their input into how these rules will impact their clients, which include small businesses. These two organizations responded to the department's request for comments on the proposed rules. Both organizations expressed support of the department's recommended amendments. The department will continue to communicate and consult with these organizations, as well as with other organizations such as the AICPA and Council on State Taxation (COST).

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

The department did not use a formal Advisory Committee for these rules. The department did communicate and consult with the Oregon Bar and OSCPA and receive input from these groups as industry representatives. No Administrative Rule Advisory Committee was convened because the above mentioned groups 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:
150-314-0510, 150-314-0515

AMEND: 150-314-0510

RULE SUMMARY: Amend the rule to align with statutory changes of ORS 314.778 in HB 2101 (2019).

CHANGES TO RULE:

150-314-0510
Definitions for Composite Tax Returns and Pass-through Entity Withholding ¶

The following definitions apply for purposes of ORS 314.775 to 314.784, this rule, and OAR 150-314-0515 to 150-314-0525:¶
(1) "Apportionable income" means apportionable income as defined in ORS 314.610(1).¶
(2) "Corporate owner" is an owner that is a corporation taxed under ORS chapter 317 or 318.¶
(3) "Disregarded entity" is an entity that is not recognized as a separate entity for income tax purposes ~~and~~such that all items related to the entity are reported on the owner's income tax return. Examples of disregarded entities are:¶
(a) Single member limited liability company (LLC) that does not elect to be classified as an association under Treasury Regulation section 301.7701-2, and¶
(b) Grantor trusts.¶
(~~2~~4) "Distributive income" means the net amount of income, gain, deduction, or loss of a pass-through entity (PTE) for the tax year of the ~~entity~~PTE and includes those items directly related to the ~~entity~~PTE that are considered in determining the federal taxable income of the owner or, in the case of an owner that is a corporation, would be included in its federal taxable income if the corporation were an individual.¶
(~~3~~5) "Electing owner" means a nonresident owner that elects to participate in an Oregon composite tax return filed by a pass-through entity. ~~An electing owner also includes the nonresident~~When a disregarded entity owns an interest in the PTE, the "owner" refers to the owner of ~~a~~the disregarded entity.¶
(~~4~~6) "Modified distributive income" means the PTE's distributive income as defined in section (~~2~~4) of this rule~~, of a pass-through entity,~~ with the modifications provided in ORS ~~C~~chapter 316 and other Oregon law that directly relate to those items taken into consideration by the ~~pass-through entity~~PTE in arriving at its distributive income. Such modifications include, but are not limited to, any Oregon modification necessary for depreciation, depletion, or gain~~,~~ or loss ~~difference~~ on the sale of depreciable property, and any modification for federal tax credits, and do not include the federal tax subtraction, itemized deductions, and the Oregon standard deduction. Guaranteed payments are treated as an apportionable income component of the ~~entity~~PTE's distributive income and attributed directly to the owner receiving the payment.¶
(~~5) "Nonelecting owner" means a nonresident owner of a pass-through entity that is eligible, but does not elect to participate in a composite return and who is required to file an Oregon tax return.¶~~
~~(6~~7) "Oregon-source distributive income" means the portion of the ~~entity~~PTE's modified distributive income that is derived from or connected with Oregon sources. For ~~entitie~~PTEs operating in Oregon and one or more other states, Oregon-source distributive income is determined by attributing to Oregon sources that portion of the modified distributive income of the ~~entity~~PTE, as defined in section (~~4~~6) of this rule, determined in accordance with the allocation and apportionment provisions of ORS 314.280 or ORS 314.610 to 314.675.¶
(~~7~~8) "P~~ass-through entity~~TE" means any entity that is recognized as a separate entity for federal income tax purposes, for which the owners are required to report income, gains, losses, deductions, or credits from the entity for federal income tax purposes. Examples include:¶
(a) A partnership;¶

(b) An S corporation;¶
(c) A limited liability company that is treated as one of the above for tax purposes; and¶
(d) A trust that has been established or maintained primarily for tax avoidance purposes, including: an abusive tax shelter as defined in ORS 314.402, an entity subject to a penalty for promoting an abusive tax shelter under IRC section 6700, and a tax shelter as defined under IRC section 6662 and related Treasury regulations.¶
[Publications: Contact the Oregon Department of Revenue to learn how to obtain a copy of the publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and 183.355(1)(b).]
Statutory/Other Authority: ORS 305.100
Statutes/Other Implemented: ORS 314.775, 314.778

AMEND: 150-314-0515

RULE SUMMARY: Amend the rule to conform to the statutory changes of ORS 314.778 in HB 2101 (2019) and to provide additional guidance on the new provisions.

