

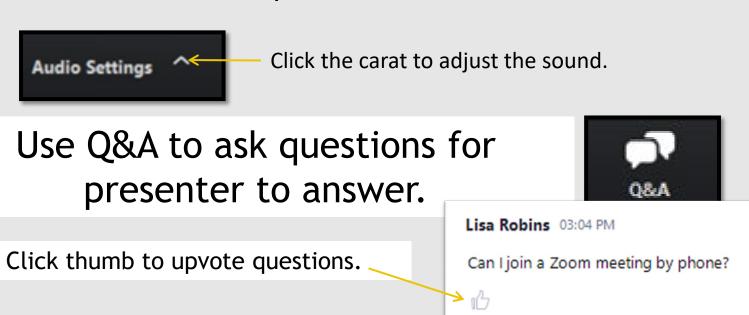
2020 Oregon New Law Update

Your host: Jesse Mecham



How to participate

Your camera and microphone will **not** be on.



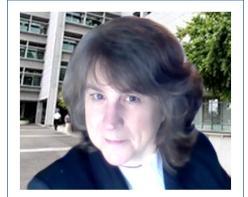


Use chat function to communicate with other attendees.

Presenters



Shannon Ball



Jackie Hovey

Personal Income Tax (including fiduciary)



Jason Larimer

Corporation Income and Excise Tax



Emily Brandes

Corporate Activity Tax (CAT)



Kelvin Adkins-Heljeson

Business: Payroll & Withholding

Special Programs: E-911,Lodging Tax, Marijuana Tax & Cigarette Tax



Personal Income Tax





Personal Income Tax 2020 – What's new for Oregon

Shorter than usual short session.

Federal reconnect date is still December 31, 2018.

Tax-related changes from 2019 session and federal legislation only:

- Two new credits
- Federal disaster relief

Oregon 529 College Savings and ABLE account plans

New credit

- Based on contributions made on or after January 1, 2020.
- Up to \$300 for MFJ, \$150 all others.
- Percentage of contributions made based on AGI.
- Refundable

Credit codes: 896 for college savings, 897 for ABLE

If your AGI is at least:	But not more than:	your percentage is:
\$0	\$30,000	100
\$30,001	\$70,000	50
\$70,001	\$100,000	25
\$100,001	\$250,000	10
\$250,001		5

Oregon 529 College Savings and ABLE account plans



Subtraction carryforward



Excess contributions made on or before December 31, 2019.



Same subtraction codes – 324 for 529 plans, 360 for ABLE.



Subject to annual limits: \$4,960 for MFJ, \$2,480 all others.



Can claim subtraction and credit on same return.



Short line railroad rehabilitation credit

Based on costs for rehabilitation projects

Leased or owned, located in Oregon

Amount depends on RR type:

- Tier I = at least 200 miles in Oregon
- Tier II = not Tier I or would be Tier I but is owned by government entity

Tax credit uniformity: credit transfers







Due date or filing date of either party

Both parties complete Form OR-TFR

30 days or due date or filing date

Tax credit uniformity: certified credits







Agencies share credit information

PTEs share owner information

Agencies notify of revocation

Centralized Partnership Audit Regime (CPAR)

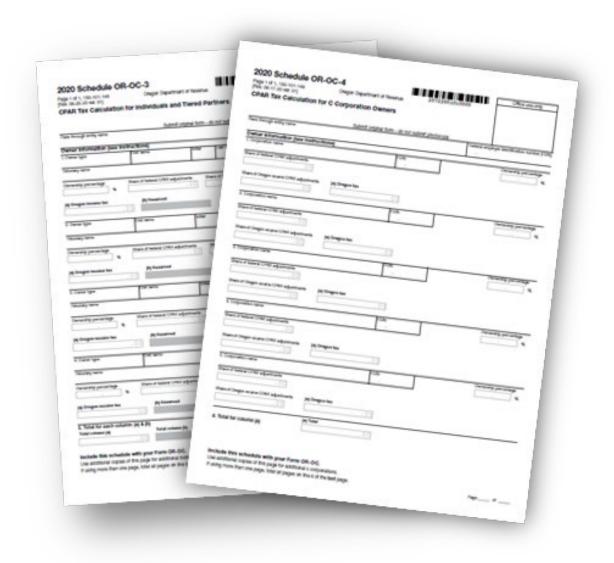
Federal adjustments made at partnership level.

