

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**

09/30/2022 1:42 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Establishes updated interest rates, interest start dates.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/17/2022 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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Director's Office - Room 457  
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Filed By:  
Katie McCann  
Rules Coordinator

HEARING(S)

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

DATE: 11/17/2022

TIME: 10:00 AM - 12:00 PM

OFFICER: Assigned Staff

ADDRESS: Virtual Hearing

955 Center St NE

Salem, OR 97301-2555

SPECIAL INSTRUCTIONS:

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1602673854>

Meeting ID: 160 267 3854

Passcode: 030839

One tap mobile

+16692545252,,1602673854#,,,,\*030839# US (San Jose)

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Dial by your location

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Meeting ID: 160 267 3854

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NEED FOR THE RULE(S)

Each year, the department is required to evaluate the interest rate we charge on deficiencies/delinquencies and pay on refunds under ORS 305.220. The rates are based on the third quarter federal interest rate published by the IRS. This year, the 2022 third quarter interest rate increased two percent from the IRS' 2021 third quarter interest rate. Therefore, DOR needs to amend two rules (OAR 150-305-0140 and 150-305-0142) to update annual interest rates charged on deficiencies and delinquencies and paid by the department for tax refunds from the current 4% to 6% for Tier I (liabilities less than or equal to 60 days old). The Tier 2 interest rate will increase from the current 8% to 10% (liabilities greater than 60 days old) based on the increase of the IRS' 2022 third quarter interest rate.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

IRS Revenue Ruling 2022-11 that appears in Internal Revenue Bulletin 2022-23 (<https://www.irs.gov/pub/irs-irbs/irb22-23.pdf>).

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

Administration of the interest rate applicable to refunds and deficiencies/delinquencies does not explicitly consider race or geography. The policy impacts taxpayers uniformly, with racial impacts reflecting the state demography as a whole. To the extent that racial disparities in the state lead to more tax refunds or deficiencies/delinquencies, those groups may be more impacted by higher interest rates, which are tied to those rates applied by the Internal Revenue Service, nationally.

The Department of Revenue does not collect data on taxpayers' race for any tax programs. Demographic data is collected from business and individual taxpayers with their tax return or when registering as a taxpayer. Demographic data for businesses and individuals include business or individual name, mailing address, type of business structure if applicable (e.g., C-Corporation or Partnership), some ownership details, industry/activity codes such as NAICS, and possibly other addresses (domicile, physical business location, mailing address, etc.).

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#### FISCAL AND ECONOMIC IMPACT:

There is no fiscal or otherwise economic impact related to the proposed rules. Interest paid to businesses and individuals requesting tax refunds will increase for interest periods beginning on or after January 1, 2023. Interest paid by businesses and individuals with outstanding liabilities will increase for interest periods beginning on or after January 1, 2023.

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#### 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 impact on state agencies and a de minimus effect on local government and the public. These changes tend to be clarifying in nature and do not affect the cost of compliance.

(2)(a) As of tax year 2021, there are approximately 115,000 employers registered with DOR that have between 1 and 100 employees. The most common reported industries for these impacted small business groups are private households (domestic employers) and full-service restaurants.

(b) There is a de minimus effect on those subject to the rule as these changes tend to be clarifying or interpretive in nature and does not affect projected reporting, recordkeeping or other administrative activities or costs.

(c) None.

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

Small businesses were not consulted in the development of these rule amendments. The rule amendments are not changes in policy; the department is merely updating rule language to clarify actual interest rate charges for calendar year 2023.

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

The determination of interest to be paid and charged by the department is a matter of mathematical calculation outlined in ORS 305.220. The department lacks authority to set interest rates other than as provided by law. The department is directed to announce interest rate changes by publishing rate changes in administrative rule.

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RULES PROPOSED:

150-305-0140, 150-305-0142

AMEND: 150-305-0140

RULE SUMMARY: Amend rule to update annual interest rate for deficiencies and delinquencies from 4% to 6% based on increase of IRS' third quarter interest rate from 3% to 5%.