CHANGES TO RULE:

150-314-0515
Oregon Composite Tax Return ¶

(1)~~ General provisions.~~ A pass-through entity (PTE) doing business in or deriving income from sources within this state is required to file an Oregon composite tax return if requested by one or more ~~electing owners. Estimated tax payments are required for the composite return if the total Oregon tax due for any electing owner is expected to be $1,000 or more for an individual; or $500 or more for a corporation.~~nonresident owners. ¶
(a) Computation of tax. Each PTE filing a composite return on behalf of electing nonresident owners must calculate the tax for each ~~electing ~~owner. The tax liability for each ~~electing owner~~nonresident owner included on the composite return, determined without regard to the tax credits allowed under subsection (1)(b) of this rule, is calculated by applying the Oregon tax rates based on the owner's filing status to the difference between the owner's share of the entity's Oregon-source distributive income for the taxable year and, if applicable, the owner's self-employment tax deduction, as provided for in subsection (1)(b) of this rule. If distributive income is apportioned, the deduction must also be apportioned by multiplying the owner's federal deduction for one-half self-employment tax (attributable to the owner's share of the entity's net earnings from self-employment), if applicable, by the apportionment percentage provided in ORS 314.650 through 314.675. The PTE will report on the Oregon composite return the tax computed for each electing owner and total amounts for all electing owners.¶
(b) Credits and deductions. Below is a list of items that may or may not be allowed for the electing owners. [~~Table not included. See ED. NOTE.]¶~~
~~(c) Losses.¶~~
~~(A~~See PDF link below]¶
(c) Net operating losses for Oregon nonresidents subject to tax under ORS chapter 316 are computed under ORS 316.028. A PTE that has filed an Oregon composite tax return on behalf of nonresident individual owners may file amended returns to carry back the Oregon net operating losses incurred by the PTE. A schedule must be ~~attached to any return filed under these provisions~~retained by the PTE indicating the taxpayers affected and calculations of the loss amounts and made available to the department upon request. These losses may also be carried forward. The allowed carryback and carryforward periods (including elections to forego the carryback period) are the same as provided under Internal Revenue Code section 172. The election to forego the carryback period must be made by attaching a statement to the Oregon composite return filed on or before the due date (including extensions) of the return for the loss year. Corporations are not allowed to carry back a net operating loss (ORS 317.476).¶
(~~B~~2) ~~Any refund of tax made pursuant to an original or amended composite return filed under these provisions will be paid to the PTE, regardless of changes in ownership or changes in the identity of nonresidents participating in an Oregon~~Election to participate in an Oregon composite tax return. The following provisions apply:¶
(a) The owner must make a separate election for each tax year;¶
(b) The owner must have been a nonresident of Oregon during the owner's entire tax year;¶
(c) The owner is considered to have made the election on the date the PTE files the composite return that includes the owner;¶
(d) By making the election, the owner elects to have the owner's Oregon tax liability on the owner's share of distributive income from Oregon sources paid and reported by the PTE; ¶
(e) The owner is ultimately liable for tax, penalty and interest if the PTE fails to file a composite tax return or pay the tax on behalf of the owner; and¶
(f) The election to participate in an Oregon composite tax return is irrevocable after the due date of the composite return, including extensions.¶

