

OFFICE OF THE SECRETARY OF STATE  
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ARCHIVES DIVISION  
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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150  
DEPARTMENT OF REVENUE

**FILED**  
09/25/2020 1:49 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Corporate Activity Tax: Refund Offset; Sourcing; Exclusions; Subtractions; Estimated Payments; Unitary Groups

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/27/2020 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 McCann  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/27/2020

TIME: 9:00 AM - 11:00 AM

OFFICER: Assigned Staff

ADDRESS: Remote Hearing -  
Conference Call

955 Center St NE  
Salem, OR 97301

SPECIAL INSTRUCTIONS:

Conference call line 541- 465 - 2805;  
PIN 234470

NEED FOR THE RULE(S):

150-314-0248 Amend Oregon Administrative Rule (OAR) 150-314-0248 to clarify when refunds will be offset to assessed corporate activity tax (CAT) accounts.

150-317-1025 Provides guidance for the election to modify unitary groups with non-U.S. members that have no commercial activity, or have amounts realized but by definition are excluded from commercial activity, that is sourced to Oregon.

150-317-1070 Provides guidance for sourcing commercial activity from motor carrier transportation services.

150-317-1170 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.

150-317-1200 Provides guidance to assist taxpayers in how to compute the cost input or labor cost subtraction for purposes of the Oregon Corporate Activity Tax (CAT) after amendments to ORS 317A.119 made by Oregon Laws 2020 (first special session), chapter 2, section 4.

150-317-1300 Amends section (8)(b) to delete an incorrect applicability reference to tax year 2021 when estimated tax overpayments will begin being applied to the following tax year. Rule provides guidance to taxpayers in determining when estimated corporate activity tax (CAT) payments are required, including estimated payment due dates for short-period returns, how refund requests are handled, how to apply an overpayment to a future tax period, how estimated taxes are credited, and to require payment of estimated tax via electronic funds transfer. Clarifies that persons subject to unrelated business income have the same obligations as other persons under the CAT and provides a higher estimated tax payment threshold for the first year of the tax.

150-317-1400 Amends rule to add a new section (6) to direct farming operation taxpayers to alternative methods for out-of-state-sales permitted under Oregon Laws 2020 (first special session), chapter 2, section 6 (HB 4202). Rule provides guidance to sellers and wholesalers regarding the exclusion from commercial activity for property purchased for resale out-of-state, as provided by ORS 317A.100(1)(b)(DD).

150-317-1500 Establishes that no penalty will be assessed against taxpayers making a good faith effort to comply with ORS 317A.137(2) for tax year 2020. Provides factors that the department will consider when determining good faith effort.

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

Oregon Revised Statutes: 317A.100 – 317A.161, available online through Legislative Counsel.

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#### FISCAL AND ECONOMIC IMPACT:

Approximately 40,000 businesses will be subject to the Corporate Activity Tax, based on Legislative Revenue's estimate during the 2019 legislative session.

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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. The extent of additional costs attributable specifically to a particular rule rather than statutory requirements cannot be readily quantified.

OAR 150-317-1170 requires a farming operation taxpayer, to obtain from the broker or wholesaler a certificate by the due date of the return, including extensions. This certificate is required for taxpayers that seek to demonstrate the percentage of the taxpayer's goods sold in this state compared to outside this state. The rule doesn't require a specific form and allows for any documentation to serve as verification if it contains the required information. Under both federal and state law, taxpayers must keep documentation to substantiate inventory, deductions and credits, so recordkeeping requirements generally are already required. Additionally, because we are not requiring a specific form of documentation, we have attempted to mitigate any cost of compliance with the statute.

2. a. All entity types with more than \$1 million in gross receipts are required to file a CAT return. Based on our records in the 2018 Wage Extract file, we estimate Oregon has approximately 11,500 small businesses with fewer than 50 employees who are subject to these rules. However, there are specific rules outlined below that will apply to certain industries.

OAR 150-317-1170: Out of the estimated 11,500 small businesses that are subject to CAT and based on our records in the 2018 Wage Extract file, we estimate 260 farming operation taxpayers with over \$1 million gross receipts may need to obtain verification under this rule if they elect not to use industry averages for out-of-state sales.

OAR 150-317-1070: Out of the estimated 11,500 small businesses that are subject to CAT and based on our records in the 2018 Wage Extract file, we estimate 120 motor carrier taxpayers with over 1 million gross receipts may be subject to this rule.

b. The extent of additional costs attributable specifically to a particular rule rather than statutory requirements cannot be quantified. Under both federal and state law, taxpayers must keep documentation to substantiate inventory, deductions and credits, so recordkeeping requirements generally are already required.

c. None known.

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

The department met with small business liaison groups such as the Oregon Farm Bureau, Oregon Business and Industry, Smart Growth Coalition, and Council on State Taxation, as well as business owners and tax professionals to hear about concerns and issues that needed to be addressed prior to drafting or amending these administrative rules.

OAR 150-317-1170: The department conducted several meetings with members of Oregon Farm Bureau to discuss changes made by section 6 of Oregon Laws 2020 (first special session), chapter 2, prior to drafting the rule. Attendees had the opportunity to ask specific questions about the application of the statute and provide input to the rule requirements.

OAR 150-317-1400: The only change from the permanent rule adopted in July 2020 is to add a new section (6) to direct farming operation taxpayers to alternative methods for out-of-state-sales as permitted under Oregon Laws 2020 (first special session), chapter 2, section 6.

OAR 150-317-1070: A draft of the permanent rule was posted on the Department of Revenue's Corporate Activity Tax webpage in order to allow all members of the public, including small businesses, tax professionals who serve small businesses, and other stakeholders the opportunity to provide feedback prior to filing the permanent rule with the Secretary of State.

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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. 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.