Report adjustments on:

- Schedule OR-OC-3 (individuals, tiered partners)
- Schedule OR-OC-4 (corporations)

Partnership may pay tax on behalf of partners.

Partners report distributive share of income adjustment as addition or subtraction.



CPAR addition – code 187, CPAR subtraction – code 384

Earned income credit (HB 2164)

- 12 percent for taxpayer with dependent under age 3
- 9 percent for all others

Changes for 2020

Political contributions credit (HB 2164)

 AGI limit decreased, \$150,000 for joint filers, \$75,000 for all others

Special medical subtraction

Age requirement increased to 66

Indexed figures

Federal tax subtraction – \$6,950 (\$3,475 MFS)

Exemption credit – \$210

Standard deduction:

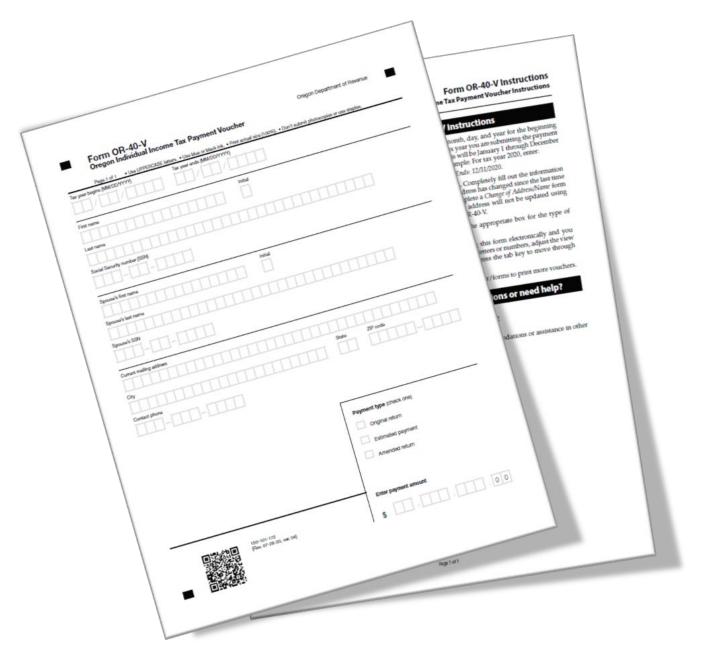
- \$4,630 MFJ/QW
- \$3,725 HH
- \$2,315 S/MFS

Oregon 529/ABLE subtraction carryforward limits:

• \$4,960 MFJ, \$2,480 all others

Changes to forms and instructions

- New voucher format.
- Forms separate from instructions.



Federal changes affecting Oregon: Tax extenders – December 2019, 2020



Medical expense deduction floor – 7.5% of AGI – permanent extension.



Tuition and fees deduction (and subtraction code 308) – ended in 2020.



Mortgage insurance premiums deduction (mortgage interest).



Exclusion of discharged debt on principal residence.

