

# Oregon

## S Corporation Tax

# 1997

Form 20-S with instructions  
Schedule AP with instructions

### General information

This publication is a guide. It isn't a complete statement of Oregon laws or Oregon Department of Revenue rules. For more information, refer to the laws and rules.

#### New information for 1997

With the adoption of Chapter 839, Section 26, Oregon Laws 1997 (Senate Bill 1144), Oregon tax law is now tied to the Internal Revenue Code (IRC) as it is in effect for the taxpayer's tax year. Changes made to the definition of federal taxable income will be effective for Oregon at the same time they are effective for federal purposes.

For 1997 and future years, Oregon's definition of taxable income for corporations will be the same as for federal income tax purposes, except for modifications required under Oregon tax law. **Note:** You may need to amend your 1995 and 1996 returns to reflect Oregon's retroactive tie to federal changes made after April 15, 1995.

#### Filing requirements

File **Form 20-S**, Oregon S Corporation Tax Return, if your corporation files federal Form 1120S.

#### Excise tax filing requirements

Form 20-S must be filed under the **excise** tax provisions in ORS Chapter 317 by S corporations:

- Incorporated in Oregon;
- Doing business in Oregon; or
- Registered to do business in Oregon, even if not doing business in Oregon, and not protected by P.L. 86-272.

"Doing business" is defined as having sales activity in Oregon **and** one or more of the following:

- A stock of goods.
- An office.
- A place of business (other than an office) where affairs of the corporation are regularly carried on.

"Doing business" also includes providing services to customers as the primary business activity or incidentally to the sale of tangible or intangible personal property.

Excise tax filers are subject to a **\$10 minimum tax**.

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## Income tax filing requirements

Form 20-S must be filed under the **income** tax provisions under ORS Chapter 318 by S corporations that derive income from sources within Oregon, but the income producing activity doesn't actually constitute "doing business."

Income is from an Oregon source if it is derived from:

- Tangible or intangible property located in Oregon.
- Any activity carried on in Oregon, whether intrastate, interstate, or foreign commerce.

Income tax filers **are not** subject to a minimum tax.

**When you file your first Oregon S corporation return**, attach a copy of your federal S corporation election, federal Form 2553.

**Shareholder returns.** Shareholders who meet the Oregon filing requirements must file individual income tax returns. See the Oregon full-year resident, and the nonresident and part-year resident tax booklets.

Full-year residents file Form 40, part-year residents file Form 40P and nonresidents file Form 40N. The nonresident shareholders may choose to file individual nonresident tax returns or join together to file a multiple nonresident tax return.

Resident shareholders are taxed on their pro rata share of S corporation income, loss, and deductions from the federal K-1s. Those amounts are modified by the Oregon additions and subtractions. Nonresident shareholders are taxed on their share of modified income multiplied by the S corporation's apportionment percentage from line 6, Schedule AP-1. See ORS 314.734.

**Multiple Nonresident Income Tax returns** are filed by two or more nonresident shareholders. To be included in the multiple nonresident return, all the following conditions must be met:

- The shareholder must be an individual. Shareholders who are estates, trusts, partnerships, LLCs, LLPs, or S corporations cannot be included in the multiple nonresident filing.
- The individual must be a full-year nonresident of Oregon; and
- The individual must have no other Oregon source income.

Multiple Nonresident Income Tax return instructions are available to explain:

- Allowed deductions.
- Allowed credits.
- Estimated tax payments.
- Due date.
- And much more.

To get a copy of the Multiple Nonresident Income Tax return instructions and Schedule MNR, call (503) 945-8436.