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RULES PROPOSED:

150-314-0248, 150-317-1025, 150-317-1070, 150-317-1170, 150-317-1200, 150-317-1300, 150-317-1400, 150-317-1500

AMEND: 150-314-0248

RULE SUMMARY: Amend Oregon Administrative Rule (OAR) 150-314-0248 to clarify when refunds may be offset to assessed corporate activity tax (CAT) accounts.

CHANGES TO RULE:

150-314-0248

Refund Offset Priority ¶

(1) As used in this rule:¶

(a) "Appropriation accounts" means accounts that are established by an appropriation of the state legislature.¶

(b) "Nonassessed accounts" means: tax accounts for which the department has determined a deficiency exists but that have not yet been assessed.¶

(c) "Assessed accounts" means:¶

(A) Tax accounts that have not been paid for which an appeal has not been made or is final and a written notice of assessment stating the amount so assessed has been issued to the taxpayer; and¶

(B) Self-assessed accounts that have not had a written notice of assessment issued to the taxpayer.¶

(d) "Oldest account" means the account with the earliest set-up date. If more than one account has the same set-up date, the earliest tax year is the oldest account.¶

(e) "Set-up date" means the date the account was established or created.¶

(2) The department will offset a refund to assessed accounts, unless the taxpayer has a currently pending appeal of the assessment. The department may also offset a refund to nonassessed accounts when the taxpayer sends the department a written authorization to offset the refund. Offsets will be made using the following guidelines:¶

(a) First offset to the oldest account within the program that has the refund.¶

(b) After all accounts are satisfied within the program that has the refund, offset to other programs, oldest account first, following the priorities shown in section (4) below.¶

(3) A taxpayer's refund will be offset only to accounts owed by that taxpayer. An individual refund will not be offset to a corporate account nor a corporate refund offset to accounts of a subsidiary.¶

(4) The priority criteria ~~is~~are:¶

(a) Funds due the general fund, excluding funds due other state of Oregon agencies. ~~This, and also~~ includes all funds due from the cigarette and amusement device taxes ~~that is~~are allocated part to the general fund and part to local governments and all funds due the Fund for Student Success.¶

- (b) Funds due an appropriation account that will revert to the general fund.¶¶
- (c) Funds due the Senior Property Tax Deferral Revolving Account authorized under ORS 311.701.¶¶
- (d) Funds due a state of Oregon tax program for distribution to local governments.¶¶
- (e) Funds due other state of Oregon agencies.¶¶
- (f) Funds due local jurisdictions for which the department collects under ORS 293.250.¶¶
- (g) Funds due entities which serve a garnishment or levy on the Department of Revenue.¶¶
- (h) Funds due charitable check-off programs designated by the taxpayer in lieu of receiving a refund check.¶¶
- (i) Funds due the federal government under the state reciprocal offset program under ORS 305.612.¶¶

Example: A taxpayer has a personal income tax refund due for the year. The amount of the refund owed is \$200. The taxpayer also has two liability accounts. The taxpayer owes \$100 to the Department of Revenue on an assessed personal income tax account for the previous year. The Taxpayer also owes \$300 to the Department of Education.¶¶

This is how the offset of the refund would look:¶¶

\$200.00 Refund¶¶  
 Less <\$100.00> Personal Tax liability on assessed account¶¶  
 Less <\$100.00> Department of Education¶¶  
 Refund = -0-¶¶

(5) If the refund balance as adjusted by the department in processing and after other offsets is insufficient to pay the designated charitable check-off contributions in full, payment will be prorated. The proration will be the ratio of the designated contribution to a specific fund divided by the total contribution to all funds.¶¶

(6) State tax refunds will not be offset to accounts for TriMet Transportation District or the Lane Transit District without the written permission of the taxpayer. Refunds from these programs will be offset to accounts within the same program but not to an account for a different tax program.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 314.415

AMEND: 150-317-1025

RULE SUMMARY: Provides guidance for the election to modify unitary groups with non-U.S. members that have no commercial activity, or have amounts realized but by definition are excluded from commercial activity, that is sourced to Oregon.

CHANGES TO RULE:

150-317-1025

Corporate Activity Tax: Unitary Groups with Non-U.S. Members – Reporting Requirements Election to Exclude Non-U.S. Members from Unitary Group

(1) General Rule: For purposes of the Corporate Activity Tax (CAT), a unitary group is defined as ~~being~~ a group of persons with more than 50 percent common ownership, either direct or indirect, that is engaged in business activities that constitute a unitary business. Unitary group members ~~may~~ include entities formed in the United States and entities formed outside the United States ("non-U.S. members"). Generally, a unitary group must file a group return that includes all members that are part of the unitary group. ¶

~~(2) Special Rule: Certain unitary groups may file a modified group return omitting from the return a~~ modified unitary group election is made pursuant to and sections (2) and (3) of this rule. ¶

(2) Modified Unitary Group Election. A unitary group may elect to modify unitary group membership to exclude all non-U.S. member's information as provided in section (3) if: ¶

~~(a) The non-U.S. member has~~ from the unitary group that: ¶

(a) have no commercial activity sourced to Oregon under ORS 317A.128; and ¶

~~(b) The non-U.S. member has~~ have no commercial activity excluded under ORS 317A.100(1)(b) that would otherwise be sourced to Oregon if it were included in commercial activity, including, but not limited to, ORS 317A.100(1)(b)(FF) (receipts from transactions among members of a unitary group); and ¶

~~(c) The omission of the information of one or more non-U.S. members described in subsection (a) and (b) of this section (2) does not result in omission of more than 5 percent of total amounts of commercial activity that would otherwise be.~~ If a unitary group makes an election under section (3), it may not included in the denominator of any method used for apportioning commercial activity for purposes of the subtraction under ORS 317A.119 as calculated under OAR 150-317-1200. ¶