Example 1: Rene, an Oregon resident, is included as an owner in a composite filing.~~¶~~
~~(2) E~~ Rene's election to participate i~~n an Oregon composite tax return. The following provisions apply:¶~~
~~(a) The owner must make a separate election for each tax year;¶~~
~~(b) The owner must not have been a resident of Oregon at any time dur~~s invalid because as an Oregon resident he may not join in the composite filing. Rene didn't include the income reported on the composite return on his return. Rene must notify the PTE of the invalid election and amend his Oregon return to include the income reported on the composite return. The PTE must amend the composite return to remove Rene's share of income. The PTE may submit a transfer request to move tax paid by the PTE on Rene's behalf to Rene's account. In the absence of the request from the PTE, the PTE will receive a refund for tax paid by the PTE on Rene's behalf.¶
Example 2: Edie, a full-year resident of Idaho, is a shareholder in D-Cat, Inc., which does business in Oregon. Edie is eligible to join in a composite return filed by D-Cat, Inc. On February 1, 2020, Edie informed D-Cat, Inc. that she wished to join in~~g~~ the ~~owner's tax year;¶~~
~~(c) The owner is considered to have made the election~~composite return for the 2020 tax year. Edie filed her Oregon return on April 14, 2021, forgetting she had elected to join in the composite return, and included her share of D-Cat, Inc.'s income on ~~the date the PTE files the composite return that includes t~~r return. D-Cat, Inc. is a calendar year S corporation filer and filed a timely extension for its S corporation's composite return. D-Cat, Inc. also filed a composite return on May 15, 2021, including Edie's share of D-Cat, Inc.'s income. Edie is allowed to revoke her electi~~ng owner;¶~~
~~(d) By making t~~on to participate in a composite filing up to the due date for the composite return, including extensions. To revoke her election, ~~the owner elects to have the owner's Oregon tax liability~~Edie must inform D-Cat., Inc. of her revocation, and D-Cat, Inc. must file an amended composite return no later than October 15, 2021, to remove Edie's share of D-Cat, Inc.'s income from their return. D-Cat, Inc. may include a payment transfer request with the amended return under section 5 of this rule. In the absence of a payment transfer request, any refund of tax paid ~~and~~in respo~~rted by the PTE; and¶~~
~~(e) An electing owner is ultimately liable for tax, penalty and interest if the PTE fails to file a~~nse to the amended composite return will be made to D-Cat, Inc. Alternatively, instead of revoking her election, Edie may amend her tax return to remove her share of D-Cat, Inc.'s income which was reported twice. ¶
Example 3: Using the same facts as in 2, except both Edie and D-Cat, Inc. filed original returns on October 15, 2021. Edie and D-Cat, Inc. had filed valid extensions. On October 31, 2021, Edie learns she is included in the composite return filed by D-Cat, Inc. Edie's participation in the composite return filed by D-Cat, Inc. became irrevocable on October 16, 2021. Edie's share of D-Cat, Inc.'s income is being reported twice, once on the return filed by Edie and again on the composite ~~tax~~ return ~~or pay the tax on behalf of the owner.¶~~
~~(f) An electing owner may be a d~~filed by D-Cat, Inc. Although Edie's share of D-Cat, Inc.'s income may not be removed from the composite return filed by D-Cat, Inc., she may amend her tax return to remove her share of D-Cat, Inc.'s income which was reported twice. ¶
(3)(a) Disregarded entit~~y~~ies. The PTE must look to the owner of ~~the~~a disregarded entity to determine whether the owner of the disregarded entity ~~will~~may choose to join in the composite filing.¶
Example ~~1~~4: Hermiston Partners is owned by four individuals, one grantor trust, and one single-member LLC. ~~Both of these owners are disregarded entities. Therefore,~~The trust and LLC are disregarded entities, and the owner of each disregarded entity is a nonresident. Hermiston Partners will look to the nonresident owner of each disregarded entity to determine if that nonresident owner may elect~~s~~ to join in the filing of a composite return. ¶
The grantor trust is owned by a nonresident individual. Hermiston Partners looks to the individual who owns the grantor trust. Hermiston Partners must allow the individual to join in the filing of the composite return. Hermiston Partners will use the individual's name and Social Security number on the composite return, not the name or tax identification number of the disregarded trust. If the individual doesn't join in the composite filing or file an affidavit, Hermiston Partners must send in estimated payments on the individual's behalf as required in OAR 150-314-0520.¶
The single-member LLC is ~~solely~~ owned by another partnership, Ontario LP. A partnership can't join in the filing of a composite return. Thus, Hermiston Partners cannot include Ontario LP in the composite return and is not

