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

CHAPTER 150  
DEPARTMENT OF REVENUE

**FILED**  
04/27/2021 4:42 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Corporate Activity Tax: Penalty waivers; substitute tax forms; unitary groups; insurance entities

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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Filed By:  
Katie Thiel  
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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

SPECIAL INSTRUCTIONS:

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546

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NEED FOR THE RULE(S):

150-314-0068 Provides guidelines for waivers of the five percent penalties for the Corporate Activity Tax

underpayment and first-time homebuyer nonqualified withdrawal. Removes requirement that account balance be paid down to only the penalty amount before a waiver may be requested. Updates Oregon Revised Statutes (ORS) citations in sections (3) and (7)-(8) of this rule.

150-314-0169 Amends the rule to add references to both "Corporate Activity Tax" and ORS chapter 317A to sections (1)(a) through (c) and section (7)(b), and a reference to ORS chapter 317A to section (8); removes the reference to the ERA program in section (7)(b); modifies the substitute form exception contained in section (5); and amends the reference from LTD Ordinance 38 to Ordinance 51 in sections (1)(a) through (c).

150-317-1020 Amends the rule to clarify entities that are members of more than one unitary group must file with only one group by filing a return with the unitary group that reports the greatest amount of commercial activity, after exclusions. Modifies reference to OAR 150-317-1025 for changes made to Oregon Laws 2020 (1st special session), ch 2, section 2 and adds clarification that intercompany transactions are only excluded if the members are filing as a unitary group. The amendment adopts the language of the temporary amendment filed March 1, 2021 as permanent.

150-317-1060 Defines insurance premiums; provides guidance for purposes of sourcing insurance premiums receipts. A temporary rule has been in effect since February 1, 2021. The permanent rule adopts the language of the temporary rule and adds terms to make the rule consistent with the language in ORS 317A.100(1)(a)(C)(i) with regards to "gross direct" insurance premiums.

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

Oregon Revised Statutes: 317A.100 – 317A.161, available online at [https://www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx).

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#### FISCAL AND ECONOMIC IMPACT:

There is no fiscal impact on state agencies or units of local government.

The amendments to OAR 150-314-0068 allow penalty waivers for the corporate activity tax underpayment penalty and the penalty imposed for first-time homebuyer nonqualified withdrawals. The department does not charge a fee for a waiver request and does not require representation during a waiver appeal process. The department is not able to estimate the fiscal and economic impact to the public, as any fiscal and economic impact resulting from this amendment depends on the taxpayer's election to be represented during the penalty waiver process.

The amendments to OAR 150-314-0169 authorize the use of alternative tax forms for filing corporate activity tax returns. Taxpayers are not required to use these alternative tax forms and may elect to file corporate activity tax returns using the tax forms issued by the department. The department is not able to estimate the fiscal or economic impact to the public as it is dependent upon the taxpayer's election to hire a tax preparer and their compensation arrangement for tax preparation services or the cost of any other method the taxpayer chooses, including cost of tax software to prepare and file their taxes.

Approximately 40,000 businesses will be subject to the corporate activity tax, based on Legislative Revenue's estimate during the 2019 legislative session. Of the 40,000 businesses, some may be members of more than one unitary group and subject to OAR 150-317-1020. While most provisions of this rule are a result of statutory requirements, the amendment requiring members who may be part of more than one unitary group to file with one unitary group based on the group with the greatest commercial activity, after exclusions, may have an economic impact. We estimate the fiscal and economic impact to the public would be de minimis.

There is no fiscal and economic impact from the adoption of OAR 150-317-1060, as this rule clarifies the statutory requirements and does not impose additional costs.

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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 or units of local government.

As to taxpayers' administrative compliance activities, including professional service costs, the department is not able to estimate the cost of compliance for OAR 150-314-0068 and OAR 150-314-0169 as it depends on the taxpayer's election for representation during a waiver request process or election for filing corporate activity tax returns using tax forms other than those issued by the department. The cost of compliance depends on the compensation arrangement between the taxpayer and the representative or the cost of any other method the taxpayer chooses including cost of tax software to prepare and file their taxes. It is anticipated that guidance provided in the rules will clarify reporting and recordkeeping burdens, clarify filing options by use of substitute forms provided by third party vendors or tax preparers, allow for availability of penalty waivers for the corporate activity tax, reduce or lead to more focused questions from taxpayers and tax professionals and reduce or clarify potential issues in audits or litigation.

Amendments to OAR 150-317-1020 clarify that entities that are members of more than one unitary group must file with only one group by filing a return with the unitary group that reports the greatest amount of commercial activity, after exclusions. For this rule amendment, the department is unable to readily estimate the additional administrative compliance activities, including professional service costs, when determining which unitary group reports the greatest amount of commercial activity, after exclusions. However, we estimate the additional cost of compliance attributable to the rule amendment would be de minimis.

The department estimates no additional cost of compliance for OAR 150-317-1060, beyond those imposed by the statute.

(2)(a) Approximately 40,000 businesses will be subject to the corporate activity tax, based on Legislative Revenue's estimate during the 2019 legislative session. All entity types with more than \$1 million in gross receipts are required to file a corporate activity tax return. Based on this information and the information from returns filed, we estimate Oregon has approximately 11,500 small businesses with fewer than 50 employees who are subject to OAR 150-314-0068 and OAR 150-314-0169.

OAR 150-317-1020 is amended to clarify that entities that are members of more than one unitary group must file with only one group by filing a return with the unitary group that reports the greatest amount of commercial activity, after exclusions. Modifies reference to OAR 150-317-1025 for changes made to Oregon Laws 2020 (1st special session), ch 2, section 2 to clarify that intercompany transactions are only excluded if the members are filing as a unitary group. Out of the estimated 11,500 small businesses that are subject to the corporate activity tax, we estimate less than 1% are members of more than one unitary group and subject to this rule.

