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

CHAPTER 150  
DEPARTMENT OF REVENUE

**FILED**  
04/27/2021 4:35 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Corporate Activity Tax: guidance for sourcing commercial activity from rail carrier transportation services.

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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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

SPECIAL INSTRUCTIONS:

Join ZoomGov Meeting  
<https://www.zoomgov.com/j/1618320>  
546

Meeting ID: 161 832 0546

Passcode: 484638

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

Meeting ID: 161 832 0546

Passcode: 484638

Find your local number:

<https://www.zoomgov.com/u/aubfMA>  
kd3

NEED FOR THE RULE(S):

Provides guidance for sourcing commercial activity from rail carrier transportation services.

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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:

Approximately 40,000 businesses will be subject to the Corporate Activity Tax (CAT), 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 CAT return. However, the number of small businesses who will be subject to this rule is estimated to be one or fewer. This rule provides guidance for sourcing commercial activity from rail carrier transportation services. Sourcing of receipts for the corporate activity tax is already required per statute. There is no fiscal impact resulting from the adopting 150-317-1080, as the statutes implemented are what cause the impact, if any.

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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, generally are a result of statutory requirements. It is anticipated that guidance provided in the rule will clarify reporting and recordkeeping requirements, reduce or lead to more focused questions from taxpayers and tax professionals, and reduce or clarify potential issues in audits or litigation, possibly reducing the cost to comply with statutory requirements.

(2)(a) Approximately 40,000 businesses will be subject to the Corporate Activity Tax (CAT), 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 CAT return. Based on this information and information from tax returns filed, we estimate Oregon has approximately 11,500 small businesses with fewer than 50 employees that are subject to CAT. However, the number of small businesses who will be subject to this rule is estimated to be one or fewer.

(2)(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 don't anticipate additional costs for professional services to comply with the requirements of this rule.

(2)(c) None known

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

The department will be notifying interested parties of the rule making process for this rule including the public hearing prior to adopting this rule as permanent. During the public comment period, stakeholders, including small businesses, can provide the department with feedback on this rule.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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ADOPT: 150-317-1080

RULE SUMMARY: Provides guidance for sourcing commercial activity from rail carrier transportation services.

CHANGES TO RULE:

150-317-1080

Sourcing of Rail Carrier Transportation Services

(1) Definition. For purposes of this rule, "rail carrier" means a person providing railroad transportation of persons or property for compensation.¶¶

(2) In General. Amounts realized from rail carrier transportation services are sourced to this state if and to the extent the service is delivered to a location in this state. A transportation service is delivered to a location in this state to the extent that the transportation occurs within the borders of the state.¶¶

(3) The total commercial activity sourced to this state during the tax period from rail carrier transportation services includes:¶¶

(a) All receipts realized from any rail carrier transportation service which both originates and terminates within this state; and¶¶

(b) That portion of the receipts realized from each movement or shipment passing through, into, or out of this state as determined by the ratio which the miles traveled by such movement or shipment in this state bears to the total miles traveled by such movement or shipment from points of origin to destination. Per diem and mileage charges that are collected by the taxpayer are excluded from both the numerator and denominator of the ratio.¶¶

(4) Notwithstanding section (3), receipts sourced to this state may not include receipts from transportation services to the extent sourcing such receipts to this state is prohibited by the Constitution or laws of the United States, including, but not limited to, 49 U.S. Code ¶ 24301(l).

Statutory/Other Authority: ORS 305.100, 317A.128, 317A.143

Statutes/Other Implemented: ORS 317A.128