



ADMINISTRATIVE RULE REVIEW

	Rule No. 150-317-1170	
	Page Page 1 of 2	Last Revised Date Sept. 21, 2020
New Rule	NOTICE OF INTENDED ACTION	
Permanent Rule	Bulletin Dated October 2020	Hearing Scheduled October 27, 2020

PURPOSE: Provides additional guidance to taxpayers with farming operations in determining their percentage of in-state compared to out-of-state sales of agricultural commodities as described in section 6 of HB 4202 (Oregon Laws 2020 (first special session), chapter 2). It details broker or wholesaler certificate requirements, defines the phrase “other sources of sales information” as used in HB 4202 Section 6(2)(b), and clarifies which agricultural commodity statistics may be used.

1 **150-317-1170**

2 **Farming Operations: Clarifying Definitions for Agricultural Commodities, Farming Operations,**
3 **Out of State Sales Based on Industry Averages**

4 (1)(a) *General rule:* A taxpayer that is engaged in a farming operation, as defined in Oregon Laws 2020
5 First Special Session, chapter 2, section 6(1)(c), that sells agricultural commodities to a broker or
6 wholesaler may demonstrate the amount of the taxpayer’s goods sold in this state compared to outside
7 this state, for purposes of determining commercial activity, by:

8 (A) Obtaining an out-of-state resale certificate as provided in OAR 150-317-1400;

9 (B) Obtaining a certificate from the broker or wholesaler receiving an agricultural commodity from the
10 taxpayer that states the percentage of the taxpayer’s goods sold in this state compared to outside this
11 state; or

12 (C) Using an industry average percentage for sales of the agricultural commodity made the previous tax
13 year, based on the most recent information from the United States Department of Agriculture National
14 Agricultural Statistics Service and other sources of sales information.

15 (b) The phrase “other sources of sales information” includes any publication by a governmental entity or
16 trade association that publishes agricultural commodity sales information.

17 (2) *Certificate Requirements:* A farming operation taxpayer that seeks to demonstrate the percentage of
18 the taxpayer’s goods sold in this state compared to outside this state by obtaining a certificate, pursuant
19 to section (1)(a)(B) of this rule, from the broker or wholesaler, must obtain the certificate by the due date
20 of the return, including extensions. The certificate provided by the broker or wholesaler to the seller must
21 contain:

22 (a) The broker or wholesaler’s legal name and Oregon address;

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- 1 (b) The broker or wholesaler’s federal tax identification number;
- 2 (c) The date of purchase;
- 3 (d) The total amount of purchased property;
- 4 (e) The purchase price paid by the broker or wholesaler;
- 5 (f) The percentage of purchased property that the broker or wholesaler will resell outside of Oregon; and
- 6 (g) The signature of the broker or wholesaler, their authorized representative, or employee, certifying that
- 7 the person is a broker, as that term is defined in Oregon Laws 2020 First Special Session, chapter 2,
- 8 section 6(1)(b), or a wholesaler, as that term is defined in ORS 317A.100(20).
- 9 (3) *Industry Average Statistics:* A farming operation taxpayer that seeks to demonstrate the percentage of
- 10 the taxpayer’s goods sold in this state compared to outside this state by using industry average statistics,
- 11 pursuant to section (1)(a)(C) of this rule, must rely on statistics for the specific sub-type of agricultural
- 12 commodity sold, where available, or may rely on statistics for the general type of agricultural commodity
- 13 where sub-type statistics are unavailable for the specific agricultural commodity.
- 14 **Stat. Auth.:** ORS 305.100 & 317A.143
- 15 **Stats. Implemented:** Oregon Laws 2020 First Special Session, chapter 2, section 6