OAR 150-317-1060 defines insurance premiums and provides guidance for purposes of sourcing insurance premiums receipts. Out of the estimated 11,500 small businesses that are subject to the corporate activity tax, we estimate that 50 will be subject to this rule.

(2)(b) Under both federal and state law, taxpayers must keep documentation to substantiate receipts, deductions, and credits, so recordkeeping requirements generally are already required.

OAR 150-314-0068: There may be some additional costs if a small business chooses to be represented during the penalty waiver process, however, representation is not a requirement for going through the penalty waiver process. There is no inherent cost associated with making a penalty waiver request. We are unable to estimate the extent of additional costs attributable to the amendments to OAR 150-314-0068 for the reasons explained above.

OAR 150-314-0169: The department cannot readily quantify the costs as it is dependent upon the taxpayer's election to hire a tax preparer and their compensation arrangement for tax preparation services or the cost of any other method the taxpayer chooses including cost of tax software to prepare and file their taxes.

ORS 150-317-1020: We estimate that less than 1% of the 11,500 small businesses subject to the corporate activity tax are members of more than one unitary group and subject to this rule. The department estimates that the additional cost of compliance activities attributable to the rule, including professional service costs, when determining which unitary group reports the greatest amount of commercial activity, after exclusions, is de minimis.

OAR 150-317-1060: The department estimates no additional cost of compliance for OAR 150-317-1060, beyond those imposed by the statute

(2)(c) None known.

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

The department did not seek specific stakeholder feedback for OAR 150-314-0068 as modifications to the rule are to correct citations and add penalties under the corporate activity tax and penalties of unqualified withdrawals from a first-time home buyer savings account, as penalties that are waivable under first-time waiver requests.

The department did not seek specific stakeholder feedback for OAR 150-314-0169 as modifications to the rule are to correct citations and to add reference to chapter 317A for the corporate activity tax clarifying that substitute tax forms as described in OAR 150-314-0169 may be filed for the corporate activity tax and to clarify the treatment of payments received with substitute tax forms.

The department adopted temporary amendments to OAR 150-317-1020 effective March 1, 2021. The department is adopting the temporary amendments as permanent without any changes to the rule language. The department requested feedback on the permanent amendments to this rule from stakeholder groups including members of the Oregon State Bar (OSB), Oregon Business & Industry, Smart Growth Coalition, Oregon Society of Certified Accountants (OSCPA). The department did not receive feedback or concerns with the amendments from these stakeholders.

The department adopted OAR 150-317-1060 as a temporary rule effective February 1, 2021. During the temporary rule adoption process of this rule, the department engaged in several discussions with key stakeholders from the insurance industry including the American Property Casualty Insurance Association and the Surplus Line Association of Oregon as well as representatives of the Department of Consumer and Business Services. The department subsequently shared a draft of the proposed rule language prior to filing the temporary rule. The department revised the rule to clarify section (1)(a), as requested by stakeholder feedback received after the temporary rule adopted. This is the only revision to the rule from the language adopted in the temporary rule.

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**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 and receive input from groups of industry representatives for OAR 150-317-1020 and OAR 150-317-1060. 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.

The department requested feedback on the permanent amendments to OAR 150-317-1020 from stakeholder groups including members of the Oregon State Bar (OSB), Oregon Business & Industry, Smart Growth Coalition, and Oregon Society of Certified Accountants (OSCPA). The Department of Revenue did not use a formal advisory committee for these rules. During the temporary rule adoption process of OAR 150-317-1060, the department engaged in several discussions with key stakeholders from the insurance industry including the American Property Casualty Insurance Association and the Surplus Line Association of Oregon as well as representatives of the Department of Consumer and Business Services. The department subsequently shared a draft of the proposed rule language prior to filing the temporary rule. The department revised the rule to clarify section (1)(a), as requested by stakeholder feedback received after the temporary rule was adopted. This is the only revision to the rule from the language adopted in the temporary rule. The department did not receive any other feedback or concerns from these stakeholders.

The changes to OAR 150-314-0068 and OAR 150-314-0169 do not have an adverse or negative impact for taxpayers as the changes to the rules were to correct citations, allow penalty waivers for the corporate activity tax and penalties of unqualified withdrawals from a first-time home buyer savings account, clarify that substitute forms provided by third parties can be used to filed corporate activity tax returns, and clarify the treatment of payments received with substitute forms.

RULES PROPOSED:

150-305-0068, 150-314-0169, 150-317-1020, 150-317-1060

AMEND: 150-305-0068

RULE SUMMARY: Provides guidelines for waivers of the five percent penalties for the Corporate Activity Tax underpayment and first-time homebuyer nonqualified withdrawal. Removes requirement that account balance be paid down to only the penalty amount before a waiver may be requested. Updates Oregon Revised Statutes (ORS) citations in sections (3) and (7)-(8) of this rule.

CHANGES TO RULE:

150-305-0068

Discretionary Penalty Waivers ¶¶

(1) Taxpayers who believe a penalty was imposed improperly may contest the penalty as provided in OAR 150-305-0060.¶¶

(2) For rules governing the waiver of penalty imposed under ORS 314.402, 316.177 or 316.992 see ORS 316.177(4); OAR 150-314-0205; 150-316-0284, or 150-316-0650. ¶¶

(3)(a) The following penalties are eligible for waiver under this rule: ¶¶

(A) The five percent penalty under ORS 314.400(1) or 321.560(2) for failure to file a report or return by the due date ~~(five percent failure to file penalty)~~; ¶¶

(B) The five percent penalty under ORS 314.400(1) or 321.560(2) for failure to pay a tax by the due date ~~(five percent failure to pay penalty)~~; ¶¶

(C) The additional 20 percent penalty under ORS 314.400(2)(a), ~~314.400(3)(a)~~, or 321.560(3) for failure to file a report or return within ~~three months after the due date (25 percent failure to file penalty)~~ timeframes set forth in such statutes; ¶¶