### Checklist of forms and schedules

Form number	Who must file
Form 20 .....	Every corporation (except S corporations and insurance companies) doing business in Oregon (or authorized to do so).
Form 20-I .....	Every corporation (except S corporations and insurance companies) with income-producing activity in Oregon. <b>Every Real Estate Mortgage Investment Conduit (REMIC) required to file.</b>
Form 20-S .....	Every S corporation doing business in Oregon or with income-producing activity in Oregon (or authorized if not protected by P.L. 86-272).
Schedule AP .....	Every corporation apportioning income within or outside of Oregon.
Form 20-INS .....	Every insurance company doing business in Oregon (or authorized to do so).
Form 20-ES .....	Every corporation which estimates its 1998 tax liability to be \$500 or more.
Form 37 .....	Every corporation with an underpayment of estimated tax or meeting an exception.
Federal Form 1120S* .....	Every S corporation required to file.

\*In general, Oregon's corporation income will be the same as for federal income tax purposes, except for certain modifications. See line instructions for exceptions.

# General instructions

## When is my return due?

Returns for the calendar year are due on or before April 15. When the 15th falls on a Saturday, Sunday or legal holiday, the due date will be the next business day. Returns for other tax periods are due on or before the 15th day of the month following the due date of the federal return for the tax year.

Oregon won't charge a late filing penalty if the return is filed by the Oregon due date, including extensions. However, interest and a 5 percent late payment penalty are charged if the tax isn't paid by the due date.

## Extension of time for filing

If you need more time to file **both** your federal and your Oregon returns:

- Oregon accepts the extension you have for your federal return.
- Attach a copy of your federal extension to your Oregon return and mark the extension box on Form 20-S.
- To avoid penalty and interest, mail any tax due on or before the original due date of your return. Attach the payment to a separate copy of your federal extension.
- Include the amount you paid with your extension on Form 20-S, line 15, when you file your return.

If you need an extension of time to file for **Oregon only**, send us a federal extension form. Write "For Oregon Only" across the top. Include your payment. Mail the extension request to: Oregon Department of Revenue, PO Box 14777, Salem OR 97309-0960. We'll notify you only if your extension is denied. **More time to file doesn't mean more time to pay your tax!** Even if you have an extension, any tax due is payable on the original due date of the return.

Include a copy of your extension with your return when you file. Put the extension at the back of the Oregon return and schedules. It should be the last item before the federal corporation return. Check the appropriate box on Form 20-S if you have attached an extension.

## Penalty and interest

**Penalty.** Include a penalty payment if you:

- Mail your tax due after the original due date (even if you have an extension).

- File your excise tax return after the due date, including any extension.

Penalty is 5 percent of the unpaid balance of your tax.

If you get an extension, the penalty won't be charged if you:

- Pay at least 90 percent of the tax due on or before the original due date of the return, **and**
- Pay the balance of tax when you file within the extension period, **and**
- Pay any interest due either when the return is filed or within 30 days of billing by the department.

If you **file more than three months** after the original or extended due date, add an additional penalty of 20 percent of the unpaid tax. If you don't file returns for three consecutive years by the due date of the third year's return, including extensions, you must pay a 100 percent penalty on the tax liability for each tax year. Include any penalty due on Form 20-S, line 18.

**Interest.** If you don't pay the tax by the due date, interest will be charged on the unpaid tax.

The current interest rate is .8333 percent per month (.0274 percent per day) effective January 1995. The interest rate may change once a calendar year.

Interest is figured daily for periods of less than a month. A month, for example, is May 16 to June 15. Here's how to figure daily interest:

$$\text{Tax} \times \text{Daily interest rate} \times \text{Number of days}$$

Interest accrues during an extension of time to file.

**Additional interest on deficiencies and delinquencies.** Interest will increase by one-third of 1 percent per month (4 percent yearly) on deficiencies or delinquencies if the following occurs:

- You file a return showing tax due (self-assessed tax liability), or the Department of Revenue has assessed an existing deficiency, **and**
- The assessment isn't paid within 60 days after the notice of assessment is issued.