CARES Act March 2020

December 2020 relief



Recovery Rebate



Stimulus payment or credit



IRS Notice 1444 or "Get My Payment"

Effect of Recovery Rebate on federal tax subtraction

Example: MFJ, two dependents under 17, Recovery Rebate \$5,800

Federal tax after other credits	\$ 5.229
Recovery Rebate	- <u>5,800</u>
Federal tax subtraction	\$ - 0 -



Federal changes affecting Oregon

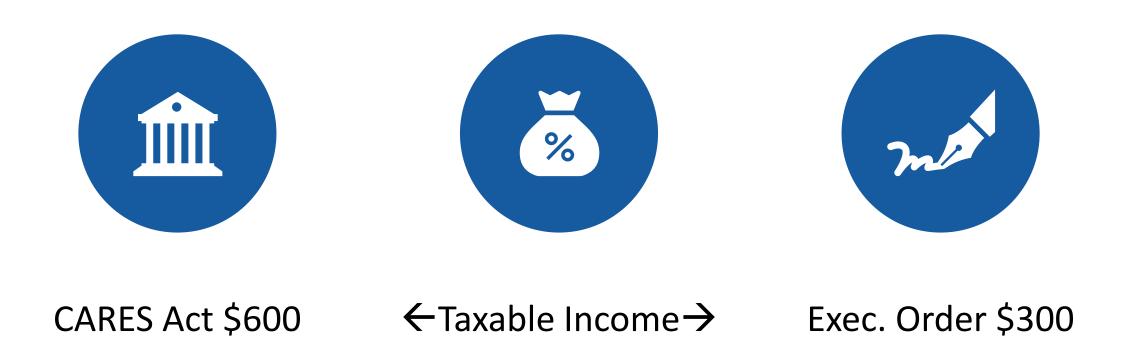
\$300 charitable contribution deduction.

Part-year or nonresident: adjustment code 007.

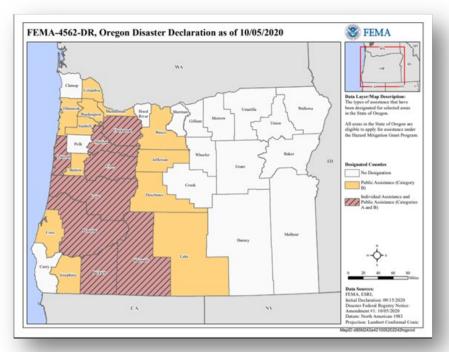
NOL carrybacks and carryforwards for losses arising in 2018 – 2020:

- Five-year carryback
- Oregon statute of limitations for refunds applies to loss year, not carryback year.
- DOR will accept IRS Form 1045.
- Indefinite carryforward without 80 percent limitation.

Unemployment benefits









Emergency declaration for Oregon wildfires

- Eight Oregon counties affected.
- Casualty loss deduction allowed.
- Non-business or business property.
- Claim on return for year of loss or prior year.

IRS extension for taxpayers affected by Oregon wildfires

Federal deadline for payments and returns due after September 7, 2020 extended to January 15, 2021.

Oregon will waive:

- Penalty and interest upon request.
- Underpayment interest on estimated payments.
- Taxpayer claims Exception 4 on Form OR-10 and calculates UND only for payments due before September 7.

1. If you qualify for an exception to the imposition of un-123-45-6789 enter the exception number here and on Form OR-40, box 40s; Form OR-40-N, box 66s 3. 2020 refundable tax credit amounts you claimed on Form OR-40, lines 33, 34, and 35; Form OR-40-N, lines 59, 60, and 61; or Form OR-40-P, lines 58, 59, and 60. Line 4 minus line 6. If fess than \$1,000, stop here! You don't owe 12.000 Enter your 2019 Oregon tax after all credits (include refundable) only if you filed an Ore payment interest due. Add the amounts in the interest due column Mat underpayment interest due, not the amounts in the interest tute comme, ofter here and on Form OR-40, line 40; Form OR-40-N, line 66; or Form OR-40-P, line 65 If you didn't stop at line 7, file this form with your 2020 Oregon return

2020 Form OR-10

Additional relief announced December 14, 2020.





2021 legislative concepts and white papers

- Legislative Concept #508 Data breach
- Legislative Concept #509 Subtraction for artist's charitable contribution
- Legislative Concept #510 Charitable checkoff
- Legislative Concept #511 Estimated payment due date
- White paper Foreign tax subtraction
- White paper Prorated tax credits

Questions?