~~(3) Omission of Informat~~ unitary group any non-U.S. member that meets the criteria for exclusion and Relationship to Subtraction Under ORS 317A.119. ¶

~~(a) If a unitary group has one or more~~ er this section. ¶

(3)(a) A unitary group must make an election to exclude all non-U.S. members described in section (2) of this rule; the group may omit all financial information of or relating to the non-U.S. member or members from the group's CAT return that would otherwise be required to be reported on the return according to the department's on an original or amended return filed on or before the due date including extensions or an original return filed after the due date of the return including extensions in accordance with forms and instructions. The election is an annual election and must be made separately for each tax year. An election under this rule is binding for ~~ms and instructions.~~ applicable to the tax year it is made. ¶

(b) For purposes of the subtraction under ORS 317A.119 and OAR 150-317-1200, the unitary group's labor costs or cost inputs attributable to receipts from an item that is commercial activity and any amounts used to apportion costs to Oregon in the manner provided in ORS 317A.119(23) or (4) may not include any financial information of a non-U.S. member ~~or members whose financial information is omitted under section (2).~~ ¶

~~(4) If the omission of the non-U.S. group member's information under~~ excluded from the unitary group under this section (3). ¶

~~(4) o~~ f this rule does not fairly represent the extent of the unitary group's labor costs or cost inputs attributable to commercial activity in Oregon under ORS 317A.119, the unitary group may not omit the unitary group excludes non-U.S. member's information from the return. ¶

~~(5) If a unitary group omits the financial information of non-U.S. group members from the CAT return~~ from the unitary group under section (3) of this rule, the group must maintain a list of omitted excluded non-U.S. members

and keep the list in the unitary group's records. The list must include the name of the excluded entity, the tax identification number of the excluded entity (including federal tax identification number, if applicable), contact information for the excluded entity, and any other identifying information related to the entity omitted from the return, including contact information for the entity~~excluded entity specified in forms or instructions~~. The list must be made available to the department upon request of the department.¶

~~(65)~~ Upon examination of the return that is filed, the department may determine the ~~omission of the election to exclude one or more non-U.S. member's information from the unitary group~~ is not proper ~~under sections (2) and (3) of this rule and may include the financial information of that member in whole or in part in the unitary group's Oregon return as required under ORS 317A.100 to 317A.158.~~ may disallow the election in whole or in part. Such determination may be based on consideration of all facts and circumstances with respect to the election and may include, but is not limited to:¶

(a) whether any member of the unitary group fails to comply with any provisions of this rule; or ¶

(b) whether a member was excluded from the unitary group with a substantial objective of avoiding the CAT.¶

~~(76)~~ Notwithstanding sections (2) and (3) of this rule, if property is transferred into Oregon under ORS 317A.109(1)(b) that is included in taxable commercial activity of the modified unitary group, the group must maintain information about any member, including non-U.S. members excluded by election, that transferred property to or received property in a location outside this state within one year before the transfer of the property into this state. The information must be made available to the department upon request of the department.

Statutory/Other Authority: ORS 305.100, 317A.106, 317A.143

Statutes/Other Implemented: ORS 317A.106, 317A.119, 317A.134, 317A.137

ADOPT: 150-317-1070

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

CHANGES TO RULE:

150-317-1070

Sourcing of Motor Carrier Transportation Services

(1) Definitions. For purposes of this rule, the following definitions apply:¶

(a) "Highway" means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.¶

(b) "Mobile property mile" is the movement of a unit of mobile property a distance of one mile whether loaded or unloaded.¶

(c) "Mobile property" means all motor vehicles, including trailers, engaged directly in the movement of tangible personal property, other than support vehicles used predominantly in a local capacity.¶

(d) "Motor carrier" means any person providing motor vehicle transport of persons or property for compensation, or who publicly purports to be willing to provide motor vehicle transport of persons or property for compensation.¶

(e) "Motor vehicle" means a vehicle, machine, tractor, trailer (including truck trailers transported by rail), or semitrailer propelled or drawn by mechanical power and used on a highway in the transportation of persons or property, or any combination thereof, but does not include a vehicle, locomotive, or car operated only on a rail or rails, or a trolley bus operated by electric power from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.¶

(2) Amounts realized from motor 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 in this state to the extent that the transportation occurs within the borders of the state.¶

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

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

(b) That portion of receipts from transportation services, other than hauling freight, mail, and express, passing through, into, or out of this state, as determined by the ratio which the miles traveled in this state bear to the total miles traveled from points of origin to destination; and¶

(c) That portion of receipts from hauling freight, mail, and express from movements or shipments passing through, into, or out of this state, as determined by the ratio which the mobile property miles traveled by such movements or shipments in this state bear to the total mobile property miles traveled by movements or shipments from points of origin to destination.¶

(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.

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

Statutes/Other Implemented: ORS 317A.128

ADOPT: 150-317-1170

RULE SUMMARY: 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.

CHANGES TO RULE:

150-317-1170

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

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

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

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

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

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

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

(a) The broker or wholesaler's legal name and Oregon address;¶

(b) The broker or wholesaler's federal tax identification number;¶

(c) The date of purchase;¶

(d) The total amount of purchased property;¶

(e) The purchase price paid by the broker or wholesaler;¶

(f) The percentage of purchased property that the broker or wholesaler will resell outside of Oregon; and¶

(g) The signature of the broker or wholesaler, their authorized representative, or employee, certifying that the person is a broker, as that term is defined in Oregon Laws 2020 First Special Session, chapter 2, section 6(1)(b), or a wholesaler, as that term is defined in ORS 317A.100(20).¶

(3) Industry Average Statistics: A farming operation taxpayer that seeks to demonstrate the percentage of the taxpayer's goods sold in this state compared to outside this state by using industry average statistics, pursuant to section (1)(a)(C) of this rule, must rely on statistics for the specific sub-type of agricultural commodity sold, where available, or may rely on statistics for the general type of agricultural commodity where sub-type statistics are unavailable for the specific agricultural commodity.