**Interest on underpayment of estimated tax.** You have an underpayment if you paid less than 100 percent of the tax due on each estimated tax payment due date. You don't have an underpayment if you owe less than \$500 tax on your 1997 return. The tax you owe is the net tax on Form 20-S, line 14. If you have an underpayment, you must

file Oregon Form 37, "Underpayment of Estimated Taxes." **Attach Form 37 to your return.**

Use Form 37 to figure:

- The amount of underpayment of estimated tax.
- The amount of interest you owe on the underpayment.
- Any exception to the payment of interest.

To get Form 37, see "Taxpayer Assistance" on page 12.

On Form 20-S, line 19, include interest for payment of tax after the original return due date. On Form 20-S, line 20, include interest due from underpayment of estimated tax. Check the appropriate box on Form 20-S if you have attached Form 37.

### Federal audit changes

If the IRS changes your federal net income for any tax year, you must notify the Oregon Department of Revenue. File an amended Oregon return and attach a copy of the federal audit report. Mail this separately from your current year's return to: Oregon Department of Revenue, PO Box 14777, Salem OR 97309-0960. If you don't amend, or send a copy of the federal report, the Oregon Department of Revenue has two years from the date the department is notified of the change by the IRS to

issue a deficiency notice. You **must** file within two years after the date of the federal report to receive a refund.

### Amended returns

If you change net income by amending your federal return, you must file an amended Oregon return within 90 days. Attach a copy of the amended federal return to the amended Oregon return and explain the adjustments made.

On the line for estimated tax payments, enter the net income or excise tax per the original return. Add or subtract prior tax adjustments to your original return.

Don't amend your Oregon return if you amend the federal return to carry a **net operating loss back** to prior years. Oregon allows corporations to carry losses forward, but not back. See instructions for Schedule AP-2, line 10.

Pay all tax and interest due when you file an amended return. You may be charged the 5 percent late payment penalty if you don't pay the tax and interest within 30 days after you receive a notice from the department. Check the appropriate box on Form 20-S if you are filing an amended return.

## Form 20-S instructions

### Heading

Use the mailing label in the name and address space. Correct the name, address, or federal employer identification number, if necessary. If you didn't receive a label, type or print the required information.

**Business identification number.** Each corporation is now identified by a business identification number (BIN) assigned by the department. You may have already been assigned a BIN if payroll taxes, workers' compensation, or unemployment payments are made to the State of Oregon. If you do not have a BIN, one will be assigned when your return is received.

### Questions

Answer questions A through J. Furnish additional information where necessary.

### Tax computation for S corporations with federal taxable income or LIFO benefit recapture

**Line 1. Income taxed on federal Form 1120S.** On line 1(a), enter the amount from Form 1120S,

Schedule D, Part IV, line 27. On line 1(b), enter the amount from Form 1120S, Schedule D, Part III, line 18. To determine the amount to enter on line 1(c), you will need to refer to the instructions for Form 1120S. Contained in those instructions for line 22(a) is a worksheet. You should enter the amount from line 10 of that worksheet on line 1(c). Enter the total of lines 1(a), (b), and (c) on line 1.

**Line 2. Additions.** Enter only additions that apply to taxable income included in line 1. See ORS 317.259 through 317.478. Examples of additions that apply to S corporation income are:

- State, municipal, or other interest income excluded from federal taxable income. Income tax filers should not include interest on State of Oregon obligations.
- Oregon, other state or foreign taxes on or measured by net income or profits.
- Federal depreciation in excess of Oregon depreciation included in line 1.

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. . . continued from page 4

- The difference in gain or loss on sale of business assets when the Oregon basis is less than it is for federal purposes.

**Line 3. Subtractions.** Enter only subtractions that apply to income included in line 1. See ORS 317.259 through 317.478. Examples of subtractions for S corporations are:

- Oregon depreciation in excess of federal depreciation included in line 1.
- Interest on obligations of the United States and its instrumentalities included in line 1. **This applies to income tax filers only.**
- The difference in gain or loss on sale of assets when the Oregon basis is greater than it is for federal purposes.

