NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 740
DEPARTMENT OF TRANSPORTATION
MOTOR CARRIER TRANSPORTATION DIVISION

FILING CAPTION: 2020 Adoption IRP, HVUT, IFTA and Registration Fee Refund in Certain Circumstances

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2020 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

Registration Fee Refund: The proposed amendment to OAR 740-200-0030 adds provisions detailing steps motor carriers must take to obtain refunds in cases where they have gone out of business or have vehicles that have been accidentally destroyed. Such provisions were previously detailed in ORS 803.590(2); however, that statute was eliminated by the 2019 Oregon Legislature.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:
None

FISCAL AND ECONOMIC IMPACT:
No fiscal impact is anticipated.

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) No cost of compliance is anticipated.

(2)(a) Motor carriers qualifying as small businesses should experience no increased cost.

(2)(b) These rules do not impose any new reporting or recordkeeping requirements.
DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Fourteen groups representing small businesses received a copy of the proposed amendments and were asked to submit comments on fiscal and economic impact. No comments were received.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
740-200-0010, 740-200-0020, 740-200-0030, 740-200-0040

AMEND: 740-200-0010

RULE SUMMARY: Annual adoption of Prorated Registration updated to reflect re-adoption on January 1, 2020.

CHANGES TO RULE:

740-200-0010
Annual adoption of Prorate Registration ¶

(1) The provisions contained in the "International Registration Plan" (IRP), the IRP Audit Procedures Manual and all amendments thereto in effect January 1, 2019, are hereby adopted and prescribed by the Oregon Department of Transportation and apply to the apportioned registration of vehicles. Unless otherwise revised by written delegation, the designated person to cast a vote on an IRP ballot for Oregon is the Administrator of the Motor Carrier Transportation Division. ¶

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IRP: ¶

(a) Records required to be maintained for distance data must denote intermediate trip stops; ¶

(b) Audit assessments are subject to penalty and late payment charges described in IRP and the IRP Audit Procedures Manual; ¶

(c) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served upon the petitioner. A petitioner may submit a request for hearing in the petition for reassessment; and ¶

(d) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days' notice of the time and place of the hearing. The Department may assess a penalty of $150 for failure to appear at a scheduled hearing. ¶

(3) The mileage reporting period for application and renewal purposes will be the previous July through June twelve-month period. ¶

[Note: Publications referenced above are available at http://www.irponline.org/]

Statutory/Other Authority: ORS 184.619, 823.011, 826.003
Statutes/Other Implemented: ORS 826.005, 826.007
AMEND: 740-200-0020

RULE SUMMARY: Adoption of Federal rules Governing Payment of Heavy Vehicle Use Tax updated to reflect re-adoption date of January 1, 2020.

CHANGES TO RULE:

740-200-0020
Adoption of Federal Rules Governing Payment of Heavy Vehicle Use Tax (HVUT)

The Department hereby adopts the rules of the United States Internal Revenue Service contained in 26 CFR Part 41 (HVUT) and all amendments thereto in effect January 1, 2019. These rules apply to carriers conducting operations subject to ORS Chapter 826. As provided in CFR Title 26 Part 41.6001-2(b)(3), the Department will suspend the registration of a vehicle for which proof of HVUT payment has not been received within four months of the effective date of registration.

[Note: The Code of Federal Regulations Title 26 Part 41.6001-2(b)(3) HVUT referenced above is available at the Motor Carrier Transportation Division, 3930 Fairview Industrial Drive SE, 97302.]

Statutory/Other Authority: ORS 184.619, 823.011, 826.003
Statutes/Other Implemented: ORS 803.370(5), 826.007
AMEND: 740-200-0030

RULE SUMMARY: Amendment adds provisions detailing steps motor carriers must take to obtain refunds in cases where they have gone out of business or have vehicles that have been accidentally destroyed.

CHANGES TO RULE:

740-200-0030
Transfer of Registration Fees and Refunds ¶

(1) For purposes of this rule the following definitions apply:
(a) The term "transfer of registration fees" refers to the application of an existing credit on the motor carrier’s account in a manner consistent with this rule.
(b) A refund means the return of money originally paid by the registrant to the Department.
(c) Registration periods are based on a calendar year. When a registrant elects to pay Oregon registration fees for calendar quarters, the registration starts on the first day of the calendar quarter and runs through the last day of the last calendar quarter in the registration period.