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

Statutes/Other Implemented: Oregon Laws 2020 First Special Session, chapter 2, section 6

AMEND: 150-317-1200

RULE SUMMARY: Amends OAR 150-317-1200 to provide guidance to assist taxpayers in how to compute the cost input or labor cost subtraction for purposes of the Oregon Corporate Activity Tax (CAT) after amendments to ORS 317A.119 made by Oregon Laws 2020 (first special session), chapter 2, section 4.

CHANGES TO RULE:

150-317-1200

Cost Input or Labor Cost Subtraction

(1) The subtraction provided in ORS 317A.119 includes all labor costs or cost input expenses of a taxpayer, whichever is greater, regardless of the place the labor cost or cost input is incurred, except for cost inputs or labor costs that are attributable to the taxpayer's receipts from an item that is not commercial activity. For purposes of the subtraction, a unitary group, as determined pursuant to ORS 317A.106, must include the labor costs or cost inputs of all members of the unitary group, regardless where incurred, except for expenses from transactions among members of the group as provided in ORS 317A.119(3)(a) ~~and costs omitted as provided in OAR 150-317-1025.~~ ¶

~~(2) General Rule~~ for which receipts are excluded under ORS 317A.106. ¶

(2) Determining Costs Eligible for Subtraction. Costs described in ORS 317A.119(3)(a) and (b) ("ineligible costs") are not eligible for subtraction. "Eligible costs" equals 35 percent of the greater of (A) the excess of total labor costs over the amount of labor costs that are ineligible costs or (B) the excess of total cost inputs over the amount of cost inputs that are ineligible costs. ¶

(a) If a taxpayer can reasonably determine, from the taxpayer's books and records maintained in the ordinary course of business, how much of its total labor costs or cost inputs are ineligible costs or that it has no ineligible costs, the taxpayer may use the general rule in this section (2). A taxpayer who cannot readily determine how much of either its total labor costs or cost inputs are ineligible costs based on its books and records must use the substitute rule in section (3), except as otherwise provided in this rule. ¶

(a) Reduction of cost inputs and labor costs by ineligible costs. A taxpayer must determine its eligible costs. "Eligible costs" equals the greater of (A) the excess of total labor costs over the amount of labor costs that are ineligible costs or (B) the excess of total cost inputs over the amount of cost inputs that are ineligible costs. The taxpayer must calculate the subtraction using the appropriate method under section (3), unless otherwise permitted or required under this rule. ¶

Example 1: South Street operates an automotive repair shop. All but an incidental amount of South Street's receipts are from commercial activity. South Street's labor costs are greater than its cost inputs. All South Street's employees perform their activities primarily for the purpose of producing receipts that are included in commercial activity. Because South Street can reasonably determine from its books and records that all its labor costs are attributable to commercial activity, South Street may use the general rule for determining its cost subtraction. ¶

(b) A taxpayer who cannot reasonably determine how much of either its total labor costs or cost inputs are ineligible costs based on its books and records may use a reasonable method to approximate eligible costs. The taxpayer must document the approximation method used and retain the documentation in the taxpayer's records. Documentation must be provided to the department upon request. The department may disallow the approximation method used under this section if it does not reasonably approximate the taxpayer's eligible costs. ¶

~~(b3) General Rule.~~ ¶

Computation of subtraction for eligible costs after reduction of ineligible costs. ¶

(Aa) If all the taxpayer's property and payroll is located in Oregon and all its commercial activity is sourced to Oregon under ORS 317A.128, the taxpayer's subtraction equals 35 percent of its eligible costs. ¶

(Bb) Otherwisef the taxpayer has commercial activity both within and without Oregon, the taxpayer must multiply apportion the taxpayer's eligible costs by the ratio of the amount of commercial activity as would be sourced to Oregon in the manner provided under ORS 314.605 to 314.675 to the amount of commercial activity as would be sourced everywhere in the manner provided under ORS 314.605 to 314.675 ("apportioned eligible

costs") as follows, unless the taxpayer elects to use the substitute rule under section (4). ¶

(A) If the corporate activity taxpayer is identical to the entity or group of entities reporting on the apportionment schedule filed for purposes of Oregon income or excise tax under ORS chapters 314, 316, 317, or 318, that taxpayer must multiply its eligible costs by the apportionment factor percentage from the taxpayer's Oregon apportionment schedule filed under ORS chapters 314, 316, 317, or 318 to calculate the subtraction amount. The taxpayer must use the apportionment schedule filed with the most recent return covering a 12-month period filed with the department. ¶

(B) If a corporate activity taxpayer is not identical to the entity or group of entities reporting on the apportionment schedule filed for purposes of Oregon income or excise tax under ORS chapters 314, 316, 317, or 318, the taxpayer must compute its Oregon apportionment factor percentage using the applicable apportionment method under ORS chapters 314 or 317, except as otherwise required or permitted under this rule. The taxpayer's subtraction equals 35 percent of its apportioned eligible costs. ¶

(C) For purposes of apportionment under section (2)(b)(B) of this rule, the taxpayer must multiply its eligible costs by the computed apportionment factor percentage. ¶

(c) Notwithstanding section (3)(b), unitary group taxpayers with members subject to multiple apportionment methods under ORS chapters 314 or 317 must compute the group's eligible costs as follows, except as otherwise required or permitted under this rule, commercial activity shall be sourced as provided in ORS 314.665 determined without regard to 314.665(2)(b), and sales of tangible personal property included in commercial activity are in this state required or permitted under this rule. ¶

(A) Separate the unitary group into subgroups. Each subgroup consists of members that use the same apportionment method under ORS chapter 314 or 317. ¶

(B) Each subgroup must separately determine eligible costs as required under section (2) of this rule. ¶

