

OFFICE OF THE SECRETARY OF STATE  
SHEMIA FAGAN  
SECRETARY OF STATE  
  
CHERYL MYERS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

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

CHAPTER 150  
DEPARTMENT OF REVENUE

**FILED**  
11/08/2021 3:19 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Personal Income Tax: Provide guidance to tax professional about notifying DOR about data security breaches.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/15/2021 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.*

CONTACT: Katie Thiel  
503-949-9285  
RulesCoordinator.dor@oregon.gov

955 Center Street NE  
Salem, OR 97301

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: 12/15/2021

TIME: 9:00 AM

OFFICER: Katie Thiel

ADDRESS: Remote Hearing - Video/Conference Call

955 Center Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1616126886>

Meeting ID: 161 612 6886

Passcode: 995436

Dial by your location

+1 669 254 5252 US (San Jose)

+1 669 216 1590 US (San Jose)

+1 646 828 7666 US (New York)

+1 551 285 1373 US

Find your local number: <https://www.zoomgov.com/u/ao1Bp36Dq>

NEED FOR THE RULE(S)

Chapter 353, 2021 Laws – Authorizes the Department to create a new Rule to provide guidance to tax professionals who experience a data security breach but are unable to provide the required information to report the breach within the five-day statutory requirement, due to the information being unavailable in cases such as ransomware attacks.

The Rule establishes that, if due to the breach of security, the tax professional does not have immediate access to the consumer information, whose personal information is compromised, the tax professional must notify the department of the breach and provide their preparer tax identification number (PTIN).

Once the tax professional has access to the consumer information for their clients and confirms the identity of the impacted consumer, they must provide the name, address and tax identification number of the consumer whose personal information is compromised, to the department within 15 days of obtaining the information.

This Rule will help prevent filing of fraudulent tax returns. The Department has had four recent examples of data breaches involving tax preparers equaling a total of 314 returns identified in tax year 2017 with a total of \$196,922 refunds requested (\$23,028 being issued), and 18 returns in 2018 with a total of \$20,713 refunds requested. In three of the four examples, the tax preparer was aware of the breach but failed to notify the department.

---

## DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Chapter 353, 2021 Laws

---

## FISCAL AND ECONOMIC IMPACT:

- Would decrease the chance of fraudulent refunds being issued by allowing the department to place identity theft indicators on all taxpayers associated with the tax preparer's license number.
- Would increase efficiency by cutting down on the time it takes to identify fraudulent returns.
- The department will have lists of potential future victims of identity theft.
- The department will have a greater opportunity to prevent fraudulent refunds.

---

## 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 as a result of these rules.

(2)(a) These rules will have minimal impact on small business as they are only notification requirements to DOR in the event of data security breaches.

(b) As these rule changes are only for notifications to DOR, there will be de minimis impact on small businesses.

(c) There will be de minimis impact on any items required for notification to DOR.

---

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

A Rule Advisory Committee met twice and included representatives of small, owner-operated professional tax preparer businesses.

---

## WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 150-305-0481

**RULE SUMMARY:** To provide guidance to tax professionals who experience a data security breach but are unable to provide the required information to report the breach within the five-day statutory requirement, due to the information being unavailable in cases such as ransomware attacks.

**CHANGES TO RULE:**

[150-305-0481](#)

### Tax Professional Data Security Breach with Information Unavailable

(1) If, due to the breach of security, the tax professional does not have immediate access to the consumer information, whose personal information is compromised, the tax professional must notify the department of the breach and provide their preparer tax identification number (PTIN).¶

(2) Once the tax professional has access to the consumer information for their clients and confirms the identity of the impacted consumer, they must provide the name, address and tax identification number of the consumer whose personal information is compromised, to the department within 15 days of obtaining the information.¶

Example 1. Joe Smith, a CPA, notices that five of his efiled returns were rejected due to a return already having been received by the IRS. Joe believes this may indicate a data security breach and a quick review of his records confirms this possibility. Joe still has access to his client records and notifies the Oregon Department of Revenue within five days and provides the name, address and identification number of 30 of his clients impacted by the breach.¶

Example 2. Nancy works for a satellite office of CPA Inc., which is an international company. CPA Inc. discovers a possible data security breach on February 15 and begins their investigation but doesn't notify their satellite offices. The investigation concludes on April 1 and on April 2 Nancy is notified of a data security breach. Nancy notifies the department of the data security breach within five days of receiving this information and provides her PTIN. On April 30 she receives a list of her impacted clients, which she then provides to the department within 15 days on May 15.¶

Example 3. Mary's office is burglarized, and a couple of her computers were stolen on October 1. All of Mary's records are on these computers, after filing a police report, Mary notifies the department within five days of a possible data security breach and provides her PTIN. On March 1, the computers are recovered but law enforcement needs to hold them as evidence and on July 1 they are returned to Mary. Mary is able to access and identify the impacted clients of the data security breach and provides a list to the department within 15 days of receiving the laptops.

Statutory/Other Authority: ORS 305.100, Chapter 353, 2021 Laws

Statutes/Other Implemented: Chapter 353, 2021 Laws