

Questions about labor costs and cost inputs

Q: What can be included in COGS for an agriculture business that files on a cash basis?

A: Under the statutes governing the CAT, a taxpayer's method of accounting for commercial activity shall be the same as the taxpayer's method of accounting for federal tax purposes for the taxpayer's federal tax year that includes the tax year. [[ORS 317A.103](#)]

A taxpayer may subtract from its commercial activity 35 percent of the greater of either cost inputs or labor costs attributable to commercial activity. If a taxpayer is engaged in a "farming operation" and that taxpayer does not report cost of goods sold for federal tax purposes, then "cost inputs" refers to the taxpayer's operating expenses, excluding labor costs. Please note that "farming operation" is specifically defined in law as "an entity doing business in a sector described under codes 111, 112, or 115 of the North American Industry Classification System." [[Section 6, HB 4202 \(first 2020 Special Session\)](#)]

The department is amending OAR 150-317-1200 (Cost Input or Labor Cost Subtraction) and other guidance regarding the 35 percent subtraction to reflect changes made by [HB 4202 \(first 2020 Special Session\)](#). This administrative rule provides guidance on methods for calculating the subtraction and apportioning eligible costs. The updated rule will be finalized by December 1, 2020 and will be available on the [Secretary of State website](#). The October [Notice of Proposed Rulemaking—CAT October 1, 2020](#) document also provides information on the proposed rule and further information about the 35 percent subtraction is available on our [CAT Beyond the FAQ](#) webpage.

Q: Insurance company cost of goods sold includes losses incurred - for CAT purposes, can an insurance carrier include losses in cost of goods sold?

A: The CAT provides a 35 percent subtraction from commercial activity for the greater of labor costs or cost inputs attributable to commercial activity. Cost inputs is specifically defined as "the cost of goods sold as calculated in arriving at federal taxable income under the Internal Revenue Code." [[ORS 317A.100\(2\)](#)]

Insurers typically have industry-specific methods of accounting for federal purposes. Taxpayers in this industry can refer to the Internal Revenue Service for guidance on the types of expenses that can be claimed as part of cost of goods sold (COGS). If allowed under federal rules, COGS, for CAT purposes, would include only costs associated with Oregon commercial activity subject to the tax.

Q: What is included in labor cost deduction, health insurance premiums, FICA, and wages?

A: The CAT provides a 35 percent subtraction from commercial activity for the greater of labor costs or cost inputs attributable to commercial activity. Labor costs are defined as the total

compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000. [[ORS 317A.100\(12\)](#)]

For purposes of the labor costs subtraction, “employee compensation” has the meaning given that term under ORS 317A.100(1)(b)(H), as shown below [emphasis added]:

Compensation, whether current or deferred, and whether in cash or in kind, *received or to be received by an employee*, a former employee or the employee’s legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in Section 125 of the Internal Revenue Code or any similar employee reimbursement;

Generally, for employer expenses associated with employees to be considered “employee compensation,” the expenses must be amounts for which the employee has the right to receive as a direct benefit, either current or deferred.

[OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#) provides more detailed guidance on the types of compensation that qualify for the subtraction calculation and includes an example of items that qualify as “employee compensation.” Those include wages, bonuses, and employee fringe benefits such as health insurance expenses, employer-provided retirement contributions, etc. Employee compensation, for purposes of the CAT subtraction, does not include payroll taxes such as the employer’s portion of Social Security and Medicare, federal unemployment, workers compensation, etc.

Q: Can you provide a list of deductible labor costs? In addition, can you let me know if the below are all “labor costs” for CAT?