(C) Each subgroup must separately compute their apportionment factor using the applicable apportionment method under ORS chapter 314 or 317, except that transactions between all unitary group members must be eliminated, regardless of whether transactions are between or among unitary group members subject to sales factor apportionment under ORS 314.665(2)(a) if the property is delivered or shipped to a purchaser within this state, including the United States Government, regardless of the f.o.b. point or other conditions of the sale<sup>50</sup> or those subject to another apportionment method under ORS chapter 314 or 317. ¶

(D) Each subgroup must multiply its eligible costs, as determined under section (2) of this rule, by the subgroup's apportionment factor percentage determined under subsection (3)(c)(C). ¶

(E) The unitary group's subtraction is the sum of the apportioned eligible costs of each subgroup. ¶

Example 12: South Street operates an automotive repair shop. All but an incidental amount of South Street's receipts are from commercial activity. South Street's labor costs are greater than its cost inputs. All South Street's employees perform their activities primarily for the purpose of producing receipts that are included in commercial activity. Because South Street can readily determine from its books and records that all its labor costs are attributable to commercial activity, South Street may use the general rule for determining its cost subtraction. ¶

(3) Substitute Rule. If the taxpayer elects, or the taxpayer's books and records kept in the ordinary course of business do not allow one to readily identify labor costs or cost inputs attributable to commercial activity, the subtraction shall be calculated using a Rosslyn Inc., McPherson Corp., Palisades Inc., and Delta Inc. are a unitary group under ORS 317A.100(19) and must file as a single taxpayer under 317A.106. For Oregon income tax purposes, Rosslyn Inc., and McPherson are required to apportion using the sales factor under ORS 314.650. Delta and Palisades are telecommunications firms that elect to use the double-weighted sales apportionment factor under ORS 314.650 (1999 Edition) for their Oregon income tax return per OAR 150-314-0060. As the unitary group members are subject to multiple apportionment methods under ORS 314, the group must determine and apportion eligible costs under section (3)(c) of this rule, forming two subgroups: Subgroup A includes sales and eligible costs from Rosslyn and McPherson. Subgroup B includes Delta and Palisades. After eliminating transactions between all unitary group members, Subgroup A, calculates its sales factor apportionment factor pursuant to ORS 314.650, to be 11.11%. The eligible costs of ¶

Subgroup A, determined in accordance with section (2) of this rule, are \$2 million. After applying the

apportionment factor percentage to eligible costs, Subgroup A has apportioned eligible costs of \$222,200 (\$2 million x 11.11% = \$222,200). ¶

Subgroup B, after eliminating all transactions between unitary group members, calculates the double weighted apportionment factor pursuant to OAR 150-314-0060, to be 41.66%. The eligible costs of Subgroup B, determined in accordance with section (2) of this rule, are \$1 million. After applying the double-weighted sales factor apportionment percentage to eligible costs, Subgroup B has apportioned eligible costs of \$416,600 (\$1 million x 41.66%). The unitary group adds the apportioned eligible costs from each subgroup to determine the group's total subtraction (\$222,200 + \$416,600 = \$638,800). ¶

(4) Substitute Rule. A taxpayer may, in lieu of calculating and apportioning eligible costs as required in sections (2) and (3) of this rule, elect to approximate and apportion eligible costs by means of the commercial activity ratio. ¶

(a) Costs for commercial activity ratio. A taxpayer's costs under the commercial activity ratio ("applicable costs") equal 35 percent of the greater of total cost of goods everywhere or total labor costs everywhere, as those costs are determined before application of ORS 317A.119(32)(b). Expenses from transactions among members of a unitary group must be excluded. ¶

(b) Commercial Activity Ratio. The commercial activity ratio is a fraction, the numerator of which is the taxpayer's commercial activity sourced to Oregon and the denominator of which is the sum of the taxpayer's total commercial activity everywhere plus amounts excluded under ORS 317A.100(1)(b)(Q), ORS 317A.100(1)(b)(Y), ORS 317A.100(1)(b)(AA), ORS 317A.100(1)(b)(DD), ORS 317A.100(1)(b)(EE), ORS 317A.100(1)(b)(TT) and ORS 317A.100(1)(b)(FFVV). Receipts from transactions among unitary group members are not included in either the numerator or denominator. ¶

(c) Ratio costs Subtraction. For purposes of the substitute rule, costs attributable to commercial activity that are apportioned to Oregon ("the taxpayer's subtraction costs") are is calculated by multiplying the applicable costs under subsection (a) by the taxpayer's commercial activity ratio under subsection (b). The taxpayer's subtraction equals 35 percent of the ratio costs. ¶

(d) Modified substitute rule. If a taxpayer can readily determine, from the taxpayer's books and records maintained in the ordinary course of business, how much of its total labor costs or cost inputs are ineligible costs, but not both labor costs and cost inputs, the taxpayer may elect to compute its subtraction as the greater of the subtraction calculated using the general rule for the cost factor for which it is able to readily determine ineligible costs or the subtraction calculated using the substitute rule for the cost factor for which it is not able to readily determine ineligible costs. ¶

Example 23: Grocery & TV Mart has \$10 million of Oregon commercial activity and \$70 million of everywhere commercial activity plus exclusions described in section (34)(b) of this rule (\$50 million in commercial activity and \$20 million in exclusions from commercial activity receipts from retail sales of groceries, excluded from commercial activity under ORS 317A.100(1)(b)(EE)). Almost all Grocery & TV Mart's employees assist in sales of both groceries and televisions. Grocery & TV Mart cannot reasonably determine from its books and records how much of its labor costs and cost inputs are attributable to sales of groceries excluded from commercial activity under ORS 317A.100(1)(b)(EE), and elects to use the substitute rule under section (4). Grocery & TV Mart has an everywhere labor cost of \$28 million and everywhere cost inputs of \$26 million. ¶