(D) The additional 25 percent penalty under ORS 314.400(2)(b) ~~or 314.400(3)(b)~~ for failure to file a report or return ~~more than three months after the due date~~ after the timeframes set forth in such statutes and the taxpayer receives a Notice of Determination and Assessment ~~(50 percent failure to file penalty)~~; ¶¶

(E) The 100 percent penalty under ORS 305.992 for failure to file three consecutive reports or returns by the due date of the third year ~~(100 percent failure to file penalty)~~; and, ¶¶

(F) The \$100 penalty under ORS 316.202(3) for failure to file an annual report (Form WR or statewide transit tax annual report); ¶¶

(G) The five percent penalty imposed under 317A.161(2) for underpayment of the quarterly commercial activity estimated tax payment; and ¶¶

(H) The five percent penalty imposed under ORS 316.801(3) for a nonqualified withdrawal from a first-time homebuyer savings account. ¶¶

(b) The following penalties are not eligible for waiver under this rule: ¶¶

(A) The 100 percent penalty imposed under ORS 305.265(13), 314.400(6), or 321.560(4); ¶¶

(B) Civil or criminal penalties imposed under ORS Chapter 323 (cigarette and other tobacco products); ¶¶

(C) Any penalty if the taxpayer was involved in an "abusive tax shelter" as defined in ORS 314.402(4) for the year at issue or any penalty imposed under ORS 314.403, 314.404, or 314.406; or ¶¶

(D) The Working Family Household and Dependent Care Credit penalty under ORS 315.264. ¶¶

(4) Taxpayers, or a taxpayer's representative authorized under ORS 305.230, may request that a failure-to-file or failure-to-pay penalty listed in subsection (3)(a) of this rule be waived. A waiver request is timely filed if the department receives it any time before the tax, penalty, and interest are paid in full, or up to one year after the tax, penalty, and interest are paid in full. The department's decision will be based upon the facts and circumstances in each case. To qualify for waiver, the taxpayer must: ¶¶

(a) Make a written request that explains the reason(s) for the taxpayer's failure to file a return or failure to pay the tax as required by law; ¶¶

~~(b) Pay the balance of the account (other than an amount equal to the penalty amount that may be waived under this rule) for the tax period for which waiver is requested; and and ¶~~

(eb) Meet all filing requirements for the tax program that assessed the penalty. Filing requirements for the tax program that assessed the penalty may be found in forms, instructions, or other forms of media provided by the department. ¶

(5) Penalty Waivers Due to Circumstance beyond Taxpayer Control. The department will waive all of any penalty listed in subsection (3)(a) of this rule for any tax program if there are circumstances beyond the taxpayer's control that caused the failure to file or pay. The circumstance must have existed at the time the return or payment was due. The return must be filed and the tax must be paid within a reasonable period of time depending on the facts and circumstances of each case. ¶

(a) Circumstances that are accepted by the department as "circumstances beyond the taxpayer's control" include, but are not limited to: ¶

(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; ¶

(D) A department employee provided erroneous written information to the taxpayer that caused the taxpayer to incur the penalty if: ¶

(i) The taxpayer's reliance on the erroneous written information caused the failure of the taxpayer to pay or file timely; ¶

(ii) The taxpayer supplied the department with complete information connected with the erroneous written information given; and ¶

(iii) The taxpayer could not reasonably be expected to be knowledgeable in the tax matter connected with the erroneous written information; or ¶

(E) The taxpayer's reliance on incorrect advice from a professional the taxpayer could reasonably assume was knowledgeable and experienced in the tax involved if: ¶

(i) The taxpayer's reliance on the advice caused the failure of the taxpayer to pay or file timely; ¶

(ii) The taxpayer supplied the professional with complete information connected with the advice given; and ¶

(iii) The taxpayer could not reasonably be expected to be knowledgeable in the tax matter connected with the erroneous advice. ¶

(b) Circumstances that are not accepted by the department as "circumstances beyond the taxpayer's control" 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; ¶

(C) Inability of the taxpayer to pay the tax unless there is also a cause listed in subsection (5)(a) of this rule. ¶

(6) One-time penalty waiver. ¶

(a) When a taxpayer does not qualify for relief under section (5) of this rule, the department will consider for waiver all of ~~the any penalty imposed listed under ORS 314.400(1) (five percent failure to file or pay penalty), 314.400(2)(a)(A) (25 percent failure to file penalty), or 321.560 (five percent failure to file or pay penalty subsections 3(a)(A) through 3(a)(C) and 3(a)(G) or the 25 percent failure to file penalty) is rule~~ for one tax period if the taxpayer has not already received relief under this section for any tax period in the tax program that assessed the penalty, or in a "closely-related" tax program defined in subsection (6)(b) of this rule; and ¶

(A) The taxpayer did not know that the taxpayer was subject to the tax program in which the penalty was imposed; or ¶

(B) Has a history of filing and paying on time. ¶

(b) "Closely-related" tax programs are: ¶

(A) Any transit payroll tax program administered by the department under ORS 305.620, income tax withholding under ORS 316.162 to 316.221, and the statewide transit tax under ORS 320.550; ¶

(B) Forest Products Harvest Tax and Small Tract Forestland Severance Tax programs authorized under ORS Chapter 321; or ¶

(C) Cigarette Tax and Other Tobacco Products Tax programs authorized under ORS Chapter 323. ¶

(7) Payroll Tax Penalty Waivers. Taxes due under ORS 316.162 to 316.221 and statewide transit tax due under ORS 320.550 are collected at the source of payment and are held in trust for eventual payment to the State of Oregon. Because failure to remit trust funds or timely file reports related to trust funds is considered a breach of fiduciary duty, the standards for waiver of penalties imposed for such failures are higher than standards for waiver of penalties for other tax programs. For penalties that are imposed on income tax withholding or transit payroll taxes due under ORS 316.162 to 316.221 or statewide transit tax due under ORS 320.550 and that do not qualify for waiver under subsections (5) or (6) of this rule, the department will provide waiver of penalties as follows: ¶