required to send in estimated payments on behalf of the LP. Ontario LP is the entity responsible for filing a composite return or sending estimated payments for its owners.¶
(~~3) Filing and payment requirements.¶~~
~~(a) Due date. The Oregon composite tax return is due the 15th day of the fourth month after the close of the tax year of the majority of the electing owners, in accordance with ORS 314.385~~b) Corporate owners.¶
(i) A corporate owner's distributive income may be included in a composite return only when its distributive share is not required to be included in the corporate owner's apportionable income. A PTE filing a composite return should assume a corporate owner's distributive share is required to be included in the corporate owner's apportionable income unless the corporate owner notifies the PTE in writing that it is not.¶
(ii) If it is determined by the department that the corporate owner's distributive share should be included in the corporation's apportionable income, the corporate owner's election to be included in the composite return is invalid. The corporate owner must notify the PTE, and the PTE may file an amended composite return for a refund of tax that was paid on the corporate owner's distributive share included in the composite return subject to the limitations provided in ORS 314.415. The PTE may file a transfer request to move the tax paid for the corporate owner to the owner's account instead of having the tax refunded to the PTE. In the absence of the amended return, the department may adjust the composite return subject to the limitations provided in ORS 314.415.¶
(iii) The PTE must include an indirect corporate owner's share of distributive income in the composite return unless the PTE can reasonably determine that the indirect corporate owner's share of income is required to be included in the indirect corporate owner's apportionable income. ¶
(iv) Income includable in an indirect corporate owner's apportionable income may be considered as reasonably determined if the PTE has received written notice from the indirect corporate owner that the indirect corporate owner's distributive share of income is required to be included in the indirect corporate owner's apportionable income. ¶
(4) Filing and payment requirements.¶
(a) Due date. The Oregon composite tax return is due the 15th day of the fourth month after the close of the tax year of the majority of the number of electing owners.¶
Example ~~2~~5: Around-the-Bend LLC (ATB) has a tax year ending June 30. The ~~electing owners~~nonresident owners that want to join in the composite filing consist of four individuals and three corporations. Because the individuals are all calendar year taxpayers, the majority of ~~the electing~~ owners have a calendar tax year which ends December 31. Therefore the composite return and any estimated payments are due using a calendar tax year. For t~~ax year~~he calendar tax year ending December 31, 20~~1~~20, the composite return will include the income reported by ATB for its ~~2009~~ tax year ending June 30, 20~~1~~20. The 20~~1~~20 composite return that ATB will file on behalf of its owners is due April 15, 20~~1~~21.¶
Example ~~3~~6: Coast Around Oregon Incorporated (CAO) is an S ~~C~~corporation with a tax year ending October 31. The ~~electing owners~~nonresident owners that want to join in the composite filing consist of 15 individuals~~, so they are~~ all calendar year taxpayers. For tax year 20~~1~~20, the composite return will include the income reported by CAO for its ~~2009~~ tax year ending October 31, 20~~1~~20. The 20~~1~~20 composite return that CAO will file on behalf of its owners is due April 15, 20~~1~~21.¶
(b) Payment of amounts due. Payment of the amount due is made by the PTE on the owner's behalf and must accompany the filing of the Oregon composite tax return~~ in accordance with ORS 314.395~~. The payment must include the tax due plus any penalty or interest provided by Oregon law.¶
(c) Refund of tax made pursuant to a composite return filed after the due date, including extensions and filed under these provisions will be paid to the PTE, except as provided in Section 5, regardless of changes in ownership or changes in the identity of nonresidents participating in an Oregon composite filing.¶
(d) Extensions of time to file. If the entity is granted a federal or Oregon extension of time to file the entity's return (partnership return or S corporation return), an extension for filing the Oregon composite return is allowed. This is true even if the composite return reports the income in a different tax year than the entity's partnership or S corporation return. The entity must keep a copy of the federal extension with its tax records. The extension to file the composite return is 6 months from the composite return due date~~ regardless of the length of extension the~~

~~entity received for its partnership or S corporation tax return~~.¶

Example ~~4~~7: Pendleton LLC filed for extension for its ~~2012 fiscal~~ tax year ending June 30, 20~~13 (2012~~21 (Form Year 2020 partnership return). The partnership return had an original due date of October 15, 2021~~3. Partnerships receive a 5-month extension so the due date with extension is March 15, 2014 for the partnership return~~. The owners of Pendleton LLC are calendar year filers. Therefore, they report the income ~~in tax year 2013. T~~for the calendar tax year that ends December 31, 2021. There is an extension of time to file a composite return on behalf of the nonresident owners that elect to participate in the 2021~~3~~ composite return filed by Pendleton ~~have an extension to file~~ because the partnership has an extension to file for the partnership return. The 2021~~3~~ composite return reporting this income is due April 15, 20~~14~~22; however, with the extension, it is due October 15, 20~~14~~22. The 6-month extension applies, even though the income is reported in a different tax year for the owners and Pendleton LLC received a~~ 5-month~~n extension for filing its partnership return.¶

(~~d~~e) A~~n electing~~ nonresident owner may file a separate tax return ~~without revoking the~~and elect~~ion~~ to join in the filing of a composite return. The income reported on the composite return is subtracted on the ~~electing~~ owner's separate return and tax is paid only on the Oregon~~-~~-source income not reported on the composite return.¶

(~~4~~5) Ineligibility or revoking an election to participate in a composite return.¶

(a) One or more owners may revoke the election to join in the Oregon composite tax return after the Oregon composite tax return has been filed~~. The revocation of the election must be made within three years from th~~ and before the due date of the ~~Oregon~~ composite ~~tax~~ return~~ was filed~~, including extensions. To revoke a previous election~~:¶~~

~~(A) T~~ and transfer tax paid:¶

(A) Upon notification of the revocation, the PTE must file an amended Oregon composite return removing the owner and request a transfer of any payment made on the owner's behalf to the ~~now nonelect~~revoking owner's account, and¶