Grocery & TV Mart computes the Oregon subtraction as follows: ¶

Step 1: Determine the amount of applicable costs costs for commercial activity. In this example, labor costs are greater than cost inputs. A Multiply labor costs (\$28 million) by 35 percent to determine applicable costs are, \$28 million: x 35% = \$9,800,000 ¶

Step 2: Determine the commercial activity ratio. ¶

Oregon commercial activity of \$10 million / \$70 million (everywhere commercial activity plus required exclusions) = 14.2857% commercial activity ratio. ¶

Step 3: Determine ratio costs. Total applicable costs of \$28 million Grocery & TV Mart's subtraction. Total applicable costs for commercial activity of \$9,800,000 multiplied by commercial activity ratio of 14.2857% = \$3,91,399,9962. ¶

Step 4: Multiply the ratio costs by 35% = \$1,399,999 cost subtraction. ¶

Example 3: Corner Market operates a convenience store and sells motor vehicle fuel.

(5) Fiscal Year Election. For purposes of this rule, ~~fuel.~~ The majority fiscal year means a period of the 12 convenience store's receipts are included in commercial activity, but groceries ~~secutive months ending on the last day of any~~ and motor vehicle fuel are excluded from commercial activity. Corner Market's books and records do not track cost inputs attributable to operating the convenience store; however, they do track labor costs attributable to the sale of groceries and motor vehicle fuel. Because the books and records do not show what cost inputs are attributable to commercial activity, Corner Market must apply the substitute rule for determining their available cost inputs subtraction. Because Corner Market does track labor costs attributable to operating the convenience store, they may use the general rule to determine the subtraction for labor costs. Corner Market may claim the greater of the two calculations ~~with~~ other than December or any taxpayer or unitary group that has made an election under IRC § 441 for a fiscal year which varies from 52 to 53 weeks. A taxpayer or unitary group may elect to use the taxpayer's or unitary group's most recent fiscal year information for purposes of determining the subtraction under this rule. An election under this section must be made on a timely filed, original return including extensions. An election under this section is binding for and applicable to the tax year in which it is made.

(46) Limitations.

(a) The subtraction may not exceed 95 percent of the taxpayer's Oregon commercial activity.

(b) Labor costs may not include total compensation paid to a single employee in excess of \$500,000.

(c) ~~Receipt~~ Expenses from transactions among members of a unitary group with respect to receipts that are excluded under ORS 317A.106 and ORS 317A.100(1)(b)(FF) are not included in the calculation of the subtraction.

(5d) Alternative Apportionment. Notwithstanding sections (2) and (3) of this rule, a unitary group required to apportion the amount of the subtraction shall include all members of the unitary group for purposes of determining the group's subtraction amount and apportionment ratio, except that the unitary group may not include members excluded from the unitary group pursuant to an election under ORS 317A.106(2).

(7) Alternative Apportionment. A taxpayer may petition the department for alternative apportionment, or the department may require alternative apportionment if the application of sections (23) to (35) of this rule does not fairly represent the costs of taxpayer's commercial activity in Oregon.

(6a) A petition to use an alternative method of apportionment under section (57) of this rule must be filed in writing with the department. The request must be signed by the taxpayer or the taxpayer's authorized representative and must be filed separately from the taxpayer's return. The request must include a complete explanation of the alternative method as well as an explanation why the application of section (23) to (35) should not be used. Upon receipt of the request, the department will review the request and issue a letter either authorizing or denying the request. If denied, the taxpayer can appeal that action as provided in ORS 305.275. An alternative apportionment method may be used only after receiving written authorization from the department. The authorization may be revoked if, upon audit, the department determines that the alternative method does not fairly represent the costs of taxpayer's commercial activity in Oregon. Once an alternative method has been authorized, that method must be used until a request to change is made and approved by the department or until the authorization is revoked after audit.

(7b) Factors considered in approving alternative methods of apportionment include but are not limited to whether a modification:

(aA) Will fairly and accurately reflect the taxpayer's costs attributable to receipts from commercial activity in Oregon; and

(bB) ~~Will~~ effectuate an equitable allocation and apportionment of the taxpayer's costs attributable to receipts from commercial activity.

Statutory/Other Authority: ORS 305.100, 317A.119, 317A.143, 317A.106

Statutes/Other Implemented: ORS 317A.119

AMEND: 150-317-1300

RULE SUMMARY: Amends section (8)(b) to delete an incorrect applicability reference to tax year 2021 when estimated tax overpayments will begin being applied to the following tax year. Rule provides guidance to taxpayers in determining when estimated corporate activity tax (CAT) payments are required, including estimated payment due dates for short-period returns, how refund requests are handled, how to apply an overpayment to a future tax period, how estimated taxes are credited, and to require payment of estimated tax via electronic funds transfer. Clarifies that persons subject to unrelated business income have the same obligations as other persons under the CAT and provides a higher estimated tax payment threshold for the first year of the tax.