Payroll Other Exp, Emp Benefit Exp PTO, Emp Ben Exp 401-K, Emp Ben Exp Ins, Emp Ben Exp LTIP, Mem Ben Exp LTIP, Emp Ben Exp Bonus, Emp Ben Exp Other, Payroll Exp Salaries, Other Personnel Exp, Training & Education

A: The CAT provides a 35 percent subtraction from commercial activity for the greater of labor costs or cost inputs attributable to commercial activity. The term “labor costs” is defined as the “total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.” [[ORS 317A.100\(12\)](#)]

For purposes of the labor cost subtraction, “employee compensation” means:

Compensation, whether current or deferred, and whether in cash or in kind, *received or to be received by an employee*, a former employee or the employee’s legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services

plan, any cafeteria plan described in Section 125 of the Internal Revenue Code or any similar employee reimbursement (emphasis added). [[ORS 317A.100\(1\)\(b\)\(H\)](#)]

Generally, for employer expenses associated with employees to be considered “employee compensation,” the expenses must be amounts for which the employee has the right to receive as a direct benefit, either current or deferred.

[OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#) provides more detailed guidance on the types of compensation that qualify for the subtraction calculation and includes an example of items that qualify as “employee compensation.” Those include wages, bonuses, and employee fringe benefits such as health insurance expenses, employer-provided retirement contributions, etc. Employee compensation, for purposes of the CAT subtraction, does not include payroll taxes such as the employer’s portion of Social Security and Medicare, federal unemployment, workers compensation, etc.

Q: Is the taxable amount equal to the net profit shown on a Schedule C, Form 1120S, or Form 1120? Are there expenses that are not deductible under CAT?

A: The taxable amount for the CAT will not be equal to the net profit computed for income tax purposes and reported on form Schedule C, Form 1120, or Form 1120-S. These federal forms may report some gross receipts that may be excluded from the CAT or expenses that may not be allowable for the CAT subtraction.

The CAT is imposed on each person with taxable commercial activity of more than \$1 million. Taxable commercial activity means commercial activity sourced to Oregon less a subtraction for 35 percent of the greater of labor costs or cost inputs.

Commercial activity means the total amount realized from transactions and activity in the regular course of a person’s trade or business. Over 40 items are excluded from the definition of commercial activity and, therefore, will not be subject to the CAT. Some examples of items that are excluded from commercial activity include interest income, receipts from wholesale and retail sales of groceries, and receipts from sales of motor vehicle fuel. Labor costs for the 35 percent subtraction are the total compensation of all employees but does not include compensation paid to any single employee in excess of \$500,000. Cost inputs for the 35 percent subtraction are cost of goods sold (COGS) as calculated in arriving at federal taxable income under the Internal Revenue Code. Cost inputs for farming operations that do not report COGS for federal tax purposes are operating expenses excluding labor costs. A subtraction is not allowed for cost inputs or labor costs associated with receipts from items that are excluded from commercial activity or for expenses from transactions among members of a unitary group.

We would also note that for general contractors working in single-family residential construction, there may be an exclusion for certain qualifying subcontracting payments allowed in addition to the subtraction.

Q: Please explain what potential deductions might be allowed for a commercial fishing operation. For example, commercial fishing operations do not pay W-2 wages, so are the crew shares reported on a Form 1099 considered labor or cost of inputs?

A: Labor costs consist of compensation paid to employees. Because you are issuing a 1099, these individuals are not considered employees and are not eligible to be included in labor costs. "Employee" does not include independent contractors as defined in ORS 670.600. Therefore, compensation paid on a Form 1099 generally would not be considered a labor cost. Please refer to [OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#), which provides more for more information regarding employee labor costs.

Q: Are crew shares paid for work on fishing vessels eligible for cost of labor calculation? (Earnings are reported on a 1099, not W-2.)

A: Labor costs consist of compensation paid to employees. Because you are issuing a 1099, these individuals are not considered employees and are not eligible to be included in labor costs.

Q: Does farm equipment depreciation count as part of the expenses eligible for the 35 percent deduction limitation?

A: Under the laws governing the CAT, a taxpayer may claim a subtraction for the greater of labor costs or cost inputs attributable to commercial activity. Cost inputs is defined as the cost of goods sold (COGS) as calculated in arriving at federal taxable income under the Internal Revenue Code. Taxpayers engaged in farming operations who do not report COGS for federal tax purposes may use their operating expenses, excluding labor, to calculate the 35 percent subtraction. Farm equipment depreciation may be part of a taxpayer's cost inputs eligible for the 35 percent deduction limitation if the asset is used for production and claimed as an operating expense. Taxpayers should refer to IRS guidelines under IRC Section 471 to determine the types of costs eligible to be claimed under their COGS. [[HB 4202, \(2020 First Special Session\)](#)]

Q: For farming entities, is money paid to a farm labor contractor considered labor expense or is it grouped with all other expenses?

