

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED

08/29/2023 11:51 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Removes "for good cause" as requirement for extension to file CAT returns; adds federal extensions.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/26/2023 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.

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Filed By:
Katie McCann
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HEARING(S)

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

DATE: 09/26/2023

TIME: 9:00 AM

OFFICER: Maribel Luna

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 669-254-5252

SPECIAL INSTRUCTIONS:

Join by video: <https://www.zoomgov.com/j/1602485538>

Join by phone:

1-669-254-5252

Meeting ID: 160 248 5538

Passcode: 290058

NEED FOR THE RULE(S)

OAR 150-317-1330 provides guidance to taxpayers regarding a request for extension of time to file Corporate Activity Tax (CAT) returns. HB 2073 (2023 regular session) removed the "for good cause" language, as a requirement to request an extension to file, effective for tax years beginning January 1, 2023. The proposed amendments to OAR 150-317-1330 conform to the new statutory language. In addition, the amendment adds a procedure for the Corporate Activity Tax when a federal extension is granted for federal income taxes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Revised Statutes: 317A.100 – 317A.161 as amended by HB 2073 (2023) available online through Legislative

Counsel.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The adoption of this rule does not have any known direct impact on racial equity. Revenue from the corporate activity tax program is dedicated to the Fund for Student Success and used for public education spending. The fund for student success is administered by the Department of Education. According to the Oregon Department of Education, the funds will be used to pay for the creation of new programs or expansion of existing programs at the Oregon Department of Education aimed at improving educational opportunities for Oregon students, especially historically underserved student groups.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal or otherwise economic impact related to the proposed amendment to OAR 150-317-1330.

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) There is no known impact on state agencies or units of local government. As to taxpayers, administrative compliance activities, including professional service costs, generally are a result of statutory requirements.

(2)(a) All entity types with more than \$1 million in gross receipts are required to file a CAT return. We estimate Oregon has approximately 11,500 small businesses with fewer than 50 employees who are subject to this rule. Extensions of time to file are available to all businesses subject to the Corporate Activity Tax (CAT), including small businesses.

(2)(b) Requests for an extension of time to file is an option for all CAT taxpayers. The statute allows the Department to create a methodology for those businesses that desire more time to file. There are no additional recordkeeping costs under this rule beyond the election to request more time to file CAT returns.

(2)(c) None

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

The department will be notifying interested parties of the rule making process including the public hearing prior to adopting these rules as permanent. During the public comment period, interested parties, including small businesses, can provide the department with feedback.

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

No, the Department of Revenue did not consult a formal advisory committee for these rules. Taxpayers will have an opportunity to provide comments during the public comment period and during the public hearing.

AMEND: 150-317-1330

RULE SUMMARY: ORS 317A.137 grants the department rule writing authority to allow extensions of time to file the Corporate Activity Tax return. This rule establishes the length of the extension and the manner to make a request as well as to define what circumstances qualify as "good cause." Clarifies "good cause" requirements are not in effect for tax years beginning on or after January 1, 2023. Allows federal income tax extensions.

CHANGES TO RULE:

150-317-1330

Extension of Time to File

(1) Definition. ¶

(a) For purposes of this rule, "good cause" means: ¶

(A) Death or serious illness of the taxpayer or a member of the taxpayer's immediate family; ¶

(B) Destruction by fire, a natural disaster, or other casualty of the taxpayer's home, place of business, or records needed to prepare the returns; ¶

(C) Unavoidable and unforeseen absence of the taxpayer from the state that began before the due date of the return; or ¶

(D) Information required to complete the return is not available or is not in the proper form. ¶

(b) Circumstances that are not accepted by the department as "good cause" include, but are not limited to: ¶

(A) Reliance on a professional to merely prepare a return on time; ¶

(B) Reliance on an employee of the taxpayer to prepare a return on time; ¶

(2) Generally, the time for making or filing an annual Corporate Activity Tax return may be extended for six months after the date prescribed for filing the return under this chapter, if the taxpayer files an application in accordance with section (3) of this rule. ¶

(3) To request an extension of time to file, a taxpayer must: ¶

(a) Submit a completed application for an extension of time to file on a form prescribed by the department; ¶

(b) File the application with the department before the date prescribed for filing the return; and ¶

(c) Certify they have "good cause" for requesting the extension. ¶

(4) "Good cause" must have existed at the time the return was due, excluding the extension. ¶

(5) The good cause requirements of this rule are not in effect for tax years beginning on or after January 1, 2023. ¶

(6) Procedure when a federal income tax extension is granted. ¶

(a) For tax years beginning on or after January 1, 2023, the department will grant a six-month extension of time to file an Oregon corporate activity tax return if the taxpayer has obtained an extension to file the federal income tax return from the Internal Revenue Service. The taxpayer does not need to request an Oregon corporate activity tax extension if a federal income tax extension has been granted. The taxpayer must follow current Oregon corporate activity tax return instructions to determine if a copy of an approved federal income tax extension or a filed automatic federal income tax extension request under Internal Revenue Code (IRC) section 6081 needs to be attached to the Oregon corporate activity tax return to serve as evidence of an Oregon extension. If there is no requirement in the Oregon corporate activity return instructions to attach the copy of the federal income tax extension request, the taxpayer must retain the document with their records. ¶

(b) An extension of time for filing a corporate activity tax return, due to an approved federal extension to file an income tax return, does not relieve the taxpayer of the requirement to pay estimated tax, or eliminate the penalty for underpayment of estimated tax imposed under ORS 317A.161. Nor does an extension relieve the taxpayer of a failure to pay penalty provided under ORS 314.400. ¶

(7) Procedure for requesting an extension for Oregon only. For tax years beginning on or after January 1, 2023. A taxpayer or unitary group designated entity may request an extension of time to file for Oregon only by completing and filing the appropriate Oregon form. The taxpayer or designated entity must file the extension request and pay any tax due on or before the original due date.

Statutory/Other Authority: ORS 305.100, 317A.137, 317A.143

Statutes/Other Implemented: ORS 317A.137