

ADMINISTRATIVE RULE REVIEW

New Rule	Rule No. 150-317-1130	Last Revised Date December 9, 2019
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Temporary Rule - DRAFT	NOTICE OF INTENDED ACTION	
	Bulletin Dated	Hearing Scheduled

PURPOSE: Establish clear guidance on when property brought into this state is included in taxable commercial activity.

1 **150-317-1130**

2 **Property Brought into Oregon**

3 (1) Oregon Laws 2019, chapter 122, section 61 as amended by Oregon Laws 2019, chapter 579, section  
4 51 requires a person or unitary group to include the value of property transferred into Oregon for use in  
5 the business of the person or unitary group if:

6 (a) The person or unitary group received the property outside Oregon and transferred it into  
7 Oregon for use in the business of the person or unitary group within one year of receiving it  
8 outside Oregon, and

9 (b) The receipt of the property outside Oregon and its subsequent transfer into Oregon was  
10 intended, in whole or in part, to avoid the Corporate Activity Tax (CAT).

11 (2) A person or unitary group who intended to avoid the CAT must include the fair market value of  
12 property transferred into Oregon in their taxable commercial activity for the tax year the property was  
13 transferred into Oregon.

14 (3) Section (2) of this rule does not apply to the extent the sale of the property transferred into Oregon is  
15 excluded from the definition of commercial activity by law.

16 (4) **Example:** Unitary group XYZ purchases motor vehicle fuel in Idaho on January 15, 2020 and  
17 transfers the motor vehicle fuel to Oregon on January 18, 2020. Unitary group XYZ would not include  
18 the fair market value of the motor vehicle fuel in their Oregon commercial activity because commercial  
19 activity excludes receipts from the sale of motor vehicle fuel.

20 (5) A person or unitary group should not include in their taxable commercial activity the fair market  
21 value of property transferred into Oregon within a year of receipt outside Oregon if the transfer of  
22 property into Oregon within a year of receipt outside Oregon was not intended to avoid the CAT in  
23 whole or in part.

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**PURPOSE:** Establish clear guidance on when property brought into this state is included in taxable commercial activity.

- 1 (6) A person or unitary group who omits from commercial activity the fair market value of property
- 2 transferred into Oregon within a year of receipt outside Oregon is required to include the fair market
- 3 value upon a showing by the department that the taxpayer intended to avoid the CAT in whole or in part.
- 4 **Stat. Auth.:** ORS 305.100; Oregon Laws 2019, chapter 122, section 72
- 5 **Stats. Implemented:** ORS Oregon Laws 2019, chapter 122, section 61 as amended by Oregon Laws
- 6 2019, chapter 579, section 51

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