

Rule Caption: Corporate Officer Election

Purpose: The Oregon Employment Department is amending the rule for single officer exclusions from unemployment insurance taxes effective February 1, 2017.

Please note: **Boldfaced type** in an amended section is new language; *[italic and bracketed]* is existing rule language to be omitted.

471-031-0017

Corporate Officer~~/Director~~ Election

(1) For the purposes of ORS 657.044, *[an election not to provide coverage shall apply to all corporate officers who are directors of the corporation, who have a substantial ownership interest in the corporation and who are members of the same family.] [(a) T] the term "substantial ownership" means [total family ownership equal to or greater than seventy-five] **each corporate officer owns at least ten** percent of the corporation *[with each family member who is a corporate officer and director having ownership interest]* **and the total ownership of the corporation among those officers being excluded is at least seventy-five percent. This definition is effective for all corporations who apply for the election after February 1, 2017.***

[(b) The term "family" means two or more individuals related as parents, stepparents, grandparents, spouses, sons-in-law, daughters-in-law, brothers, sisters, children, stepchildren, adopted children or grandchildren.]

[(c) The election not to provide coverage shall be in writing and shall be effective on the first day of the calendar quarter in which the election was filed, or a later date when so specified in the election.]

(2) The *[election is not effective unless approved by the Director of the]* Employment Department *[. The Director shall mail a notice of approval or denial of the employing unit's election to the last known address as shown in the Employment Department's records. Such notice shall become final 20 calendar days after notice is mailed unless within such time the employing unit files with the Director, a request for a hearing with respect thereto] **will notify the corporation, in writing, whether the election meets the statutory requirements and the effective date of the election. The notice approving or denying the election will be mailed to the corporation's last known address as shown in the Department's records.***

(3) *[Hearings shall be conducted in accordance with the provisions of division 040 of OAR chapter 471]* **If the statutory requirements are met, the election not to provide coverage will continue until revoked or canceled.**

(4) *[Judicial review of decisions issued pursuant to this rule shall be as provided for review of orders in contested cases in ORS 183.310 through 183.550. The Director of the Employment Department is designated as a party for purposes of hearings under this rule]* **Once the election is approved, the corporation must notify the Employment Department in writing of any changes to ownership within thirty (30) days of the change occurring.**

(5) *[Upon motion of the Director of the Employment Department or upon application of an interested employer, the Director may in accordance with ORS 657.676 reconsider a notice issued pursuant to section (3) of this rule]* **The election not to provide coverage will be revoked if there is a change in ownership which causes the corporate officers to no longer meet the requirements of ORS 657.044(1)(a) or (b). The election will be revoked effective the date of the change regardless of when the Employment Department was notified of the change. If the election is revoked, the Department will mail a notice of revocation to the corporation's last known address as shown in the Department's records.**

(6) *[A request for hearing on the denial of an employing unit's election must be in writing and submitted by the employer or the employer's agent. The date of filing any request for hearing under this rule shall be determined in accordance with provisions of OAR 471-010-0040]* **The corporation may cancel the election at any time by notifying the Employment Department in writing, and the cancellation will be effective in the quarter filed unless a later date is specified in the cancellation notice. If the corporation chooses to cancel the election, then the corporation will not be granted another exclusion for a minimum of two completed calendar years from the effective date of the cancellation.**

(7) *[The employees listed in OAR 471-031-0145 and the Tax Section Supervisor of Status may act on behalf of the Director for the purposes of sections (2) and (5) of this rule]* **The notice of denial referred to in section 2 and notice of revocation referred to in section 5 shall become final twenty (20) calendar days after the notice is mailed unless within such time the corporation files a request for a hearing. The request for hearing must be filed in accordance with the provisions of OAR 471-040-0005(3). A request for hearing on the denial of *[an employing unit's]* a corporation's election must be in writing and submitted by the employer or the employer's agent. The date of filing any request for hearing under this rule shall be determined in accordance with the provisions of OAR 471-010-0040.**

[(8) An employing unit which has elected not to provide coverage may elect coverage under ORS 657.425.]

Stat. Auth: ORS 657.610

Stats. Implemented: ORS 657.044

Hist.: ED 1-1998, f. 2-20-98, cert. ef. 2-27-98; ED 6-2002, f. 9-20-02, cert. ef. 9-22-02; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

The agency is holding a hearing on Wednesday, January 25, 2016 from 2:00 p.m. to 4:00 p.m. in the Employment Department Auditorium at 875 Union St NE, Salem, OR, 97301. Anyone interested in providing the agency feedback on the rules is welcome to attend. If you are unable to attend the hearing in person but want to provide comments on the rule at the hearing, please call in on the conference line at 888-850-4523 and use the passcode 440528. You can also provide written testimony to OED_RULES@oregon.gov. Written testimony must be received by January 27, 2016 at 5:00 p.m.

Rule Text: OAR 471-031-0017

Links:

Rules listing: <http://www.oregon.gov/EMPLOY/Agency/Pages/Pending-Rules.aspx>