CHANGES TO RULE:

150-317-1300

Estimated Tax: When Estimated Payments Are Required

- (1) Estimated tax liability means the tax as computed under ORS chapter 317A, less allowable credits. ¶
- (2) Every person required to file an Oregon Corporate Activity Tax (CAT) return and expecting to have a tax liability of \$5,000 or more must make estimated tax payments. For purposes of determining whether estimated tax liability exceeds \$5,000, a credit balance resulting from overpayment of tax for a prior year is not taken into account. ¶
- (3) Estimated tax payments are required, regardless of when a taxpayer exceeds \$1 million of taxable commercial activity. ¶
- (4) Payments are due on the last day of the month that follows the end of each calendar quarter: April 30, July 31, October 31, and January 31. ¶
- (5) Due dates of payments for short-period returns. If a return is filed for a short period of less than 12 months, estimated tax payments are due as follows:¶
  - (a) If the period covered is less than three months, only one payment is required. It is equal to 100 percent of the estimated tax and is payable on the due date of the return.¶
  - (b) If the period covered is three months or longer but less than six months, two payments are required. One-half of the estimated tax is due on the last day of the fourth month, and the balance, if any, is due on or before the due date of the tax return, not including extensions.¶
  - (c) If the period covered is six months or longer but less than nine months, three payments are required. One-third of the estimated tax is due on the last day of the fourth month, one-third on the last day of the seventh month and the balance, if any, is due on or before the due date of the tax return, not including extensions.¶
  - (d) If the period covered is nine months or longer, but less than twelve months, four payments are required. One-fourth of the estimated tax is due on the last day of the fourth month, one-fourth on the last day of the seventh month, one-fourth on the last day of the tenth month, and the balance, if any, on or before the due date of the tax return, not including extensions.¶
- (6) Tax-exempt persons that have "Unrelated Business Income," as defined in the Internal Revenue Code, must also register, file an Oregon CAT return, and pay the tax, if such person is otherwise subject to those requirements under ORS 317A.100 to 317A.161. If their expected Oregon tax liability is \$5,000 or more, estimated tax payments must be made.¶
- (7) Refunds prior to filing of return. Generally, estimated tax payments will not be refunded prior to the taxpayer's filing of the tax return for the year for which the estimated tax payments were made. The fact that the estimated tax payments made exceed the required payments based upon an exception to underpayment is not sufficient cause to refund such excess prior to the filing of the Oregon CAT return. On a case-by-case basis, if a taxpayer establishes to the satisfaction of the department that the facts warrant a refund, the department may issue a refund of estimated taxes prior to the filing of the tax return. ¶
- (8) Overpayments of tax.¶
  - (a) Election. When a person files a completed CAT return and the tax calculated on the return is less than the amounts previously paid for that year, the person may make an irrevocable election to have the overpayment of

tax either refunded or applied as a payment of estimated tax. The election is made by entering the amount in the appropriate space provided on the CAT return.¶

(b) Application to estimated tax installment. ~~For tax years beginning on or after January 1, 2021,~~¶ The department will apply the elected overpayment, unless it is subject to an offset under ORS 314.415 and related rules, to the following year's estimated tax payment due on the last day of the fourth month of the taxable year, to the extent that the overpayment of tax is attributable to estimated tax payments received prior to the following year's first quarter estimated tax due date. Payments received after the following year's first quarter estimated tax due date will be applied to estimated tax as of the date the payment is received. In the case of an amended or delinquent return, the amount will be credited to the estimated tax installment as of the date the amended or delinquent return was filed or the date a payment was received, whichever is later.¶

(9) Payments of estimated tax. Except as otherwise specifically provided in section (8) of this rule, the department will credit estimated tax payments as of the date that they are received. The department will apply estimated tax payments to any prior underpayment and the remainder, if any, will be applied to the next required installment.¶

(10) Requirement to use electronic funds transfer. For tax years beginning on or after January 1, 2020, persons or entities that are required by other tax programs to make estimated payments by electronic funds transfer (EFT) are also required to use that same method for the CAT. ¶

(11) Any person or entity that is not required by other tax programs to make estimated tax payments by EFT may use any other method available to make estimated tax payments for the CAT.¶

(12) Notwithstanding section (2) of this rule, taxpayers that expect their annual tax liability for tax year 2020 to be less than \$10,000 are not required to make quarterly estimated payments for tax year 2020.

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

Statutes/Other Implemented: ORS 314.415, 314.505, 314.515, 314.518, 317A.137, 317A.149

AMEND: 150-317-1400

RULE SUMMARY: Amends rule to add a new section (6) to direct farming operation taxpayers to alternative methods for out-of-state-sales permitted under Oregon Laws 2020 (first special session), chapter 2, section 6 (HB 4202). Rule provides guidance to sellers and wholesalers regarding the exclusion from commercial activity for property purchased for resale out of state, as provided by ORS 317A.100(1)(b)(DD).

CHANGES TO RULE:

150-317-1400

Determining Property Resold Out of State, and Methods of Determining

(1) Out-of-State Resale Certificate. A wholesaler purchasing property for the purpose of resale may, at the time the purchase is made, provide the seller of the property with an out-of-state resale certificate declaring the amount of purchased property that the wholesaler will resell out of Oregon. The out-of-state resale certificate qualifies as the certification required under ORS 317A.100(1)(b)(DD). Any document provided by the wholesaler to the seller at the time of the sale may serve as an out-of-state resale certificate provided that the document contains: ¶

(a) The wholesaler's legal name and Oregon address; ¶

(b) The wholesaler's federal tax identification number; ¶

(c) The date of the purchase; ¶

(d) The total amount of purchased property; ¶

(e) The purchase price paid by the wholesaler; ¶

(f) The dollar amount of purchased property that the wholesaler will resell outside of Oregon; and ¶

(g) The signature of the wholesaler, their authorized representative, or employee, certifying that the person is a wholesaler as that term is defined in ORS 317A.100(20). ¶

(2) Reasonable Methods to Determine the Amount of Purchased Property Sold Out of State. The wholesaler must determine the amount of purchased property that will be sold out of Oregon based on the facts available at the time the wholesaler purchases the property from the seller. If, at the time of purchase, the wholesaler is unable to determine the amount of the purchased property that the wholesaler will resell out of Oregon, the wholesaler may use the approximation ratio prescribed in section (3) of this rule to estimate the amount of purchased property that will be sold in Oregon and out of state. ¶