CHANGES TO RULE:

150-305-0140

Interest on Deficiencies and Delinquencies ¶¶

(1) Adjustment to statutory rate. For deficiencies and delinquencies owing on or after January 1, 2024~~13~~, unless otherwise provided by law, every deficiency and delinquency arising under any law administered by the department will bear interest at the rate of ~~four~~six percent annually. For historic interest rates, see section (4) of this rule.¶¶

(2) Interest start date. The interest start date for deficiencies and delinquencies will be one day after the due date of the return, excluding extensions.¶¶

(3) Interest periods. ¶¶

(a) An interest period is one full calendar day beginning with the interest start date. Interest will be computed on a daily basis. The daily rate is based on a 365-day year.¶¶

(b) The daily interest rate is calculated by dividing the annual interest rate by 365 without rounding.¶¶

(4) Interest rates. The following table shows interest rates used by the department to compute interest due from taxpayers on deficiencies and delinquencies.¶¶

Percentage Rates.¶¶

Effective date - Annual rate - Monthly rate - Daily rate¶¶

Prior to January 1, 1969 - 6 - 0.5 - -¶¶

January 1, 1969 - 8 - 0.6667 - -¶¶

September 13, 1975 - 12 - 1.0 - -¶¶

June 1, 1982 - 18 - 1.5 - 0.0493¶¶

August 1, 1986 - 17 - 1.4167 - 0.0466¶¶

January 1, 1987 - 16 - 1.3333 - 0.0438¶¶

January 1, 1988 - 11 - 0.9167 - 0.0301¶¶

January 1, 1993 - 8 - 0.6667 - 0.0219¶¶

January 1, 1995 - 10 - 0.8333 - 0.0274¶¶

January 1, 1999 - 9 - 0.75 - 0.0247¶¶

January 1, 2001 - 10 - 0.8333 - 0.0274¶¶

February 1, 2002 - 8 - 0.6667 - 0.0219¶¶

February 1, 2003 - 7 - 0.5833 - 0.0192¶¶

January 1, 2004 - 6 - 0.5 - 0.0164¶¶

January 1, 2005 - 5 - 0.4167 - 0.0137¶¶

January 1, 2006 - 7 - 0.5833 - 0.0192¶¶

January 1, 2007 - 9 - 0.75 - 0.0247¶¶

January 1, 2009 - 6 - 0.5 - 0.0164¶¶

January 1, 2010 - 5 - 0.4167 - 0.0137¶¶

January 1, 2013 - 4 - 0.3333 - 0.0110¶¶

January 1, 2017 - 5 - 0.4167 - 0.0137¶¶

January 1, 2018 - 5 - N/A - 0.0137¶¶

January 1, 2019 - 6 - N/A - 0.0164¶¶

January 1, 2021 - 4 - N/A - 0.0110¶¶

January 1, 2023 - 6 - N/A - 0.0164¶¶

The daily interest rates shown above are rounded for illustrative purposes.¶¶

Example 1: Tom filed a 2016 return reporting tax to pay of \$500. He made a \$500 payment on February 25, 2019.

The interest start date is April 19, 2017, the first day after the due date of the return, which was April 18, 2017.

Interest is computed on a daily basis as follows:¶¶

4/19/17-12/31/2018 (Annual interest rate / 365 days) x number of days x tax due¶¶

$(5\% / 365) \times 622 \text{ days} \times \$500 = \$42.57$ ¶¶

1/1/2019-2/24/19 (Annual interest rate / 365 days) x number of days x tax due¶¶

$(6\% / 365) \times 55 \text{ days} \times \$500 = \$4.52$ ¶¶

Total interest: \$47.09¶¶

[Publications: Contact the Oregon Department of Revenue for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and ORS 183.355(1)(b).]

Statutory/Other Authority: ORS 305.100, 305.220

Statutes/Other Implemented: ORS 305.220

AMEND: 150-305-0142

RULE SUMMARY: Amend rule to update annual interest rate for refunds from 4% to 6% based on increase of IRS' third quarter annual interest from 3% to 5%.

