

OFFICE OF THE SECRETARY OF STATE

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150  
DEPARTMENT OF REVENUE

**FILED**

07/27/2022 7:55 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Corporate activity tax definitions for the exclusion of sales of prescription drugs by eligible pharmacies.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/23/2022 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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Filed By:  
Katie Thiel  
Rules Coordinator

HEARING(S)

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

DATE: 08/23/2022

TIME: 9:00 AM

OFFICER: Maribel Luna

ADDRESS: Virtual Hearing

955 Center Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1619501415>

Meeting ID: 161 950 1415

Passcode: 055123

One tap mobile

+16692545252,,1619501415#,,,,\*055123# US (San Jose)

+16692161590,,1619501415#,,,,\*055123# US (San Jose)

Dial by your location

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+1 669 216 1590 US (San Jose)

+1 646 828 7666 US (New York)

+1 551 285 1373 US

Meeting ID: 161 950 1415

Passcode: 055123

Find your local number: <https://www.zoomgov.com/u/aczf1VdWli>

NEED FOR THE RULE(S)

Provides definitions for the commercial activity exclusion for sales of prescription drugs by eligible pharmacies.

## DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Revised Statutes: 317A.100 – 317A.161 as amended by SB 1524 (2022) available online through Legislative Counsel.

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## 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.

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## FISCAL AND ECONOMIC IMPACT:

There is no fiscal or otherwise economic impact related to the proposed rule. The rule while providing definitions for the exclusion of commercial activity for the sales of prescription drugs by eligible pharmacies, does not establish additional requirements outside those provided in state law chapter ORS 317A.

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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 known impact.

(2)(a) Small businesses are not affected by the rule but rather the statutes implemented governing this exclusion. Per statute, this exclusion applies to eligible pharmacies defined in statute as a pharmacy that has nine or fewer location under common ownership in this state. The rule provides guidance to eligible pharmacies regarding this exclusion.

(b) Under both federal and state law, taxpayers must keep documentation to substantiate inventory, deductions, and credits, therefore recordkeeping requirements generally are already required, and we do not anticipate additional costs for professional services to comply with the requirements of this rule.

(c) None

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

Program requested feedback on the proposed Oregon administrative rule from both the Oregon State Pharmacy Association and Oregon Society of Health System pharmacies. Representatives reviewed the guidance and didn't have any questions or concerns.

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

The rule is expected to be noncontroversial because it defines statutory terms in a manner consistent with the legislative intent. In addition, the fact that the representatives from the Oregon State Pharmacy Association and Oregon Society of Health System pharmacies did not have any questions or concerns about the rule confirmed that a RAC was not necessary.

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ADOPT: 150-317-1180

RULE SUMMARY: This rule provides guidance for the exclusion from commercial activity for an eligible pharmacy's receipts from sales of prescription drugs by defining what "commonly owned" and "caters primarily to veterinary

customers" mean.

CHANGES TO RULE:

150-317-1180

Eligible Pharmacy Exclusion

(1) Definitions. For purposes of excluding receipts from the sales of prescription drugs from commercial activity, as provided under Oregon Laws 2022, chapter 82, Section 10, the following definitions apply:¶

(a) "Common ownership" has the meaning given that term in Oregon Administrative Rule 150-317-1020 (10). ¶

(b) "Caters primarily to veterinary customers" means that a person, or group of persons in the case of a unitary group, receives more than 50 percent of their total gross receipts attributable to prescription drug sales from prescription drug sales to veterinary customers for the taxable year.¶

(c) "Prescription drug" has the meaning given that term in ORS 689.005.¶

(2) This rule is applicable to tax years beginning on or after January 1, 2022 and ending before January 1, 2026.

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

Statutes/Other Implemented: ORS 317A.100, Oregon Laws 2022, chapter 82, Section 10