Corporation and Estate Tax







Corporation and Estate Tax

Administrative Rules

- Amend OAR 150-305-0460 [Facsimile signatures].
- Amend OAR 150-314-0465 [Broadcaster Apportionment].
- Amend OAR 150-317-0510 [Unitary Business].

COVID-19

 Presence of a teleworking employee in Oregon between March 8, 2020 and December 31, 2020 will not be relevant for a nexus determination. See

https://www.oregon.gov/dor/Pages/COVID19.aspx

What's new for Corporation forms

- Main forms, updated format with constrained boxes, target marks, and more white space between variable data fields.
- New Schedule OR-PI (partnership Information).
- New short line railroad credit (ORS 315.593), credit code 872.
- Centralized Partnership Audit Regime (CPAR) modifications for corporate owners, addition 187 and subtraction 384.



2021 legislative concept

LC #514 – Declaratory rulings – DOR may make declaratory rulings

- Similar to IRS procedure
- Help with FIN 48 determinations
- DOR may charge fee
- DOR may publish rulings with taxpayer information redacted



Questions?



Payroll and Withholding

2021 Payroll and Withholding changes Fall rulemaking



Interest rate on refunds and balances due: Changing from 6 to 4 percent. (OAR 150-305-0140, 150-305-0142)



Additional information returns required for iWire: 1099-NEC and 1099-K. (OAR 150-314-0140)







Paid family leave

- Administered by Employment Department (DOR collects contributions from employer)
- Total contribution rate may not exceed 1 percent of employee's wages, up to \$132,900 in wages.
- Contributions begin January 1,
 2022
- Claims for benefits begin January
 1, 2023



Emergency Communications Tax

E-911 tax increase

- From \$0.75 to \$1 per month or prepaid purchase beginning January 1, 2020.
- Further increase to \$1.25 per month beginning January 1, 2021.





Lodging Tax





Lodging tax changes

- As of July 1, 2020 tax rate decreased from 1.8 to 1.5 percent.
- HB 3136 progress (administration of local lodging taxes).



Marijuana Tax Tobacco Tax (and psylocibin?)

Upcoming changes

- Cigarettes, cigars, and vape: **HB 2270** (2019) **Referral Petition 108** increases existing cigarette tax from \$1.33 to \$3.33 per pack, cigar tax from 50¢ to \$1, imposes vape tax.
- Tobacco retail licensing: 2020 legislation didn't pass.
- Marijuana: **HB 2098** (2019) definitions, license revocation.
- Initiative Petition 110 revenue for addiction recovery.
- Psilocybin: Initiative Petition 109 15 percent tax.



High Hazard Oil Train Fee

High Hazard Oil Train Fee

- HB 2209 (2019):
 Authorized DEQ to
 adopt a fee of up to \$20
 for each tank railroad
 car.
- **DEQ** tentatively looking at adopting rule in spring 2021.



Questions?



Corporate Activity Tax







Corporate Activity Tax (CAT) overview

- Enacted in 2019 and effective January 1, 2020.
- Imposed on all types of business entities.
- Measured on taxable **commercial activity** in excess of \$1 million.
- The tax is computed as \$250 plus 0.57 percent of taxable Oregon commercial activity above \$1 million.

House Bill 4202

- Enacted June 30, 2020, effective all tax years beginning January 1, 2020.
- Technical corrections and clarifications to CAT statutes.
 - DOR updating CAT forms, instructions, and administrative rules to reflect HB 4202 changes.
- Check DOR's CAT website or join our mailing list to be notified of new guidance, forms, and rules.

Commercial activity

- Commercial activity fair market value of all amounts realized in regular course of trade or business that meets transactional test in OAR 150-314-0335(5)).
 - Includes money, property received, debt forgiven, and services rendered.
 - Does not include amounts that only meet the functional test under OAR 150-314-0335(6).