(a) The department will waive the entire penalty imposed under ORS 314.400(1) (five percent failure-to-file or pay penalty) or 314.400(2)(a)(A) (25 percent failure-to-file penalty) for the most recent quarter due if the taxpayer has not received a penalty in the eight quarters preceding the most recent quarter. ¶

(b) The department will waive ~~half of the~~ the 25 percent failure to file penalties imposed under ORS 314.400(1), ~~314.400(2)(a)(A), and 2(b) or ORS 314.400(2)(3)(a)(B) (50 percent failure to file penalty)~~ if a taxpayer files the tax return and pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of the date shown on the Notice of Determination and Tax Assessment. ¶

(c) The department will waive part of the 100 percent failure-to-file penalty imposed under ORS 305.992 as follows: ¶

(A) The department will waive 70 percent of the 100 percent failure-to-file penalty if the taxpayer: ¶

(i) Files an income tax withholding, transit payroll, or statewide transit tax return before receiving a Request to File Notice, Notice and Demand to File, Combined Failure-to-File Notice, or any combination of these notices from the department that relates to the return the taxpayer filed; and ¶

(ii) Pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of filing the return. ¶

(B) The department will waive 50 percent of the 100 percent failure-to-file penalty if a taxpayer: ¶

(i) Files an income tax withholding, transit payroll, or statewide transit tax return after receiving a notice listed in section (7)(c)(A)(i) of this rule; and ¶

(ii) Pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of the date on the most recent notice. ¶

(C) The department will waive 25 percent of the 100 percent failure-to-file penalty if the taxpayer, after receiving a Notice of Determination and Assessment, files the tax return and pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of the date of the notice. ¶

(8) Additional Penalty Waivers. For penalties imposed on taxes other than income tax withholding or transit payroll taxes due under ORS 316.162 to 316.221 or statewide transit tax due under ORS 320.550 and that do not qualify for waiver under subsections (5) or (6) of this rule, the department will provide waiver of penalties as follows: ¶

(a) The department will waive ~~half of the~~ the 25 percent failure to file penalties imposed under ORS 314.400(1), ~~314.400(2)(a)(A), and 314.400(2)(a)(B) (50 percent failure to file penalty)~~ 2(b) or ORS 314.400(3)(b) if a taxpayer files the tax return within 30 days of the date shown on the Notice of Determination and Tax Assessment. The department will not waive this penalty for the tax program or "closely-related" tax program (as defined in subsection (6)(b) of this rule) that assessed the penalty if the taxpayer: ¶

(A) Has not filed as required by the due date of the return (including extensions) for any three of the most recent six filing periods; or ¶

(B) Has received the 100 percent failure-to-file penalty under ORS 305.992. ¶

(b) The department will waive part of the 100 percent failure-to-file penalty imposed under ORS 305.992 as follows: ¶

(A) The department will waive 70 percent of the 100 percent failure-to-file penalty if the taxpayer files a return before receiving a Request to File Notice, Notice and Demand to File, Combined Failure-to-File Notice, or any

combination of these notices from the department that relates to the return the taxpayer filed. ¶

(B) The department will waive 50 percent of the 100 percent failure-to-file penalty if the taxpayer files a return after receiving a notice listed in section (8)(b)(A) of this rule. ¶

(C) The department will waive 25 percent of the 100 percent failure-to-file penalty if the taxpayer: ¶

(i) Received a Notice of Determination and Assessment; and ¶

(ii) Files the return (other than transit payroll, income tax withholding, or statewide transit tax returns) related to the Notice of Determination and Assessment. ¶

(9) Late payments made in connection with electronic filing. The department will waive the entire five percent failure-to-pay penalty imposed under ORS 314.400(1) if the taxpayer: ¶

(a) Files an Oregon tax return on or before the due date of the return, excluding extensions; ¶

(b) Submits the Oregon tax return in the same transmission as a federal tax return, using a department-approved alternative to filing a paper return; ¶

(c) Pays any federal tax shown as due on the transmitted federal return on or before the due date using an electronic form of payment such as a credit card, debit card, or electronic funds transfer (ACH Debit); ¶

(d) Pays any tax shown as due on the Oregon return within 30 days of the date shown on the Notice of Tax Assessment sent to the taxpayer; ¶

(e) Proves to the department that failure to pay Oregon tax was due to a good faith, mistaken belief of the taxpayer that the state tax had been paid; and ¶

(f) Has not received relief under this section before. ¶

(10) The provisions of this rule apply to discretionary waiver requests received on or after July 31, 2007.¶

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, 317A.143, 305.145

Statutes/Other Implemented: ORS 305.145, 316.801, 317A.149

AMEND: 150-314-0169

RULE SUMMARY: Amends the rule to add references to both "Corporate Activity Tax" and ORS chapter 317A to sections (1)(a) through (c) and section (7)(b), and a reference to ORS chapter 317A to section (8); remove the reference to the ERA program in section (7)(b); modifies the substitute form exceptions contained in section 5; and amend the reference from LTD Ordinance 38 to Ordinance 51 in sections (1)(a) through (c).

