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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED

04/27/2021 4:52 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Local transient lodging tax administration and rules application.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/25/2021 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.

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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: 05/25/2021

TIME: 9:00 AM

OFFICER: Robert Oakes

ADDRESS: Remote Hearing -

Video/Conference Call

955 Center Street NE

Salem, OR 97301

NEED FOR THE RULE(S):

150-320-0365: Provides guidance to taxpayers regarding Department administration of local lodging taxes. Administration of local lodging taxes will mirror the administration of the state lodging tax program. Extends generally applicable rules adopted pursuant to chapters 305 or 314 to local lodging tax administration, except where context requires otherwise.

150-305-0360: Update rule to reference local lodging tax administration and correct statutory reference to renumbered statute in chapter 475B. Clarifies that generally applicable rules adopted under chapters 305 and 314 also apply to the administration of local marijuana taxes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes: 305.620, 320.365, 475B.750 available online through the legislature's website:
<https://www.oregonlegislature.gov>.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal impact resulting from the amendment or adoption of these rules. There is a fiscal impact from the

statute as the Department needed to develop a program to administer local lodging taxes. The rules did not increase that cost.

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. If the Department is administering the local lodging taxes, the local governments may see a savings, as they will no longer need to utilize local resources to administer and collect the tax.

(2) There are approximately 2,400 taxpayers subject to the state lodging tax. It is not known how many of those taxpayers will have their local tax administered by the Department, because the Department is unable to predict how many local jurisdictions will enter into agreements with DOR to administer the local lodging tax. However, the administration of the tax by the Department should not have a significant cost of compliance effect on those businesses, as they will simply redirect their payment from the local jurisdiction to the Department.

(2)(a) The Department is unable to determine the number of small businesses subject to the rule, because the Department is unable to predict how many local jurisdictions will enter into agreements with DOR to administer the local lodging tax. There are approximately 127 local government entities that have implemented a local transient lodging tax. There are approximately 2,400 taxpayers subject to the state lodging tax, some of which are small businesses. Only those located within one of the localities that decide to have the department administer the tax will be subject to the rule, but the total possible impact is estimated to not exceed approximately 2,400 businesses.

(2)(b) Impacted taxpayers will need to file a new return with DOR and remit payment to DOR. However, this should not create additional costs as it is a shift in filing and paying from a local jurisdiction to DOR. It is not an additional requirement.

(2)(c) None known.

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

The League of Cities and the Association of Counties were consulted in the development of the program and these rules. The league and association consulted with their own representatives of city and county administrators.

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

The Department of Revenue did not use a formal Advisory Committee for these rules; however, we did seek input from city and county representatives on these rule changes. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rules; therefore, a committee is unlikely to provide further benefit.

RULES PROPOSED:

150-305-0360, 150-320-0365

AMEND: 150-305-0360

RULE SUMMARY: Update rule to reference local lodging tax administration and correct statutory reference to renumbered statute in chapter 475B. Clarifies that rules adopted under chapters 305 and 314 as context requires to the administration of local marijuana taxes.

CHANGES TO RULE:

150-305-0360

Rules Application ¶

(1) "Local marijuana tax" means a tax or fee authorized under ORS 475B.345491 on the sale of marijuana items that are sold within an area subject to a city's jurisdiction or an unincorporated area subject to a county's jurisdiction by a person that holds a license under ORS 475B.110.¶

(2) Unless the context requires otherwise, the department will apply the same rules to administer transit district payroll tax programs as are used in the administration of the withholding tax program. See rules adopted under ORS 316.162 to 316.212. In addition, unless the context requires otherwise, the provisions of rules adopted pursuant to ORS Chapters 305 and 314 as to the audit and examination of reports and returns, ~~determination of deficiencies, assessment periods of limitations, determination of an and notice of deficiencies, assessments, collections, liens, delinquencies~~, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality or returns and the penalties relative thereto, and the procedures relating thereto, ~~shall~~ apply to the determination of taxes, penalty, and ~~interest~~ imposed under transit district payroll tax ~~program~~ statutes and ordinances.¶

(3) Unless the context requires otherwise, the department will apply the same rules to administer local marijuana taxes as are used in the administration of the marijuana tax program. See rules adopted under ORS 475B.705 to 475B.760. In addition, the provisions of rules adopted pursuant to ORS Chapters 305, 314, or 475B as to the audit and examination of reports and returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collections pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, ~~shall~~ apply to the determination of taxes, penalty, and interest ~~imposed~~ under local marijuana taxes statutes and ordinances.¶

(4) For rules relating to the department's administration of local transient lodging taxes, please see OAR 150-320-0365.

Statutory/Other Authority: ORS 305.100, 305.620, 475B.750

Statutes/Other Implemented: ORS 305.620, 475B.750

ADOPT: 150-320-0365

RULE SUMMARY: Provides guidance to taxpayers regarding Department administration of local lodging taxes. Administration of local lodging taxes will mirror the administration of the state lodging tax program. Extends generally applicable rules adopted pursuant to chapters 305 or 314 to local lodging tax administration as context requires.

CHANGES TO RULE:

150-320-0365

Administration of Local Lodging Taxes

Unless the context requires otherwise, the department will apply the same rules to administer local transient lodging taxes under agreements with local governments as are used in the administration of the state transient lodging tax program. See OAR 150-320-0040 to OAR 150-320-0060 for rules adopted under ORS 320.300 to 320.330. In addition, the provisions of rules adopted pursuant to ORS Chapters 305, 314, or 320 as to the audit and examination of reports and returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and penalties related thereto, and the procedures relating thereto, apply to the determination of taxes, penalty, and interest under local transient lodging taxes statutes and ordinances.

Statutory/Other Authority: ORS 305.100, 320.365

Statutes/Other Implemented: ORS 305.620, 320.365