Exclusions from commercial activity

Over 40 items excluded from commercial activity. For example:

- Receipts from the wholesale and retail sales of groceries.
- Farmers sales to agricultural co-ops described in IRC § 1381.
- Amounts received by agent on behalf of another, in excess of agent's fee or commission.
- Receipts from transactions between members of a unitary group.
- Distributive income received from a pass-through entity.

Exclusions & offsets from commercial activity

HB 4202 adds and clarifies the following exclusions:

- Receipts from fluid milk sales by dairy farmers who are not members of an agricultural cooperative.
- Tax refunds from any tax program.
- Crop insurance proceeds (except proceeds for loss of commercial activity).
- Vehicle registration fees or taxes owed to third party by vehicle purchaser, if vehicle dealer simply collects and remits tax to third party for purchaser.

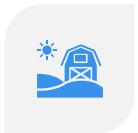
Returns and allowances may offset commercial activity.





Excluded entities









IRC 501

Farmer co-ops

Government agencies

IRC 529 programs









Medicare facilities

Foreign / Alien Insurers
wet marine & transportation
underwriting profit

Commercial activity ≤\$750K

MH park nonprofit co-ops

Thresholds

Threshold	Amount
No CAT requirements	Oregon commercial activity of \$750,000 or less.
Registration	Over \$750,000 of Oregon commercial activity.
Filing	Over \$1 million of Oregon commercial activity.
Tax payment	Over \$1 million of Oregon taxable commercial activity after expense subtractions and exclusions.

Registration



- Due within 30 days of meeting \$750,000 registration threshold.
- Through Revenue Online. Instructions available on DOR's CAT webpage.
- Business entities must register first year they meet registration threshold.
- No requirement to re-register for CAT in future years.

Unitary Groups

- United by more than 50 percent common ownership.
- Unitary business must have one of the following:
 - A. Centralized management or common executive force,
 - B. Centralized administrative services or functions resulting in economies of scale, or
 - C. Flow of goods, capital resources, or services demonstrating functional integration.
- OAR 150-317-1020 provides further guidance.

Unitary Group election – HB 4202

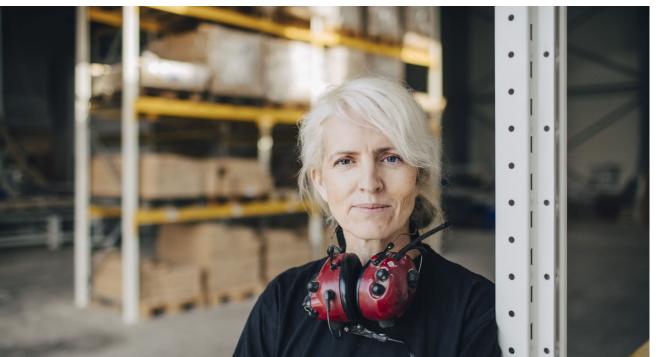
- HB 4202 allows CAT unitary groups to elect to exclude non-U.S. members of group that:
 - 1. Have no commercial activity in Oregon, and
 - 2. Have no exclusions from commercial activity otherwise sourced to Oregon.
- OAR 150-317-1025 provides further guidance.

CAT subtraction

- 35 percent of either cost inputs or labor costs attributable to commercial activity.
- May not exceed 95 percent of taxpayer's commercial activity.
- HB 4202 clarified subtraction provisions and how costs are apportioned.
- OAR 150-317-1200 provides further guidance.







Labor costs

Compensation of all employees, limited to \$500,000 per employee.

For purposes of the subtraction, employees are not:

- Partners in a partnership who receive guaranteed payments or distributive income.
- Members of a limited liability company (LLC) who receive guaranteed payments or distributive income.
- Statutory employees described in the IRC § 3121(d)(3).
- Independent contractors, as defined in ORS 670.600.