CHANGES TO RULE:

150-305-0142

Interest on Refunds ¶¶

(1) Adjustment to statutory rate. For refunds owing on or after January 1, 2024~~13~~, unless specifically provided by statute or by rule, every refund arising under any law administered by the department will bear interest at the rate of ~~four~~six percent annually. For historic rates, see section (4) of this rule.¶¶

(2) Interest start date.¶¶

(a) As provided in OAR 150-314-0240, when a refund of individual income tax is attributable to tax withheld by an employer, or when a refund of individual income tax, corporate excise tax, or corporate income tax is attributable to estimated taxes, the interest starting date is 45 days after the return was due or 45 days after the return was filed, whichever is later.¶¶

(b) The interest start date for a refund of estate tax is 45 days after the return was due, 45 days after the original return was filed, or 45 days after the tax was paid, whichever is later.¶¶

(c) The interest start date for refunds not described in (2)(a) or (2)(b) is 45 days after the return was due or 45 days after the date the tax was paid, whichever is later.¶¶

(3) Interest periods. ¶¶

(a) An interest period is one full calendar day beginning with the interest start date. Interest will be computed on a daily basis. The daily rate is based on a 365-day year.¶¶

(b) The daily interest rate is calculated by dividing the annual interest rate by 365 without rounding. ¶¶

(4) The following table shows interest rates used by the department to compute interest due to taxpayers on refunds.¶¶

Percentage Rates.¶¶

Effective date - Annual rate - Monthly rate - Daily rate¶¶

January 1, 1969 - 8 - 0.6667 - -¶¶

September 13, 1975 - 6 - 0.5 - -¶¶

June 1, 1982 - 12 - 1.0 - 0.0329¶¶

June 1, 1983 - 18 - 1.5 - 0.0493¶¶

August 1, 1986 - 17 - 1.4167 - 0.0466¶¶

January 1, 1987 - 16 - 1.3333 - 0.0438¶¶

January 1, 1988 - 11 - 0.9167 - 0.0301¶¶

January 1, 1993 - 8 - 0.6667 - 0.0219¶¶

January 1, 1995 - 10 - 0.8333 - 0.0274¶¶

January 1, 1999 - 9 - 0.75 - 0.0247¶¶

January 1, 2001 - 10 - 0.8333 - 0.0274¶¶

February 1, 2002 - 8 - 0.6667 - 0.0219¶¶

February 1, 2003 - 7 - 0.5833 - 0.0192¶¶

January 1, 2004 - 6 - 0.5 - 0.0164¶¶

January 1, 2005 - 5 - 0.4167 - 0.0137¶¶

January 1, 2006 - 7 - 0.5833 - 0.0192¶¶

January 1, 2007 - 9 - 0.75 - 0.0247¶¶

January 1, 2009 - 6 - 0.5 - 0.0164¶¶

January 1, 2010 - 5 - 0.4167 - 0.0137¶¶

January 1, 2013 - 4 - 0.3333 - 0.0110¶¶

January 1, 2017 - 5 - 0.4167 - 0.0137¶¶

January 1, 2018 - 5 - N/A - 0.0137¶¶

January 1, 2019 - 6 - N/A - 0.0164¶¶

January 1, 2021 - 4 - N/A - 0.0110¶¶

January 1, 2021 - 6 - N/A - 0.0164¶¶

The daily interest rates shown above are rounded for illustrative purposes.¶¶

Example: Tom filed his 2016 return and paid the tax due on April 6, 2017. On November 1, 2018, Tom filed a 2016 amended return to claim a \$1,000 refund. The refund was paid on December 11, 2018. The interest start date is June 2, 2017, the 45th day after the original return was due (April 18, 2017). Interest is computed on a daily basis as follows:¶¶

6/2/2017-12/11/2018 - (Annual interest rate / 365 days) x number of days x amount of refund¶¶

$(5\% / 365) \times 558 \text{ days} \times \$1,000 = \$76.44¶¶$

Total interest: \$76.44¶¶

[Publications: Contact the Oregon Department of Revenue for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and ORS 183.355(1)(b).]

Statutory/Other Authority: ORS 305.100, 305.220

Statutes/Other Implemented: ORS 305.220