(2) The Department may grant unexpired Oregon registration fee refunds if requested in writing when:
(a) It has issued to a registrant duplicate registration for a vehicle which was for the registrant within the same fleet during the registration period;
(b) A registrant has, during the registration period, changed a vehicle from registration solely in Oregon to registration under the International Registration Plan;
(c) A registrant has registered a vehicle at a weight above the legal capacity of the vehicle without operating over the legal capacity and has, during the registration period, reduced the weight to the vehicle's legal capacity;
(d) The Department has conducted an audit which shows that a registrant overpaid registration fees;
(e) A registrant has registered a non-apportioned vehicle in error, has returned the registration credentials, and the Department has received the registration credentials before the effective date of the registration;
(f) The Department has determined that it has, through a computation error, overcharged a registrant for registration fees;
(g) A registrant has gone out of business during the registration period and meets the conditions specified in ORS 826.039 for non-apportioned vehicles subject to weight-mile tax that are fully registered in Oregon; or
(h) A registrant has shown that it is entitled to a refund of unused registration fees for a non-apportioned vehicle that has been accidently destroyed so as to be incapable of further operation, as described in ORS 803.590(2). Destroyed does not mean mechanical failure or defect;

(3) The Department will not grant registration refunds when:
(a) A registrant has, during the registration period, changed from registration under the International Registration Plan to registration solely in Oregon;
(b) A registrant not entitled to a refund under subsection (1)(g)of this rule has, during the registration period, removed a vehicle from service;
(c) A registrant has, during the registration period, gone out of business and does not meet the conditions specified in ORS 826.039;
(d) A registrant has, during the registration period, reduced weight for a vehicle;¶
(e) A registrant operating in Oregon and in one or more other states has, during the registration period, changed its base state;¶
(f) The Department has, for any reason, canceled the registration;¶
(g) A registrant has elected calendar quarters and has operated at any time within any of the designated quarters;¶
(h) A motor carrier operating a vehicle after the effective date of a vehicle’s registration period will not be granted a refund; or¶
(i) Registration dollars have been collected and transferred to another jurisdiction. In this circumstance, the motor carrier requesting a refund must request the refund directly from the jurisdiction to which the funds have been transferred.¶

(4) If a vehicle is permanently withdrawn from a fleet that is proportionally registered under ORS 826.009 or 826.011 as a result of being destroyed, sold or otherwise removed from the service of the registrant, the Department may issue a transfer of fees for the unused, unexpired portion of the registration in accordance with the terms of interstate agreements. The transfer of fees must be used to register a similar vehicle in the same fleet and within the same registration year. The fees will not be subject to refund.

Statutory/Other Authority: ORS 183.3354, 4.619, 823.011
Statutes/Other Implemented: ORS 826.039
AMEND: 740-200-0040

RULE SUMMARY: Adoption of International Fuel Tax Agreement updated to reflect re-adoption date of January 1, 2020.

CHANGES TO RULE:

740-200-0040
Adoption of International Fuel Tax Agreement ¶

(1) The provisions contained in the International Fuel Tax Agreement (IFTA) Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, and all amendments thereto in effect January 1, 2020, are hereby adopted and prescribed by the Oregon Department of Transportation (ODOT) and apply to Oregon-based motor carriers who participate in IFTA. ¶

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IFTA: ¶
(a) Records required to be maintained for distance data must denote intermediate trip stops; ¶
(b) Records of monthly over the road and bulk fuel reconciliations must be maintained; ¶
(c) The Department will assess a penalty of $50 or 10 percent of the amount of delinquent taxes due, whichever is greater, for failing to file a return, filing a late return, or underpaying taxes due on a return; ¶
(d) The Department will assess a penalty of 10 percent of the amount of delinquent taxes due, for additional assessments as the result of an audit; ¶
(e) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served to the petitioner. A petitioner may submit a request for hearing in the petition for reassessment; ¶
(f) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days' notice of the time and place of the hearing; and ¶
(g) An amendment may be made to, or audit conducted of, a tax return not more than four (4) years from the date the taxes or fees were filed. ¶

[Note: Publications referenced are available at http://www.iftach.org.]

Statutory/Other Authority: ORS 184.619, 823.011
Statutes/Other Implemented: ORS 825.490, 825.494, 825.555