A: A taxpayer may claim a subtraction for either labor costs or cost inputs attributable to commercial activity. Under the laws governing the CAT, labor costs is specifically defined as "the total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000." [[ORS 317A.100\(12\)](#)]. Farm labor contractor expenses may be considered labor expenses unless the farm labor contractor is considered an independent contractor. [OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#) provides additional information to assist taxpayers in determining labor costs.

Similarly, the term “cost inputs” is specifically defined as the cost of goods sold (COGS) as calculated in arriving at federal taxable income under the Internal Revenue Code. Taxpayers engaged in farming operations who do not report COGS for federal tax purposes may use their operating expenses, excluding labor, to calculate the 35 percent subtraction. Taxpayers should refer to IRS guidelines under IRC Section 471 to determine the types of costs eligible to be claimed under their COGS. [[HB 4202, \(2020 first Special Session\)](#)]

Q: Regarding compensation deduction, is this cash based (i.e. W-2 amounts) or tax based? i.e. Page 1 line 12 and 13 of the federal 1120? If it is tax based, regarding the limitation of \$500,000 of wages to each person, how is this determined in respect to any tax adjustments? If there is a tax adjustment to wages for accrued bonus, for example, how would we allocate out the tax adjustment amount? Are employee benefits such as pension etc (i.e. line 23 and 24 of the federal 1120) included and allowed to be deducted? If you are a fiscal-year taxpayer, how would you determine the wages paid out? As you cannot use the W-2 as the W-2 is on a calendar year.

A: For purposes of the labor cost subtraction, employee compensation includes wages reported on a W-2, fringe benefits such as health insurance, and retirement benefits. Employee compensation, for purposes of the CAT subtraction, does not include payroll taxes such as the employer’s portion of Social Security and Medicare, federal unemployment, workers compensation, etc. The CAT is calculated on a calendar year basis, even if the business’s federal income taxes are calculated on a fiscal year.

[OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#) provides further information regarding labor costs.

Q: Are we only able to deduct COGS or payroll associated with Oregon transactions, or is the deduction for all COGS/payroll in a given period?

A: Taxpayers with commercial activity within and outside of Oregon must apportion expenses to Oregon. The department is amending OAR 150-317-1200 (Cost Input or Labor Cost Subtraction) and other guidance regarding the 35 percent subtraction to reflect changes made by [HB 4202 \(First 2020 Special Session\)](#). The administrative rule provides guidance on calculating the subtraction. The updated rule will be finalized by December 1, 2020 and will be available on the [Secretary of State website](#). Guidance will also be available on our CAT [Beyond the FAQ](#) webpage. The October [Notice of Proposed Rulemaking – CAT October 1, 2020](#) document has information on proposed rules and proposed amendments to rules.

Q: When deducting COGS from my tax due what is the maximum percent I can have?

A: The cost subtraction for CAT is 35 percent of the greater of either labor costs or cost inputs attributable to commercial activity. The subtraction may not exceed 95 percent of the total Oregon commercial activity.

Q: We are a general contractor. Does our subcontractor cost go into our labor costs or cost inputs?

A: Under the laws governing the CAT, labor costs are specifically defined as “the total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.” [[ORS 317A.100\(12\)](#)].

Based on the information provided, subcontractors generally would not meet the definition of an employee and would not be included in labor costs.

However, in certain situations, a taxpayer may be able to include those as part of cost inputs. Cost inputs is specifically defined as the cost of goods sold (COGS) as calculated in arriving at federal taxable income under the Internal Revenue Code. Cost inputs must be calculated following Internal Revenue Code 471 guidelines, whether reported and filed for federal purposes or not.