CHANGES TO RULE:

150-314-0169

Standards for Substitute Tax Forms; Treatment of Forms Not Meeting the Standards; Treatment of Payments Received With Forms Not Meeting the Standards ¶¶

(1) Definitions. For purposes of this rule:¶¶

(a) Official form. An official form is any payroll, income, ~~or~~ excise tax, or corporate activity tax form prepared, printed, and distributed by or on behalf of the department pursuant to Oregon Revised Statutes (ORS) Chapters 310, 314, 315, 316, 317, 317A, 318, Lane Transit District (LTD) Ordinance ~~3851~~, and Tri-County Metropolitan Transportation District (TRIMET) Ordinance 92.¶¶

(b) Substitute form. A substitute form is any payroll, income, ~~or~~ excise tax, or corporate activity tax form authorized under ORS Chapters 310, 314, 315, 316, 317, 317A, 318, LTD Ordinance ~~3851~~, or TRIMET Ordinance 92 that is intended to replace the official form.¶¶

(c) Tax Return. A tax return is a payroll, income, ~~or~~ excise tax, or corporate activity tax form filed with the department by or on behalf of a taxpayer under the provisions of ORS Chapter 310, 314, 315, 316, 317, 317A, 318, LTD Ordinance ~~3851~~, or TRIMET Ordinance 92.¶¶

(2) A tax return must be made on the department-prescribed forms, which may be obtained upon request from the department. Such forms are widely distributed, but a failure to receive any forms does not relieve the taxpayer from the responsibility to file any return required by statute.¶¶

(3) The department may accept a substitute form filed in lieu of an official form if the substitute form meets the standards set forth in this rule. It is the intent of the department to follow the National Association of Computerized Tax Processors (NACTP) standards as closely as is practical.¶¶

(4) Substitute form standards. A substitute form with or without optical character readable (OCR) scan lines must be a duplicate of the official form unless the variation is within the exceptions listed in section (5) of this rule. The overall format of substitute forms must match the format of official forms. Overall format includes graphics, location of lines, boxes, data entry symbols, spacing, 2-D barcode placement, and OCR scan line.¶¶

(a) A substitute form must be on paper of the same overall dimension (size) and weight and of a quality equal to or better than that used for the official form.¶¶

(b) Substitute forms and the filled-in data must be legible and must not have extra text or marks that do not appear on the official forms.¶¶

(c) The social security number on substitute forms must be separated by hyphens after the third and fifth digits.¶¶

(d) If the substitute form has OCR scan lines, black nonreflective ink in OCR-A font must be used for printing the scan line.¶¶

(e) Substitute forms must contain a 2-D barcode for tax years beginning on or after January 1, 2006 if the substitute form is:¶¶

(A) Software generated; and¶¶

(B) Used for personal income tax purposes under ORS Chapters 314, 315, or 316.¶¶

(5) Exceptions. The substitute form may differ from the official form with respect to the exceptions listed in this section. However, the difference may delay processing of the tax return.¶¶

(a) Official forms that are printed on colored paper may be reproduced in black ink on white paper.¶¶

(b) Official forms that use both sides of the paper may be reproduced on one side only of two successive pages.¶¶

(c) Reproductions of the data entry symbols may not vary in size from that of the data entry symbols ~~on the official form if the symbols conform to the following specifications:~~¶¶

- (A) The data entry dot must be a filled circle ("•") at least 1/16 inch in diameter and no larger than 1/8 inch in diameter centered vertically on the text line.¶¶
- (B) The data entry symbols must not obstruct or overlap line numbers or captions; and¶¶
- (C) The data entry symbols must be printed on the substitute form in the same position relative to the information to be data entered as on the official form.¶¶
- (d) All text on the official form that is larger in size than 14 point print may ust be reproduced on the substitute form in 14 point print.¶¶
- (e) The boxes (data entry areas) printed on the official form for entry of the filled-in data may be reproduced on the substitute form without a vertical line provided to divide the dollar amount from the cents amount. If rounding an amount to the whole dollar, the amount may be printed without a decimal point and cents the same font and exact position as the official form.¶¶
- (fe) Substitute forms that the department does not support in 2-D barcode format may be printed without 2-D barcode.¶¶
- (6) Photocopies of official forms may be filed if the official form does not contain OCR printing.¶¶
- (7)(a) Substitute forms must be approved by the department prior to use. Substitute forms that do not meet the requirements of this rule may not be filed in lieu of the official forms. The department may reject and return to the taxpayer tax returns using substitute forms that do not meet the requirements of this rule.¶¶
- (b) A tax return that has been rejected under this rule does not meet the filing requirement of the applicable program. The taxpayer must file a tax return using an official form or a substitute form that meets the requirements of this rule in order to meet the filing requirement under the provisions of the personal income tax, corporate income tax and, corporate excise tax, and corporate activity tax programs; the filing requirement under the TRIMET self-employment tax and LTD programs; or the filing requirement under ORS 314.724 for partnership returns; or the filing requirement under the Elderly Rental Assistance program. If the return is rejected, the taxpayer may be assessed penalty for failure to file a tax return as provided under ORS 314.400, 314.724 or as otherwise provided under Oregon law.¶¶
- (8) If the department receives payment with a substitute form that does not meet the requirements of this rule, the department will treat the payment as an estimated tax payment under the provisions of ORS Chapters 314, 316, or 3167A.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 314.385, 317A.149

AMEND: 150-317-1020

RULE SUMMARY: Adopt amendments to the rule to clarify entities that are members of more than one unitary group must file with only one group by filing a return with the unitary group that reports the greatest amount of commercial activity, after exclusions. Modifies reference to OAR 150-317-1025 for changes made to Oregon Laws 2020 (1st special session), ch 2, section 2 and adds clarification that intercompany transactions are only excluded if the members are filing as a unitary group. The amendment adopts the language of the temporary amendment filed March 1, 2021.