**Line 10. Credits against tax.** Only credits carried forward from C corporation years shall be allowed to offset the tax on built-in gains. See ORS 314.740(5)(b). No credits are allowed to offset the tax on excess net passive income. See the information circulars “Tax Credits for Corporations” (150-102-694) and “Additional Tax Credits for Corporations” (150-102-699) for more information on credits. Attach a schedule and the required credit form listed below. Credits with a carryover provision are:

- Business energy.
- Computer, scientific equipment or research.
- Pollution prevention.
- Pollution control facility (form 150-102-029).
- Farmworker housing project investment.
- Fish screening device.
- Dependent care (form 150-102-032).
- Bone marrow donation.
- Crop gleaning (form 150-101-240).
- Fish habitat improvement.
- Fish gleaning (form 150-101-068).
- Reclaimed plastics product.
- Research.
- Reforestation.

**Line 13. Tax adjustment for LIFO benefit recapture.** Make this adjustment in the first three years after a C corporation becomes an S corporation. Add one-third of the tax that was deferred on the last C corporation return.

**Line 22. Total due.** Attach a check or money order to your return. Make your check or money order payable to “Oregon Department of Revenue.” Write your business identification number and 1997 on your check. Don’t send cash or postdated checks.

**Special instructions.** Do you owe penalty and/or interest and have an overpayment on line 17? If your overpayment is less than total penalty and interest, fill in the result of line 21 minus line 17.

## Schedule SM instructions

**Line 1. Interest on government bonds of other states.** Enter interest the corporation received from states and local governments **other than Oregon and its municipalities.** Example: Include interest from state of Washington bonds or San Francisco city bonds, but leave out interest from Oregon government bonds.

**Line 2. Gain or loss on the sale of depreciable property.** Enter the difference in gain or loss on the sale of business assets when the Oregon basis is less than it is for federal purposes. See ORS 316.716.

**Line 3. Other.** See ORS 316.680–316.785. Examples of other additions are:

- Gain from involuntary conversion. The S corporation shall make the election to defer gain from the involuntary conversion of property owned by it. Nonresident shareholders cannot join in the election to defer the gain. See ORS 314.290 and OAR 150-314.290.
- Depletion in excess of basis.

- High yield discount obligation interest.
- Difference in depreciation for Oregon.

**Line 5. Interest from U.S. government.** Enter the interest from the U.S. government, its instrumentalities, and organizations that invest in their securities.

**Line 6. Gain or loss on the sale of depreciable property.** Enter the difference in gain or loss on the sale of business assets when the Oregon basis is greater than it is for federal purposes. See ORS 316.716.

**Line 7. Work opportunity credit wages.** Were salaries and wages on federal Form 1120S reduced for the work opportunity tax credit? Enter the amount of reduction here.

**Line 8. Other.** See ORS 316.680 through 316.785 and ORS 314.734(4) and (5). You may subtract the Oregon corporation tax paid on built-in gains reported on line 1. Examples of other subtractions are:

- Local government bond interest.
- Like-kind exchanges.
- High yield discount obligation dividends.

- Sale of public utility dividend reinvestment plan stock.
- Difference in depreciation for Oregon.

Each shareholder's share of the additions and subtractions must be reported to the shareholder. These

amounts may be added to the K-1s and labeled "Oregon additions" and "Oregon subtractions." Nonresident shareholders must report their ownership percentage of modifications, multiplied by the S corporation's Oregon apportionment percentage.

## Schedule AP instructions

**Consolidated returns.** S corporations can't be included in consolidated federal returns. Internal Revenue Code 1361(b) provides that a corporation which is a qualified subchapter S subsidiary is not treated as a separate corporation. All income, deductions and credits of the qualified subchapter S subsidiary will be treated as the S corporation's.

**Apportionment and allocation.** Apportionment is dividing business income between the states by use of a formula. Allocation is the assignment of specific nonbusiness income to a state. A corporation having unitary business activities both inside and outside Oregon must use the apportionment and allocation methods provided under the Uniform Division of Income for Tax Purposes Act (ORS 314.605 through 314.670), ORS 314.680 through 314.690, and the rules under ORS 314.280.