Labor costs (continued)

For purposes of the subtraction, compensation includes:

- Wages.
- Bonuses.
- Health insurance benefits.
- Retirement benefits.
- Other fringe benefits.

Compensation does not include:

Employer payroll taxes.

Cost inputs

Cost of goods sold as calculated in arriving at federal taxable income under the Internal Revenue Code.

Businesses not required to report COGS for federal tax purposes may determine cost inputs in same manner as calculated under IRC § 471 and applicable regulations.



Cost inputs (continued)

HB 4202 created a special definition of cost inputs for farming operations that do not report COGS for federal tax purposes.

For these taxpayers, cost inputs means "the taxpayer's operating expenses excluding labor costs."





Certain sales of agricultural commodities

Farming operations selling agricultural commodities to wholesaler or broker may determine amount of out-of-state sales by:

- Obtaining certificate from purchasing broker or wholesaler stating percentage of purchased commodities to be sold out of state, or
- Applying industry average percentage from USDA or other source of sales information.

OAR 150-317-1170 provides further guidance.

Sourcing of commercial activity

Sales of tangible personal property

- Gross receipts from sales of tangible personal property are sourced to Oregon if delivered to purchaser in Oregon.
 - Includes the ultimate recipient of the property.
 - Regardless of F.O.B. point.
 - Whether transported by seller, purchaser, or common carrier.

OAR 150-317-1030 provides further guidance.

Sourcing of commercial activity (continued)

Sales other than tangible personal property

- Receipts from leasing or renting property are sourced to Oregon if property is in Oregon.
- Services are sourced to Oregon if delivered to location in Oregon.

OAR 150-317-1040 provides detailed guidance.

Sourcing of commercial activity (continued)

Sales of motor carrier transportation

- Sourced to Oregon to extent transportation occurs within Oregon.
- Wholly in-state travel is sourced 100 percent to Oregon.
 - Freight, mail, and express apportioned by mobile property mile ratio.
 - All other apportioned by mileage ratio.

New rule OAR 150-317-1070 provides guidance.





Calendar-year tax.

Filing and payment



Annual return and payment due April 15.



Six-month extension to file allowed for good cause.

HB 4202 and CAT estimated payment penalty

- Taxpayers expecting to owe at least \$10,000 of CAT for 2020 were required to make quarterly estimated payments.
- HB 4202 modifies penalty for underpayment of quarterly estimated payments:
 - Reduces penalty from 20 percent to 5 percent of underpaid amount.
 - Adds safe harbor provision and extends 80 percent threshold for estimated quarterly payments through tax year 2021.

NOTE: DOR will not impose a penalty for tax year 2020 if the taxpayer is unable to make required payment due to impact of COVID-19. (See OAR 150-317-1500.)

Resources available

We're here to help! For general questions and taxpayer assistance:

- Email: cat.help.dor@oregon.gov.
- Call 503-945-8005 8 a.m.—4 p.m. Monday-Friday.
- Follow us on Twitter at @ORRevenue, #oregonCAT.
- You can also subscribe to our mailing list via our website to receive additional information as it becomes available.

Questions?

Upcoming events

- Special session scheduled for Monday, December 21, 2020.
- The 2021 legislative session starts on Tuesday, January 19, 2021.
- Next practitioner liaison meeting is scheduled for May 2021.
- Questions and answers will be on practitioner webpage if not already answered.
- Recording to be posted on our website.



Questions?

- Personal and partnership income tax: prac.revenue@oregon.gov.
- Corporate income or excise tax: corp.help.dor@oregon.gov.
- Payroll and business tax: payroll.help.dor@oregon.gov.
- Fiduciary/estate/inheritance tax: estate.help.dor@oregon.gov.
- Special programs: spa.help@oregon.gov.
- Marijuana tax: marijuanatax.dor@oregon.gov.
- Corporate Activity Tax: cat.help.dor@oregon.gov.