As this question pertains to construction, we would note that if the business in question includes single-family residential construction, it may be eligible to exclude a portion of payments to subcontractors. [OAR 150-317-1120 \(Exclusion for Subcontracting Payments\)](#) provides additional information.

Q: Are you saying that we can't count COGS labor in the labor calculation for the CAT Subtraction?

A: A taxpayer may claim a subtraction for the greater of their labor costs or cost inputs attributable to commercial activity. Cost inputs is defined as the cost of goods sold [COGS] as calculated in arriving at federal taxable income under the Internal Revenue Code. [[Section 1, HB 4202 \(First 2020 Special Session\)](#)]

Taxpayers engaged in farming operations who do not report COGS for federal tax purposes may use their operating expenses, excluding labor, to calculate the subtraction. Taxpayers should refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under their COGS.

Q: The DOR FAQ mention several items including most compensation paid to employees, wages, health insurance benefits, retirement benefits, and any other fringe benefits. This description is very vague and unclear as to what qualifies. Can you please elaborate on this subtraction or point me in the direction of legislation that further explains what should be picked up?

A: The CAT provides a 35 percent subtraction from commercial activity for the greater of labor costs or cost inputs attributable to commercial activity. Labor costs means total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000. [[ORS 317A.100\(12\)](#)]

For purposes of the labor costs subtraction, “employee compensation” means:

Compensation, whether current or deferred, and whether in cash or in kind, *received or to be received by an employee*, a former employee or the employee’s legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in Section 125 of the Internal Revenue Code or any similar employee reimbursement. [[ORS 317A.100\(1\)\(b\)\(H\)](#)]

Generally, for employer expenses associated with employees to be considered “employee compensation,” the expenses must be amounts for which the employee has the right to receive as a direct benefit, either current or deferred.

[OAR 150-317-1220](#) (Employee Compensation: Labor Cost Subtraction) provides more detailed guidance on the types of compensation that qualify for the subtraction calculation and includes an example of items that qualify as “employee compensation.” Those include wages, bonuses, and employee fringe benefits such as health insurance expenses, employer-provided retirement contributions, etc. Employee compensation, for purposes of the CAT subtraction, does not include payroll taxes such as the employer’s portion of Social Security, Medicare, federal unemployment, workers comp, etc.

Q: Are there costs that can be deducted from real estate rental income?

A: A taxpayer may claim a subtraction for 35 percent of the greater of their eligible cost inputs or labor costs attributable to commercial activity. The terms “cost inputs” and “labor costs” have been specifically defined in law. Cost inputs is defined as the cost of goods sold [COGS] as calculated in arriving at federal taxable income under the Internal Revenue Code. Labor costs is defined as the total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000 [[ORS 317A.100\(12\)](#), [Section 1, HB 4202 \(first Special Session\)](#)]. The laws governing the CAT do not provide any other allowed deductions for other expenses. It is possible that a business may not have cost inputs or labor costs eligible for the 35 percent subtraction.

Taxpayers should refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under their COGS. Additional information to assist taxpayers in determining whether they have eligible labor costs is available on CAT’s [Beyond the FAQ](#) webpage and in [OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#). The laws governing the CAT do not provide any other allowed deductions.

Q: My understanding is you work with the employees' gross wage but are unable to use the employer FICA/Medicare/FUTA expense. Am I understanding this correctly? And for farming operations, is it 35 percent of the total operating expenses subtraction?

A: The CAT provides a 35 percent subtraction from commercial activity for the greater of labor costs or cost inputs attributable to commercial activity.

Under the laws governing the CAT, labor costs mean total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000. [[ORS 317A.100\(12\)](#)].