CHANGES TO RULE:

#### 150-317-1020

##### Corporate Activity Tax Unitary Business Factors, Common Ownership and Filing Requirements for Unitary Groups

(1) Definition. As used in this rule, the term "entity" or "business entity" refers to any individual or legal entity described in ORS 317A.100(14). ¶

(2) The presence of all of the factors described in ORS 317A.100(18)(a)(A)-(C) will demonstrate that a unitary business exists, but the presence of one or two such factors may also demonstrate the flow of value requisite for a unitary business determination.¶

(3) The Concept of a Unitary Business. A unitary business is a single economic enterprise that is made up either of separate parts of a single entity or a commonly owned group of entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. This sharing or exchange of value may also be described as requiring that the operation of one part of the business be dependent upon, or contribute to, the operation of another part of the business. In other words, if the activities of one business either contribute to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business. ¶

(4) Requirement for a Unitary Business. The sharing or exchange of value described in section (3) that defines the scope of a unitary business requires more than the mere flow of funds arising out of a passive investment or from the financial strength contributed by a distinct business undertaking that has no operational relationship to the unitary business. In Oregon, the unitary business principle will be applied to the fullest extent allowed by the U.S. Constitution. ¶

(5) Separate Trades or Businesses Conducted within a Single Entity. A single entity may have more than one unitary business. In such cases, it is necessary to determine the commercial activity attributable to each separate unitary business for purposes of sourcing commercial activity to Oregon under ORS 317A.128, and the subtraction under ORS 317A.119. ¶

(6) Unitary Business Unaffected by Formal Business Organization. A unitary business may exist within a single entity or among a commonly owned group of entities.¶

(7) Determination of a Unitary Business. A unitary business is characterized by significant flows of value evidenced by factors such as those described in Mobil Oil Corp. v. Vermont, 445 U.S. 425 (1980) and ORS 317A.100(18)(a)(A) to (C): centralization of management, economies of scale, and functional integration. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation. A particular business operation may be suggestive of one or more of the factors mentioned above.¶

(8) Description and Illustration of Centralization of Management, Economies of Scale, and Functional Integration.¶

(a) Centralization of Management. Centralization of management exists when officers, directors, partners, members, managers, or others jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one subsidiary entity to another, from one division within a single entity

to another division within an entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role can be effected through mandates, consensus building, or an overall operational strategy of the business, or any other mechanism that establishes joint management.¶¶

(A) Facts Providing Evidence of Centralization of Management. Evidence of centralization of management is provided when common officers, directors, partners, members, managers, or others participate in the decisions relating to the business operations of the different segments. Centralization of management may exist when management shares or applies knowledge and expertise among the parts of the business. Existence of common officers, directors, partners, members, managers, or others, while relevant to a showing of centralization of management, does not alone provide evidence of centralization of management. Common officers are more likely to provide evidence of centralization of management than are common directors.¶¶

(B) Stewardship Distinguished. Centralized efforts to fulfill stewardship oversight are not evidence of centralization of management. Stewardship oversight consists of those activities that any owner would take to review the performance of or safeguard an investment. Stewardship oversight is distinguished from those activities that an owner may take to enhance value by integrating one or more significant operating aspects of one business activity with the other business activities of the owner. For example, implementing reporting requirements or mere approval of capital expenditures may evidence only stewardship oversight.¶¶

(b) Economies of Scale. Economies of scale refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management. The following are examples of business operations that can support the finding of economies of scale. The order of the list does not establish a hierarchy of importance.¶¶

(A) Centralized Purchasing. Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the parts of the business engaging in the purchasing provides evidence of economies of scale.¶¶

(B) Centralized Administrative Functions. The performance of traditional administrative functions, such as legal services, payroll services, pension and other employee benefit administration, in common among the parts of the business may result in some degree of economies of scale. A business entity that secures savings in the performance of corporate administrative services due to its affiliation with other business entities that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market, provides evidence of economies of scale.¶¶

(c) Functional Integration. Functional integration refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. Functional integration includes, but is not limited to, transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present. The following is a list of examples of business operations that can support the finding of functional integration. The order of the list does not establish a hierarchy of importance.¶¶

(A) Sales, exchanges, or transfers (collectively "sales") of products, services, or intangibles between business activities provide evidence of functional integration. The significance of the intercompany sales to the finding of functional integration will be affected by the character of what is sold and/or the percentage of total sales or purchases represented by the intercompany sales. For example, sales among business entities that are part of a vertically integrated unitary business are indicative of functional integration. Functional integration is not negated by the use of a readily determinable market price to affect the intercompany sales, because such sales can represent an assured market for the seller or an assured source of supply for the purchaser.¶¶

(B) Common Marketing. The sharing of common marketing features among business entities is an indication of functional integration when such marketing results in significant mutual advantage. Common marketing exists when a substantial portion of the business entities' products, services, or intangibles are distributed or sold to a

common customer, when the business entities use a common trade name or other common identification, or when the business entities seek to identify themselves to their customers as a member of the same enterprise. The use of a common advertising agency or a commonly owned or controlled in-house advertising office does not by itself establish common marketing that is suggestive of functional integration. Such activity, however, is relevant to determining the existence of economies of scale or centralization of management.¶

(C) Transfer or Pooling of Technical Information or Intellectual Property. Transfers or pooling of technical information or intellectual property, such as patents, copyrights, trademarks and service marks, trade secrets, processes or formulas, know-how, research, or development, provide evidence of functional integration when the matter transferred is significant to the businesses' operations.¶

(D) Common Distribution System. Use of a common distribution system by the business entities, under which inventory control and accounting, storage, trafficking, or transportation are controlled through a common network provides evidence of functional integration.¶

(E) Common Purchasing. Common purchasing of substantial quantities of products, services, or intangibles from the same source by the business entities, particularly where the purchasing results in significant cost savings or where the products, services or intangibles are not readily available from other sources and are significant to each entity's operations or sales, provides evidence of functional integration.¶

(F) Common or Intercompany Financing. Significant common or intercompany financing, including the guarantee by or the pledging of the credit of, one or more business entities for the benefit of another business entity or entities provides evidence of functional integration, if the financing activity serves an operational purpose of both borrower and lender. Lending which serves an investment purpose of the lender does not necessarily provide evidence of functional integration. ¶