The following businesses use modified or different apportionment factors as provided in the following Oregon Administrative Rules (OARs) and laws:

Insurance companies .....	ORS 317.660
Title insurance companies ....	OAR 150-314.280-(E)
Health care service	
contractors .....	OAR 150-314.280-(E)
Financial corporations .....	OAR 150-314.280-(N)
Railroads .....	OAR 150-314.280-(H)
Airlines .....	OAR 150-314.280-(I)
Trucking companies .....	OAR 150-314.280-(J)
Sea transportation	
companies .....	OAR 150-314.280-(K)
Interstate river transportation	
companies .....	OAR 150-314.280-(L)
Long term construction	
contractors .....	OAR 150-314.615-(F)
Movie and television	
production companies .....	OAR 150-314.615-(H)
Interstate broadcasters .....	ORS 314.682
	OAR 150-314.684 (4)
	OAR 150-314.686

Oregon income is the total of the corporation's apportioned and allocated income assigned to Oregon.

Schedule AP must be completed by each corporation carrying on a unitary business both inside and outside Oregon. If another method of assigning income is proposed, Schedule AP still must be

completed. A full explanation of the other method must be made.

### Schedule AP-1

#### Property factor

(1) Value owned property at original cost. Show the average value during the taxable year of real and tangible personal property used in the business. This is the average of property values at the beginning and end of the tax period. An average of the monthly values may be required if a more reasonable value results.

(2) Value rented property at eight times the annual rental value. Reduce the annual rental value by nonbusiness subrentals.

Enter all owned or rented business property in Column B of Schedule AP-1. Enter business property within Oregon in Column A. See ORS 314.655 and the rules thereunder.

#### Payroll factor

Assign payroll to Oregon if:

- The services are performed entirely inside Oregon; **or**
- The services are both inside and outside Oregon but those services outside are only incidental; **or**
- Some of the services are performed in Oregon and (a) the base of operation or control is located in Oregon, or (b) the base of operation or control is not in any state in which the services are performed and the employee's residence is in Oregon.

See ORS 314.660 and the rules thereunder.

#### Sales factor

Assign sales to Oregon if:

- The property is shipped or delivered to a purchaser in Oregon other than the United States Government; **or**
- The property is shipped from a warehouse or other place of storage in Oregon; and (a) the purchaser is the United States Government or (b) the corporation is not taxable in the state of the purchaser. See ORS 314.665(3) for exception.

See ORS 314.620 and Public Law 86-272 to determine if a corporation is taxable in another state.

Charges for services are Oregon sales to the extent the services are performed in Oregon. See ORS 314.665 and the rules thereunder.

**Line 6. Average percent.** Divide the sum of the property factor, the payroll factor, and two times the sales factor by 4 if the corporation had all of these factors. Reduce the denominator of 4 by the number of factors with a zero denominator. Example: If a corporation had no payroll anywhere, the payroll factor would have a zero denominator and the sum of the factors would be divided by 3 (if no sales, divide by 2).

## Schedule AP-2

**Business and nonbusiness income.** "Business income" is income arising from transactions and activities in the regular course of the taxpayer's business. It includes income from tangible and intangible property related to the regular business operation.

Examples of business income are:

- Sales of products or services;
- Rents, if property rental is a related business activity;
- Royalties, if the patent, processes, etc., were developed by or used in the business operation;
- Gain or loss on the disposal of business property;
- Interest income on trade receivables or installment contracts arising out of the business or from the investment of working capital.

"Nonbusiness income" means all income other than business income. Rents, royalties, gains or losses, and interest can also be nonbusiness income if they arise from investments not related to the taxpayer's business. Nonbusiness income is allocated to a particular state based upon the source of the income. Gain or loss from the sale of a partnership interest may be allocable to Oregon. See ORS 314.635(4). A schedule of nonbusiness income must be attached to the return. The amounts allocable to Oregon must be added to Oregon's apportioned income. See ORS 314.610 and the rules thereunder.