For purposes of the labor costs subtraction, "employee compensation" means:

Compensation, whether current or deferred, and whether in cash or in kind, *received or to be received by an employee*, a former employee or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in Section 125 of the Internal Revenue Code or any similar employee reimbursement; [[ORS 317A.100\(1\)\(b\)\(H\)](#)]

Generally, for employer expenses associated with employees to be considered "employee compensation," the expenses must be amounts for which the employee has the right to receive as a direct benefit, either current or deferred. The department has adopted [OAR 150-317-1220](#) (Employee Compensation: Labor Cost Subtraction), which provides more detailed guidance on the types of compensation that qualify for the subtraction calculation and includes an example of items that qualify as "employee compensation." Those include wages, bonuses, and employee fringe benefits such as health insurance expenses, employer-provided retirement contributions, etc. Employee compensation, for purposes of the CAT subtraction, does not include payroll taxes such as the employer's portion of Social Security and Medicare, federal unemployment, workers compensation, etc.

Taxpayers engaged in farming operations who do not report COGS for federal tax purposes may use their operating expenses, excluding labor, to calculate the subtraction. Taxpayers should refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under their COGS.

Q: Our company is an S-Corp. Do I need to omit the wages, health insurance, and retirement benefits for the owner of the S-Corp, or are those allowed as part of our labor costs deduction?

A: An "employee" is any individual who performs services for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance. Designation of an individual as an employee for purposes of

industrial accident insurance, unemployment compensation, federal social security, or federal withholding will establish that individual as an employee for purposes of the Oregon withholding tax unless facts can be shown to the contrary. Typically, owners are not considered employees, so their compensation would not qualify for the labor cost subtraction. However, there may be situations under which an owner may be considered an “employee.” Generally, if the owner is compensated through a federal Form W-2 and is subject to federal taxes and withholding, then he/she qualifies to be treated as an employee and the compensation received may be used for purposes of calculating the labor cost subtraction. Conceivably, a business owner who is also an S corporation shareholder could be considered an employee if he/she provides services, and acts as an employee, to the corporation. Please see the following for further information: [OAR 150-317-1220 \(Employee Compensation Labor Cost Subtraction\)](#) and [150-316-0255\(5\) \(Withholding by Employers\)](#).

Q: My clients have significant costs that are not represented on the COGS line due to the businesses they represent. Is the cost input tied to the Federal Income Tax calculation (COGS line) or should it include any cost that relates to the creation of the product that generates the income?

A: Yes, the cost inputs are tied to the COGS, as calculated in arriving at federal taxable income under the Internal Revenue Code, regardless of whether they are actually reported and filed to the IRS. Please refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under COGS.

Q: Can I include direct labor costs in cost inputs?

A: A taxpayer may claim a subtraction for either labor costs or cost inputs. Cost inputs is defined as the cost of goods sold [COGS] as calculated in arriving at federal taxable income under the Internal Revenue Code. [[Section 1, HB 4202 \(First Special Session\)](#)]

Taxpayers should refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under their COGS.

Q: Is a residential contractor allowed to exclude 15 percent of labor costs in addition to their apportioned COGS?

A: For the calculation, you will use the 35 percent subtraction for the greater amount of either your COGS or labor costs. You can use the 15 percent exclusion for subcontractor labor payments. There is an exclusion from taxable commercial activity for subcontracting payments for labor costs that are made by a general contractor (as defined in [ORS 701.005](#)) to a subcontractor (as defined in [ORS 701.410](#)) pursuant to a contract for residential real estate construction. This exclusion is allowed only for single-family residential construction located in Oregon. The exclusion is not allowed for payment for materials, land or permits, nor for

payments between subcontractors. For further information, please refer to [OAR 150-317-1120 \(Exclusion for Subcontracting Payments\)](#).

Q: In regard to labor costs, if an employee compensation was \$600,000, is the full amount excluded from the labor cost subtraction or we're allowed to include up to \$500,000?

A: Under the laws governing the CAT, labor costs is specifically defined as “the total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.” [\[ORS 317A.100\(12\)\]](#). For purposes of the labor cost subtraction, “employee compensation” means:

Compensation, whether current or deferred, and whether in cash or in kind, *received or to be received by an employee*, a former employee or the employee’s legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in Section 125 of the Internal Revenue Code or any similar employee reimbursement (emphasis added). [\[ORS 317A.100\(1\)\(b\)\(H\)\]](#)

The labor cost subtraction does not include: (a) compensation in excess of \$500,000 paid to any single employee; (b) payroll taxes, including but not limited to, Social Security, Medicare, and federal unemployment. The limitation to the \$500,000 compensation paid to any single employee means that if an employee’s compensation exceeds the limit, any excess is not included in the calculation. It would only include up to the \$500,000 limitation. [OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#) provides more detailed guidance on the types of compensation that qualify for the subtraction calculation and includes an example of items that qualify as “employee compensation.”

