



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 740
DEPARTMENT OF TRANSPORTATION
MOTOR CARRIER TRANSPORTATION DIVISION

FILED
11/18/2020 1:17 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2021 Annual Adoption IRP, HVUT, IFTA rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/21/2020 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):

The proposed amendments constitute an adoption of the rules of the International Registration Plan (IRP), United States Internal Revenue Service contained in 26 CFR Part 41 Heavy Vehicle Use Tax (HVUT), and the International Fuel Tax Agreement (IFTA) on the date of January 1, 2021.

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) None

(2)(a) Motor carriers qualifying as small businesses should experience no increased cost. The number of small businesses is unknown.

(2)(b) and (c) None

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

This rulemaking adopts the most recent version of federal regulations already in place. No decision making was required and therefore, small businesses were not involved.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

740-200-0010, 740-200-0020, 740-200-0040

AMEND: 740-200-0010

RULE SUMMARY: Annual adoption of the International Registration Plan.

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, 2020~~1~~, 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~~Commerce and Compliance 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.

Statutory/Other Authority: ORS 184.619, 823.011, 826.003

Statutes/Other Implemented: ORS 826.005, 826.007

AMEND: 740-200-0020

RULE SUMMARY: Annual adoption of the federal rules of the IRS regarding the payment of the Heavy Vehicle Use Tax.

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, 2020~~1~~. 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 Commerce and Compliance 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: 740-200-0040

RULE SUMMARY: Annual adoption of the International Fuel Tax Agreement as well as the IFTA Procedures and Audit Manuals.

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~~1~~, 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.

Statutory/Other Authority: ORS 184.619, 823.011

Statutes/Other Implemented: ORS 825.490, 825.494, 825.555