(9) Indicators of a Unitary Business.¶

(a) Same Type of Business. Business activities that are in the same general line of business generally constitute a single unitary business, as, for example, a multistate grocery chain.¶

(b) Steps in a Vertical Process. Business activities that are part of different steps in a vertically structured business almost always constitute a single unitary business. For example, a business engaged in the exploration, development, extraction, and processing of a natural resource and the subsequent sale of a product based upon the extracted natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the business's executive offices.¶

(c) Strong Centralized Management. Business activities which might otherwise be considered as part of more than one unitary business may constitute one unitary business when there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Strong centralized management exists when a central manager or group of managers makes substantially all of the operational decisions of the business. For example, some businesses conducting diverse lines of business may properly be considered as engaged in only one unitary business when the central executive officers are actively involved in the operations of the various business activities and there are centralized offices which perform for the business activities the normal matters which a truly independent business would perform for itself, such as personnel, purchasing, advertising, or financing.¶

(10) More Than 50 Percent Common Ownership. If a person owns, directly or indirectly, more than 50 percent of the voting power and value of the ownership interest of an entity, then the person and entity are under common ownership, and the person and entity are included in a unitary group if they are also engaged in a unitary business. The provisions of this section (10) apply to all persons and entities described in ORS 317A.100(14) other than entities described in ORS 317A.100(4)(a) to (i) and (k). ¶

(a) For purposes of the definition of common ownership, each of the following apply:¶

(A) "Voting power" means: ¶

(i) the power of all classes of stock entitled to vote that possess the power to elect the membership of the board of directors of a corporation, or ¶

(ii) in the case of an entity that is not a corporation, the power of all ownership interests with the right to control or

determine the management of the entity.¶

(B) "More than 50 percent of the voting power of the ownership interest" means voting power equal to more than 50 percent of all outstanding voting stock or other ownership interests with the ability to control or determine the management of the entity. ¶

(C) "Ownership interest" includes an ownership interest where ownership is retained but the actual voting power is transferred in the following manner:¶

(i) For one year or less, or¶

(ii) By proxy, voting trust, written shareholder agreement, or by similar device, where the transfer is revocable by the transferor.¶

(b) "Common ownership" in a group of persons means any of the following:¶

(A) A parent entity and any one or more entity or chains of entities, connected through direct ownership (or constructive ownership) with the parent entity, but only if:¶

(i) The parent owns stock or other ownership interest possessing more than 50 percent of the voting power of at least one entity, and, if applicable;¶

(ii) Ownership interests cumulatively possessing more than 50 percent of the voting power of each of the entities, except the parent entity, is owned by the parent, or one or more entities described in subparagraph (i).¶

(B) Any two or more entities, if stock or ownership interest possessing more than 50 percent of the voting power of the entities is owned, or constructively owned, by the same person.¶

(C) Any two or more entities that constitute stapled entities.¶

(i) For purposes of this paragraph, "stapled entities" means any group of two or more entities if more than 50 percent of the ownership or beneficial ownership of the stock or other ownership interest possessing voting power in each entity consists of stapled interests.¶

(ii) Two or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of one of the interests, the other interest or interests are also transferred or required to be transferred.¶

(c) Membership in a commonly owned group must be treated as terminated in any year, or fraction thereof, in which the conditions of subsection (b) of this section are not met, except as follows:¶

(A) When stock or an ownership interest of an entity is sold, exchanged, or otherwise disposed of, the membership of an entity in a commonly owned group cannot be terminated, if the requirements of subsection (b) of this section are again met immediately after the sale, exchange, or disposition.¶

(B) The department may treat the commonly owned group as remaining in place if the conditions of subsection (b) of this section are again met within a period not to exceed two years.¶

(d) Except as otherwise provided, stock or an ownership interest is "owned" when title to the stock or ownership interest is directly or indirectly held, or if the stock or ownership interest is constructively owned.¶

(A) An individual constructively owns stock or an ownership interest that is directly owned by any of the following: spouse, parents, brothers or sisters, grandparents, children, grandchildren, and an estate or trust, of which the individual is an executor, trustee, or grantor, to the extent that the estate or trust is for the benefit of that individual's spouse or children.¶

(B) If an ownership interest in an entity is owned directly or indirectly by or for any person, such person shall be considered as owning any stock or other ownership interest owned directly or indirectly by or for such entity, in that proportion which the value of the entity interest that such person owns bears to the value of all ownership interests in that entity.¶

(C) In the case of a partnership, a person owning more than 50 percent of the capital or profits interest in the partnership is treated as a common owner in the partnership. ¶

(D) In the case of a grantor trust to which IRC § 677 applies, the grantor is treated as the owner of stock or ownership interest held by the trust. ¶

(E) In the case of a trust to which IRC § 678 applies, the person, other than the trust, described in IRC § 678 is treated as the owner of stock or ownership interest held by the trust.¶

Example 1: Harvey and his siblings, Ellie and Ben, each own one third of the stock in S corporation DEF. Harvey

also owns 100% of sole proprietorship ABC. ABC and DEF are engaged in activities that constitute a unitary business. Harvey constructively owns 100% of DEF because of his family relationship with Ellie and Ben. Because DEF and ABC meet the common ownership requirement and are engaged in a unitary business, they must register, file, and pay the corporate activity tax as a single taxpayer.¶

(11) Member of More Than One Unitary Group.¶

(a) If, in the application of the constructive ownership rules in section (10), an entity is included in more than one unitary group, the entity must file annually as a member of the unitary group that realizes the greatest amount of Oregon commercial activity, after the exclusions described under ORS 317A.100(1)(b)(A)-(VV) and without deduction for any cost inputs or any labor costs attributable to the subtraction provided in ORS 317A.119.¶