(B) The revoking owner must file a separate return with the department showing all items of income and deduction from the PTE. ~~T~~If the owner did not previously file a return for the year, this separate return will be treated as an original return and, if filed after the due date, any tax liability shown on the return is subject to interest and penalties in the same manner as any other delinquently filed original return. ~~The decision to revoke a previous election by one or more owners has no effect on the~~¶

(b) If an owner becomes ineligible, revokes an election ~~of the remaining owners.¶~~

~~(b) If any of the owners becomes ineligible, revokes an elect~~before the due date of the return, including extensions, or declines to participate in filing an Oregon composite ~~tax~~ return, and the PTE made tax payments on the owner's behalf with a composite return, the PTE m~~ust~~ay submit a written transfer request ~~to~~using forms and instructions provided by the department. The department will transfer the tax payment to the account of the ~~nonresident~~ owner only if the ~~entity~~PTE submits such a written request to the department. ~~The request must contain:¶~~

~~(A) The name and federal employer identification number of the entity that made the tax payment(s);¶~~

~~(B) The name and social security number of the nonresident owner; and¶~~

~~(C) The specific dollar amount to transfer to the account of the owner.¶~~

Example 8: Tariq, a nonresident owner in an S corporation, filed his individual tax return on April 2. On his return he reported his share of the S corporation's income and paid the tax due. On May 2 Tariq learned he was included in the composite return filed by the S corporation. Tariq's share of the S corporation's income is being reported and taxed twice, once on his return and again on the composite return. Tariq decides to revoke his election to participate in a composite return and have his share of tax paid transferred to his own account. Tariq must notify the S corporation that he is revoking his election to participate in the composite return. The S corporation is a calendar year S corporation filer and filed a valid extension for the S corporation's composite return. The S corporation must file an amended composite return with the department by October 15, the extended due date of the composite return and request a payment transfer. The department will process the amended composite return and, as directed by the S corporation, transfer the amount paid on Tariq's behalf by the S corporation to his personal account.¶

Example 9: The facts are the same as in example 8, except that the S corporation didn't file an extension for the S

corporation's composite return. Tariq's election to participate in the composite return is irrevocable once the due date, April 15, for the composite return has passed. Tariq may amend his individual tax return to remove his share of the S corporation's income reported on the composite return. Tariq may not claim the composite tax paid on his behalf as a payment. That tax was paid on income reported on the composite return. ¶
(c) An owner who does not or cannot elect to participate~~, or who revokes a prior election,~~ in an Oregon composite tax return is subject to withholding on the owner's share of the Oregon source distributive income under ORS 314.781 and OAR 150-314-0520.¶
(~~5~~6) Payment of tax on behalf of ~~electing owners. An entity may be required to make quarterly tax payments to the department on behalf of all electing owners~~nonresident owners. Estimated tax payments are required for the composite return if the total Oregon tax due for any owner is expected to be $1,000 or more for an individual; or $500 or more for a corporation. The tax liability required to be paid is the sum of each ~~electing~~ owner's estimated tax liability for that quarter that is attributable to each owner's interest in the entity. In determining the electing owner's tax liability, the provisions of ORS 314.505 to 314.525 or 316.579 to 316.589 regarding calculation of estimated tax apply. The ~~entity~~PTE must remit the tax payments to the department using forms and instructions provided by the department.¶
[Publications: Publications referenced are available from the agency.]~~¶~~
~~[ED. NOTE: Tables referenced are available from the agency.]~~
Statutory/Other Authority: ORS 305.100
Statutes/Other Implemented: ORS 314.778

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

OAR 150-314-0515

Items that may or may not be allowed for the electing owners.

Item	Allowed	Not Allowed
Credits otherwise permitted nonresidents under ORS Chapter 315 or Chapter 316.		X
Self-employment tax deduction.	X	
State surplus refund provided under ORS 291.349, if applicable.	X	
Keogh contribution deductions.		X
Health insurance paid in connection with the partner's participation in the partnership.		X
Tax years 2010 and later: Credit for taxes paid to another state as allowed to individuals under ORS 316.131, unless allowed to Oregon residents filing a composite return in that state.		X

Note: If the credit for taxes paid to another state is not allowed on the Oregon composite return, the taxpayer may claim a credit for taxes paid to Oregon on their resident state return if the taxpayer is included in the entity's composite return for the other state and the entity paid the tax due for the taxpayer's share of tax liability. Alternatively, the taxpayer may revoke their election to participate in an Oregon composite return subject to the requirements detailed in paragraph (5) of this rule. The taxpayer may then file their Oregon nonresident return and claim the credit for taxes paid to another state pursuant to ORS 316.131.