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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

REV 12-2020
CHAPTER 150
DEPARTMENT OF REVENUE

FILED
07/24/2020 8:58 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Increased amusement device tax not imposed on device disabled and remaining at operator's premises.

EFFECTIVE DATE: 07/29/2020 THROUGH 01/24/2021

AGENCY APPROVED DATE: 07/23/2020

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NEED FOR THE RULE(S):

Without the rule, video lottery game terminal operators may be subject to increased amusement device tax for each device that was disabled by Oregon Lottery prior to net receipts exceeding the statutory threshold and remaining at the operator's premises because Oregon Lottery has not yet removed the device. The rule is necessary to ensure increased tax is not imposed on devices that are nonoperational, due to Lottery's actions under the Governor's Emergency Order, at the time the statutory threshold for net receipts is exceeded and the increased tax imposition is triggered.

JUSTIFICATION OF TEMPORARY FILING:

- (1) Not adopting the rule will result in approximately \$17,250 (total) in increased amusement device tax charged to approximately 130 video lottery operators for devices that were disabled by the Oregon Lottery pursuant to the Governor's Emergency Order at the time net receipts exceeded the statutory threshold that triggered the increased tax.
- (2) Approximately 130 video lottery operators.
- (3) The increased tax is collected by Oregon Lottery on behalf of the Department of Revenue and is due quarterly. Delaying adoption of the temporary rule would result in Oregon Lottery collecting the increased tax on disabled devices.
- (4) The temporary rule will provide timely guidance to Oregon Lottery for accurate imposition and collection of the increased tax.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statute 320.112, available online through Legislative Counsel.

ADOPT: 150-320-0012

RULE TITLE: Location of Amusement Devices

RULE SUMMARY: This rule clarifies the increased amusement device tax is imposed on each device present when net receipts exceed statutory thresholds. Devices that are disabled by Oregon Lottery are not considered present for

purposes of the increased tax.

RULE TEXT:

(1) For purposes of the increased tax on amusement devices imposed under ORS 320.012, the increased tax is imposed for each device present at a location as of the date the applicable net receipts threshold is reached under either ORS 320.012(1) or (2).

(2) A video lottery game terminal that is not operating because the terminal has been disabled for consumer play by the Oregon Lottery and that has not been removed by Oregon Lottery from the amusement device operator's premises is not considered "present at a location" for purposes of the increased tax imposed under ORS 320.012.

(3) This rule applies to increased taxes that become due on or after April 1, 2020.

STATUTORY/OTHER AUTHORITY: ORS 305.100, 320.012, 320.110

STATUTES/OTHER IMPLEMENTED: ORS 320.012