



ADMINISTRATIVE RULE REVIEW

Adopt Rule Permanent Rule	Rule No. 150-317-1010	
	Page Page 1 of 3	Last Revised Date February 18, 2020
	NOTICE OF INTENDED ACTION	
	Bulletin Dated May 2020	Hearing Scheduled May 26, 2020

PURPOSE: Provides guidance to assist taxpayers in determining whether they have substantial nexus with Oregon for purposes of the Oregon Corporate Activity Tax (CAT).

1 **150-317-1010**

2 **Substantial Nexus Guidelines for the Corporate Activity Tax (CAT)**

3 (1) For purposes of ORS 317A.116, substantial nexus exists if a connection between the person
4 and Oregon is sufficient to establish nexus under the U.S. Constitution.

5 (2) “Substantial nexus” for corporate activity tax jurisdiction purposes, under the Commerce
6 Clause of the U.S. Constitution, does not require a person to have a physical presence in Oregon.
7 Substantial nexus exists where a person regularly takes advantage of Oregon’s economy to
8 realize commercial activity for the person and may be established through the significant
9 economic presence of the person in the state.

10 (3) When determining whether a person has substantial nexus with Oregon, the department may
11 consider whether the person:

12 (a) Maintains continuous and systematic contacts with Oregon’s economy or market;

13 (b) Conducts deliberate marketing to, or solicitation of, Oregon customers;

14 (c) Files or is required to file reports or returns with Oregon regulatory bodies;

15 (d) Realizes significant gross receipts attributable to customers in Oregon;

16 (e) Realizes significant gross receipts attributable to the use of the person’s intangible property in
17 Oregon; or

18 (f) Receives benefits provided by the state, such as:

19 (A) Laws providing protection of business interests or regulating consumer credit;

20 (B) Access to courts and judicial process to enforce business rights including debt collection and
21 intellectual property rights;

22 (C) Highway or transportation system access for transport of the person’s goods or services;

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- 1 (D) Access to an educated workforce in Oregon; or
- 2 (E) Police and fire protection for property in Oregon that displays the person’s intellectual or
- 3 intangible property.
- 4 (4) The list of possible facts in section (3) that the department may consider in determining
- 5 whether a person has substantial nexus with Oregon is meant to be nonexclusive, and those facts
- 6 should be considered only to the extent they are relevant. The department may consider any other
- 7 relevant facts and circumstances.
- 8 **Example 1:** Brookland Distributing Company (Brookland), located outside of Oregon,
- 9 distributes wine and beer throughout Oregon, through Oregon licensed distributors with whom
- 10 Brookland has distribution agreements. Brookland is required to obtain and maintain a
- 11 wholesaler’s license from the Oregon Liquor Control Commission (OLCC). A condition of the
- 12 license is that Brookland must make monthly reports of sales volumes to the OLCC. Brookland
- 13 also periodically seeks advice and approval from the OLCC for special event activities in
- 14 Oregon, where no sales are solicited by Brookland. Brookland has substantial nexus in Oregon.
- 15 **Example 2:** Atlas Company (Atlas Co.), headquartered in Maryland, operates a website
- 16 supporting internet sales, primarily to European country customers. Atlas Co. made
- 17 approximately 10,000 sales at \$99.00 per sale, to residents of Oregon during the year, realizing
- 18 \$990,000 of commercial activity. Atlas Co. contracts with an Oregon mailing service to deliver
- 19 the merchandise in Oregon. While the amount of commercial activity realized by Atlas Co. is
- 20 below the threshold to file a corporate activity tax return and pay tax, Atlas Co. does have
- 21 substantial nexus in Oregon, and must register with the department when commercial activity
- 22 exceeds \$750,000.

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- 1 **[Publications:** Contact the Oregon Department of Revenue for information about how to obtain
- 2 a copy of the publication referred to or incorporated by reference in this rule pursuant to ORS
- 3 183.360(2) and ORS 183.355(1)(b).]
- 4 **Stat. Auth.:** ORS 305.100, ORS 317A.143
- 5 **Stats. Implemented:** ORS 317A.116