Example 2: Hill Enterprises (Hill), Lupine Inc. (Lupine), and Terry Mart are members of the same unitary group. During the tax year Hill, Lupine and Terry Mart together realized total Oregon commercial activity of \$6 million after exclusions. Hill, Lupine and Terry Mart do not have any receipts from transactions among members of a unitary group that would be excluded under ORS 317A.100(1)(b)(FF). Because of the application of the constructive ownership rules in section (10), Hill is also a member of a unitary group with Jasmine Dealers (Jasmine) and Janet Outfitters (Janet). Hill, Jasmine and Janet realized total Oregon commercial activity after exclusions of \$3 million during the tax year. Hill, Jasmine and Janet do not have any receipts from transactions among members of a unitary group that would be excluded under ORS 317A.100(1)(b)(FF). Hill is unitary with more than one group but is required to be part of only one unitary group. Hill must file with Lupine and Terry Mart because this is the unitary group with the greatest amount of Oregon commercial activity after exclusions. Jasmine and Janet file together as a unitary group.¶

(b) If there are receipts from transactions that would be excluded under ORS 317A.100(1)(b)(FF), the exclusion is taken into account in determining the unitary group with which the entity must file under section (11)(a).

However, once it is determined pursuant to section (11)(a) that an entity is not included in the Corporate Activity Tax return of a unitary group, that unitary group may not exclude receipts from transactions with the entity that would otherwise be excluded from commercial activity under ORS 317A.100(1)(b)(FF).¶

Example 3: Same facts as in Example 2, except that Jasmine had \$5 million in receipts from Hill included in Oregon commercial activity before application of the exclusion under ORS 317A.100(1)(b)(FF) and Terry Mart also has \$1 million in receipts from Hill included in Oregon commercial activity before application of ORS 317A.100(1)(b)(FF). Hill, Janet, and Jasmine have a total of \$8 million in Oregon commercial activity before exclusions under ORS 317A.100(1)(b)(FF). Hill, Lupine, and Terry Mart have a total of \$7 million in Oregon commercial activity before exclusions under ORS 317A.100(1)(b)(FF). Hill is still required to file with Lupine and Terry Mart because this is the unitary group with the greatest amount of Oregon commercial activity after exclusions when Hill is considered a member of each group. Therefore, Hill is not part of a unitary group with Jasmine and Janet for purposes of the return filed under ORS 317A.106. Jasmine and Janet must file together as a unitary group and may not exclude from Oregon commercial activity reported on the group's return the \$5 million in receipts Jasmine received from Hill. The \$1 million that Terry Mart receives from Hill is excluded from Oregon commercial activity on the unitary group return filed by Hill, Lupine, and Terry Mart.¶

(12) Filing requirements. In accordance with ORS 317A.106, persons who compose a unitary group, as defined in ORS 317A.100(19), shall register, file, and pay the corporate activity tax as a single taxpayer based on the commercial activity of all members of the unitary group, if at least one member of the unitary group has substantial nexus with Oregon (refer to OAR 150-317-1010: Substantial Nexus). Unitary groups with ~~alien or~~ foreign non-U.S. members that have no commercial activity in Oregon, or that realize commercial activity that is excluded from the definition of Oregon commercial activity may file a modified group return (refer to OAR 150-317-1025: Unitary Group with Foreign Affiliates), elect to modify unitary group membership to exclude such non-U.S. members as provided in OAR 150-317-1025. ¶

Example 24: Clarendon Corp. (Clarendon), Deanwood LLC (Deanwood), and Eisenhower Partnership (Eisenhower) are members of the same unitary group. Clarendon is an engineering company based in Oregon. Deanwood is headquartered outside of Oregon and sells tangible personal property throughout the United States. Eisenhower provides consulting services to third parties and has no employees or property in Oregon. During the

calendar year, Clarendon realized commercial activity of \$2.3 million in Oregon from transactions with persons outside the unitary group. Deanwood realized commercial activity in Oregon of \$230,000 from transactions with persons outside the unitary group. Eisenhower provided one hour of consulting service to a third party in Oregon, from which it realized \$1,000 of commercial activity. Clarendon and Deanwood each have substantial nexus with Oregon. Eisenhower does not. Because they are members of a unitary group at least one of which has substantial nexus with Oregon, the unitary group is required to register, file, and pay the corporate activity tax as a single taxpayer on the total amount of commercial activity realized by Clarendon, Deanwood, and Eisenhower. ¶

[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, 317A.143

Statutes/Other Implemented: ORS 317A.100, 317A.106, 317A.116

ADOPT: 150-317-1060

RULE SUMMARY: Defines insurance premiums; provides guidance for purposes of sourcing insurance premiums receipts. A temporary rule has been in effect since February 1, 2021. The permanent rule adopts the language of the temporary rule, but adds terms to make the rule consistent with the language in ORS 317A.100(1)(a)(C)(i) with regards to "gross direct" insurance premiums.

CHANGES TO RULE:

150-317-1060

Definition of Insurers Gross Premiums Receipts

(1) For purposes of determining an insurer's commercial activity subject to the Corporate Activity Tax, "insurance premiums" are the following premiums received by an insurer, unless otherwise excluded under ORS 317A.100:

(a) All gross direct life, gross direct accident and health, and gross direct property and casualty insurance premiums written, as reported on the statement of premiums accompanying the annual statement required to be filed with the Director of the Department of Consumer and Business Services under ORS 731.574 that allocate premiums by jurisdiction. ¶

(b) The gross amount of surplus lines insurance premiums written on Oregon home state risks, as shown in the report required by ORS 735.465.¶

(2) The Corporate Activity Tax described in ORS 317A.100(1)(a)(C) applies to insurers that meet that definition under ORS 317A.100(10) and that receive the insurance premiums described in section (1) of this administrative rule; the provisions in ORS 731.840 do not apply to the Corporate Activity Tax. ¶

[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, 317A.128, 317A.143

Statutes/Other Implemented: ORS 317A.100, 317A.128