(3) Approximation Ratio to Estimate Out-of-State Sales. The approximation ratio is a fraction. The numerator is the amount of commercial activity the wholesaler realized from sales to Oregon customers in the prior year. The denominator is the amount of commercial activity the wholesaler realized from all sales during the prior year. Wholesalers located in multiple states may only include in the numerator and denominator their commercial activity realized from property delivered from their Oregon locations. Sales of property delivered from the wholesaler's locations outside of Oregon are not included in the ratio. ¶

Example 1: Alpha Corp. is a wholesaler with one location in Klamath Falls, Oregon. Alpha generally purchases widgets for resale to out-of-state customers. In March 2020, Alpha purchases 5,000 widgets from Indigo LLC, paying a total of \$500,000 for the purchased widgets. At the time of the purchase, Alpha is unable to determine the exact number of widgets that will be sold out-of-state, and therefore, must approximate using the ratio in section (3). In 2019, Alpha realized a total of \$2 million of commercial activity from the sale of widgets delivered from their Klamath Falls location to customers everywhere, including \$100,000 to Oregon customers delivered from Alpha's Klamath Falls location. Alpha calculates their approximation ratio by dividing Oregon commercial activity by everywhere commercial activity ( $\$100,000 / \$2,000,000$ ), resulting in an approximation ratio of 0.05. Alpha applies the approximation ratio of 0.05 to the purchase price ( $\$500,000 \times 0.05 = \$25,000$ ). Of the total \$500,000 widget purchase, Alpha approximates that \$25,000 will be resold in Oregon, and \$475,000 will be resold out of Oregon. Alpha provides Indigo LLC with an out-of-state resale certificate documenting that \$475,000 worth of the purchased widgets will be sold out of Oregon. While Indigo LLC realized \$500,000 of commercial activity from the sale to Alpha, only \$25,000 of receipts from the sale will be included in Indigo's commercial activity. Indigo will exclude \$475,000 of receipts. ¶

(4) Alternative Methods of Determining Out-of-State Sales. If the wholesaler knows or reasonably should have known at the time of the wholesaler's purchase that the approximation ratio in section (3) does not fairly and accurately approximate the wholesaler's in-state and out-of-state sales, the wholesaler may not use the ratio in section (3) but may use a reasonable alternative method of approximation. The wholesaler must document the method used, including a complete explanation of the alternative method, how the method was determined, and why the approximation ratio method prescribed in section (3) of this rule is not a fair approximation of the wholesaler's sales. Once an alternative method has been used, the wholesaler must continue to use the same method, unless the alternative method is no longer a fair and accurate approximation of the in-state and out-of-state sales. All changes to the alternative method must be documented and retained in the wholesaler's records. ¶

Example 2: The facts are the same as Example 1, except that Alpha knows in March 2020 that it expects to sell half its widget inventory from the Klamath Falls location to Oregon customers during 2020. Alpha may not use the approximation ratio in section (3), but may use an alternative method to reasonably approximate the ratio of in-state and out-of-state sales. Of the total \$500,000 widget purchase, Alpha approximates that \$250,000 will be resold to Oregon customers. Alpha provides Indigo with an out-of-state resale certificate documenting that \$250,000 of the purchased widgets will be resold out of Oregon. Indigo may exclude \$250,000 of receipts from its sale to Alpha from Indigo's commercial activity. ¶

(5) If the department, upon audit, determines that the wholesaler's approximation ratio under section (3) or alternative method of approximation under section (4) does not fairly and accurately reflect the wholesaler's in-state and out-of-state sales, the wholesaler must immediately discontinue use of the ratio or alternative method. ¶

(6) Taxpayers engaged in farming operations that sell agricultural commodities to wholesalers and brokers may also refer to OAR 150-317-1170 for additional methods of demonstrating the amount of the taxpayer's goods subsequently sold in this state compared to outside this state.

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

Statutes/Other Implemented: ORS 317A.100(1)(b)(DD)

ADOPT: 150-317-1500

RULE SUMMARY: Establishes that no penalty will be assessed against taxpayers making a good faith effort to comply with ORS 317A.137(2) for tax year 2020. Provides factors that the department will consider when determining good faith effort.

CHANGES TO RULE:

150-317-1500

Good Faith Effort

(1) Good Faith Effort. A taxpayer's good faith effort to comply with ORS 317A.137(2) is demonstrated by the extent of the taxpayer's efforts to accurately estimate and pay the quarterly installment as required under ORS 317A, and OARs 150-317-1300, 150-317-1310, and 150-317-1320.¶

(a) For tax years beginning on or after January 1, 2020, the following circumstance demonstrates good faith: The taxpayer made a reasonable estimate of the quarterly installment based on information available to the taxpayer at the time the quarterly installment was due.¶

(b) For the tax year beginning January 1, 2020 and ending before January 1, 2021, the following circumstances demonstrate good faith:¶

(A) The taxpayer cannot reasonably determine, at the time the quarterly installment is due, whether the taxpayer will have CAT liability for the 2020 tax year, due to the negative impact of COVID-19, after taking into consideration the exclusions and subtractions provided in ORS 317A; ¶

(B) The taxpayer did not have sufficient funds to pay the required installment for the quarter, due to the impact of the COVID-19 pandemic on the taxpayer's business; or ¶

(C) The taxpayer cannot reasonably calculate the required quarterly installment or annual tax liability due to the impact of the COVID-19 pandemic on the taxpayer's business. ¶

(2) The department will not assess the penalty imposed under ORS 317A.161(2) for nonpayment, underpayment, or underreporting of the estimated tax installment for any quarter of tax year 2020 if the taxpayer demonstrates a good faith effort, as defined in Section 1 of this rule, to accurately estimate and pay the quarterly installment required under ORS 317A.137. ¶

(3) Documentation. The department may require documentary proof to substantiate assertions of good faith. Taxpayers must retain documentation showing good faith effort as defined in section (1). Taxpayers are not required to submit this documentation to the department, unless requested by the department.

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

Statutes/Other Implemented: ORS 317A.137, 317A.161