

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

FILED
4-15-16 8:40 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Revenue
Agency and Division

150
Administrative Rules Chapter Number

Corporate Tax: Sale of commodities by public utilities, Unitary business ownership percentage

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amend 150-314.280-(O)

Amend 150-317.705(3)(a)

Renumber 150-314.670-(A) to 150-314.667-(A)

Statutory Authority:

ORS 305.100, 314.280, 314.667, 314.815

Other Authority:

Statutes Implemented:

ORS 314.280, 317.705, 314.667

Need for the Rule(s):

150-314.280-(O) is amended to be applicable to all periods open to examination.

150-317.705(3)(a) is amended to change the level of common ownership necessary to establish a unitary relationship between two or more corporations.

150-314.670-(A) renumbered to 150-314.667-(A) to reflect a statutory change that was enacted by the Legislature.

Documents Relied Upon, and where they are available:

Oregon Revised Statute 314.280, Oregon Revised Statute 317.705, Oregon Administrative Rules 150-314.280-(O) and 150-317.705(3)(a), Powerex Corporation v. Department of Revenue, 357 Or 40 (2015), and Oregon Revised Statute 314.667; all 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.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

There is no impact to state agencies or the counties, and a de minimis impact on the public. The rule changes are intended to be clarifying or interpretive in nature and do not affect the cost to comply.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

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 that are subject to these rules.

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

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

There is a de minimis effect on those small businesses subject to the rules as these changes are intended to be clarifying or interpretive in nature and do not affect projected reporting, record-keeping or other administrative activities or costs.

c. Equipment, supplies, labor and increased administration required for compliance:

None known.

How were small businesses involved in the development of this rule?

The Department of Revenue communicated and worked with small business liaison groups such as the Oregon State Bar Tax Section and the Oregon Society of Certified Public Accountants. The department received input from the Oregon State Bar Tax Section regarding how these rules will impact their clients, some of whom are small businesses.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

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.

<u>05-23-2016 5:00 p.m.</u>	<u>Lois Williams</u>	<u>lois.j.williams@oregon.gov</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address