**Line 3. Minus: Gains from prior year installment sales included in line 1.** OAR 150-314.615-(G) requires that installment gains be apportioned to Oregon using the average percent from the year of the sale rather than the year payment is received.

**Line 8. Add: Gains from prior year installment sales apportioned to Oregon.** Multiply the installment gains subtracted on line 3 by the average percent from the year of the sale.

**Line 10. Net loss deduction (for S corporations only).** Only the Oregon net loss carried over from a year in which the corporation was a C corporation shall be allowed as a deduction. It is limited to the income from built-in gains. See ORS 314.740(4).

## Printed information order form



### Printed information (free) State forms only

Check individual boxes to order. Clip on the dotted line, then mail in the entire list with your return address. These forms and circulars are also available on the Internet. Our Internet address is: <http://www.dor.state.or.us>

- Additional Tax Credits for Corporations..... 150-102-699
- Authorization to Represent Taxpayer and/or Disclose Information ..... 150-800-005
- Estimated Tax coupons ..... 150-102-022-2 and instructions ..... 150-102-022
- Information for Tax Exempt Organizations ..... 150-102-617
- Lender's Credit ..... 150-102-125
- Limited Liability Companies, Limited Liability Partnerships .... 150-102-613
- Political Organizations ..... 150-102-663

- Pollution Control Facility Credit.... 150-102-029
- Research Credit ..... 150-102-128
- Tax Credits for Corporations ..... 150-102-694
- What To Do if You are Audited .... 150-101-607
- Your Rights as an Oregon Taxpayer 150-800-406
- List of other printed information: Forms/Publications Request ..... 150-800-390

### Send to: Forms

Oregon Department of Revenue  
PO Box 14999  
Salem OR 97309-0990

### Please print

Your name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_ ZIP \_\_\_\_\_

Oregon Department of Revenue  
955 Center St NE  
Salem OR 97310-2551

Please use this  
label on your  
return

BULK RATE  
U.S. POSTAGE  
**PAID**  
SALEM, OREGON  
PERMIT NO. 55

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## Taxpayer assistance

### Do you need help?

Call: Salem ..... **(503) 378-4988**  
Toll-free within Oregon ..... **1-800-356-4222**

The toll-free number is available January through April.

For touchtone phones, our telephone voice response system has recorded tax information about many of your Oregon tax questions. You can also order tax forms. This service is available 24 hours a day.

Representatives are available: 7:30 A.M.–5:10 P.M. Monday–Friday, except Wednesday when the hours are 9 A.M.–5:10 P.M. Closed on holidays. From April 1–April 15, representatives are available from 7 A.M. until 7 P.M., Monday–Friday.

**TTY** (hearing or speech impaired only). **These numbers are answered by machine only and are not for voice use.** The year-round toll-free number within Oregon is 1-800-886-7204. In Salem, the number is (503) 945-8617.

### Habla Español?

Las personas que necesitan asistencia en Español pueden dejar un mensaje. El número disponible todo el año en Salem es (503) 945-8618.

A message line is available all year for those who need assistance in Spanish. The number in Salem is (503) 945-8618.

### To get forms

To get forms write to: Forms, Oregon Department of Revenue, PO Box 14999, Salem OR 97309-0990. Some forms are also available on our website. Our Internet address is: <http://www.dor.state.or.us>

The office below provides forms and will answer questions. **Don't send your return to this address.**

#### Salem\*

Revenue Building  
First floor, Room 135  
955 Center St. NE  
Salem OR 97310

\*Office hours: 7:45 A.M.–5 P.M. Monday–Friday. Closed on holidays.

**Correspondence.** Use the Salem address above. Include your business identification number and a daytime telephone number. Including both will allow us to help you faster.

In compliance with the Americans with Disabilities Act (ADA), this information is available in alternative formats upon request by calling (503) 378-4988.