Q: In a real estate office, can commissions paid to real estate agents be used as a deduction? What about the original purchase price of the property?

A: The CAT allows a 35 percent subtraction from commercial activity for the greater of labor costs or cost inputs. The term “labor costs” is defined as the “total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.” [\[ORS 317A.100\(12\)\]](#) For purposes of the labor costs subtraction, “employee compensation” means [emphasis added]:

Compensation, whether current or deferred, and whether in cash or in kind, *received or to be received by an employee*, a former employee or the employee’s legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services

plan, any cafeteria plan described in Section 125 of the Internal Revenue Code or any similar employee reimbursement. [[ORS 317A.100\(1\)\(b\)\(H\)](#)]

Generally, for employer expenses associated with employees to be considered “employee compensation,” the expenses must be amounts for which the employee has the right to receive as a direct benefit, either current or deferred. [OAR 150-317-1220 \(Employee Compensation: Labor Cost Subtraction\)](#) provides more detailed guidance on the types of compensation that qualify for the subtraction calculation and includes an example of items that qualify as “employee compensation.” Those include wages, bonuses, and employee fringe benefits such as health insurance expenses, employer-provided retirement contributions, etc. Employee compensation, for purposes of the CAT subtraction, does not include payroll taxes such as the employer’s portion of Social Security, Medicare, federal unemployment, workers comp, etc.

Generally, real estate agents are not classified as “employees” and as such, the compensation paid to them would not be included in the labor cost subtraction. However, taxpayers may be able to claim cost inputs (costs of goods sold – COGS) if those qualify under IRS rules. Taxpayers should refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under their COGS.

Q: In computing what qualifies for cost of goods sold? Is tax depreciation allowed as a qualifying cost of goods sold?

A: A taxpayer may claim a subtraction for either labor costs or cost inputs. Cost inputs is defined as the cost of goods sold [COGS] as calculated in arriving at federal taxable income under the Internal Revenue Code, regardless of whether they are actually reported and filed to the IRS. [[Section 1, HB 4202 \(First 2020 Special Session\)](#)]

Please refer to IRS guidelines under IRC 471 to determine the types of costs eligible to be claimed under COGS.

Q: Is the total cost input and total compensation calculated based on a calendar year amount or fiscal year amount?

A: The cost input and the compensation (labor costs) are both calculated on a calendar year basis for the Oregon Corporate Activity Tax (CAT).

Q: Is the sale of wine and spirits from an importer/wholesaler in Oregon to a retailer in Oregon subject to the tax? Is the CAT applicable to imported goods that we pay customs duty on? The customs duty can be considered a cost input?

A: To the first question, the CAT is imposed on gross receipts that arise from the normal course of business. The sales of liquor would be subject to CAT. However, the amounts listed below are explicitly excluded and would not be subject to CAT.

Corporate Activity Tax

- Amounts that are paid by a person licensed under [ORS 471](#) for federal and state excise taxes paid by any person on or for malt beverages or wine (as defined in [ORS 471.001](#)), cider (as defined in [ORS 471.023](#)), or distilled liquor (as defined in [ORS 471.001](#)) under subtitle E of the Internal Revenue Code or ORS [Chapters 471](#) or [473](#).
- Any amount paid to the Oregon Liquor Control Commission for sales of distilled spirits by an agent appointed under [ORS 471.750](#). [[ORS 317A.100\(1\)\(b\)\(S\)](#)]

Taxpayers should refer to IRS guidelines under IRC Section 471 to determine the types of costs eligible to be claimed under their COGS. Typically, whatever is allowed on the COGS schedule for the client's industry is allowed in the cost inputs subtraction for CAT.