

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form.

Department of Revenue, Business Division	150
Agency and Division	Administrative Rules Chapter Number
Debra L Buchanan	503-945-8653
955 Center St NE Salem OR	
Rules Coordinator	Telephone

RULE CAPTION

Dry Cleaner assessment; apportionment and transit tax.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing
ADOPT:

AMEND:

REPEAL: 150-267.385(5); 150-465.200(1); 150-465.517(2); 150-465.517(3); 150-465.517(5); 150-465.992

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 305.100

Other Auth.:

Stats. Implemented: ORS 267.385; 465.200; 465.517; 465.992

RULE SUMMARY

150-267.385(5) is obsolete and is proposed for repeal.

150-465.200(1); 150-465.517(2); 150-465.517(3); 150-465.517(5) and 150-465.992 are repealed because the Dry Cleaner program is now administered by the Department of Environmental Quality. These rules are no longer applicable.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

July 21, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Debra L Buchanan	6/15/2009
Signature	Date
*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.	
Printed name	ARC 923-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Revenue, Business Division

150

Agency and Division

Administrative Rules Chapter Number

Dry Cleaner assessment; apportionment and transit tax.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: adoption or repeal of administrative rules

Statutory Authority: ORS 305.100

Other Authority: None

Stats. Implemented: ORS 267.385; 465.200; 465.517; 465.992

Need for the Rule(s): 150-267.385(5) is obsolete and proposed for repeal. 150-465.200(1); 150-465.517(2); 150-465.517(3); 150-465.517(5); 150-465.992 are proposed for repeal because the Dry Cleaner assessment program is no longer administered by the Department of Revenue.

Documents Relied Upon, and where they are available:

None

Fiscal and Economic Impact:

None expected.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
The repealed rules are not expected to impact any small businesses. There is no cost to comply.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
None.

c. Equipment, supplies, labor and increased administration required for compliance:
None.

How were small businesses involved in the development of this rule?

The proposed amendments were shared with tax practitioners who may be or who may represent small businesses.

Administrative Rule Advisory Committee consulted?: No

If not, why?: The department consults with external stakeholders in developing its rules, including members of the Oregon Society of Certified Public Accountants and members of the Tax Section of the Oregon State Bar.

Signature

Debra L Buchanan

Printed name

6/15/2009

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Revenue, Personal Tax and Compliance Division	150
Agency and Division	Administrative Rules Chapter Number
Debra L Buchanan 955 Center St NE Salem OR 97301-2555	503-945-8653
Rules Coordinator	Address
	Telephone

RULE CAPTION

Notice of manufactured park closure; Claim for refund; Nonresident income allocation

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

July 21, 2009	10:00 a.m.	Fishbowl Conference Rm, 955 Center St NE Salem OR	Staff
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

150-90.650

AMEND:

150-305.270(3)-(A); 150-316.127-(A)

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth. : ORS 305.100

Other Auth.:

Stats. Implemented: ORS 90.650; 305.270; 316.127

RULE SUMMARY

OAR 150-90.650 is adopted pursuant to ORS 90.650(3), which requires the Department of Revenue to provide by rule a sample form for owners of closing manufactured dwelling parks to include on a closure notice to tenants.

OAR 150-305.270(3)-(A) explains criteria the department will consider in determining what constitutes a valid claim for refund.

OAR 150-316.127-(A) is amended to further clarify how nonresidents may allocate income when services are performed within and without Oregon, including when services are performed for only a part of a day in this state.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

July 21, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	Debra L Buchanan	6/15/2009
Signature	Printed name	Date

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Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Revenue, Personal Tax and Compliance Division

150

Agency and Division

Administrative Rules Chapter Number

Notice of Manufactured park closure; Claim for refund; Nonresident income allocation

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: adoption of administrative rules

Statutory Authority: ORS 305.100; 90.650

Other Authority:

Stats. Implemented: ORS 90.650; 305.270; 316.127

Need for the Rule(s):

150-90.650 is adopted pursuant to statutory direction in ORS 90.650, which requires the department to adopt a rule and prescribe a standard form.

150-305.270(3)-(A) is needed to describe criteria and standards that the department will consider in determining whether a claim for refund is considered to be a valid claim.

150-316.127-(A) is needed to clarify that when individuals perform services both within and without Oregon, different methods may be used to allocate income to Oregon, including the number of hours worked in the state.

Documents Relied Upon, and where they are available: None

Fiscal and Economic Impact: None expected.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

None expected.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Small businesses that operate mobile home parks may be impacted by 150-90.650. The number of parks is unknown. The rule is adopted pursuant to a statutory direction.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None expected.

c. Equipment, supplies, labor and increased administration required for compliance:

None expected.

How were small businesses involved in the development of this rule?

The department consulted with the Housing & Community Services Department in developing 150-90.650.

Administrative Rule Advisory Committee consulted?: No

If not, why?: The department consults with external stakeholders in developing its rules, including members of the Oregon Society of Certified Public Accountants and members of the Tax Section of the Oregon State Bar.

Signature

Debra L Buchanan
Printed name

6/15/2009
Date

Secretary of State
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Debra L Buchanan	503-945-8653
955 Center St NE Salem OR	
Rules Coordinator	Telephone

RULE CAPTION

Estimated tax; interest waiver; elderly rental assistance; reforestation credit.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing
ADOPT:

AMEND: 150-316.587(5)(d); 150-316.587(8)-(B); 150-310.630(8)(a)-(O); 150-315.104(1); 150-315.104(10)

REPEAL: 150-315.104(9)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 305.100

Other Auth.:

Stats. Implemented: ORS 310.630; 315.104; 316.587

RULE SUMMARY

150-316.587(5)(d) is amended to delete a phrase that is obsolete as the department will refund interest paid on underpayment of estimated tax if the taxpayer qualifies for an exception to paying that interest.

150-316.587(8)-(B) is amended to update examples.

150-310.630(8)(a)-(O) relates to the Elderly Rental Assistance program. The rule is amended to update the name of an agency and to update terms for better readability and understanding.

150-315.104(1) relates to the qualified reforestation tax credit. The rule is amended to delete obsolete language relating to dates.

150-315.104(10), which relates to the qualified reforestation tax credit, is amended to correct the reference to a Department of Forestry rule from OAR 629-23-410 to OAR 629-023-0420. The rule is also amended to correct a date.

150-315.104(9) is obsolete and repealed.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

July 21, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Debra L Buchanan	6/15/2009
Signature	Date
Printed name	

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ARC 923-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Revenue, Personal Tax and Compliance Division

150

Agency and Division

Administrative Rules Chapter Number

Estimated tax; interest waiver; elderly rental assistance; reforestation credit.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: adoption of administrative rules

Statutory Authority: ORS 305.100

Other Authority:

Stats. Implemented: ORS 310.630; 315.104; 316.587

Need for the Rule(s):

150-310.630 is amended to correct the name of an agency and to update terms. 150-315.104(1) and 150-315.104(10) are amended to delete obsolete language. 150-315.104(9) is obsolete and is repealed. 150-316.587(5)(d) and 150-316.587(8)-(B) are amended to delete obsolete language and to update examples.

Documents Relied Upon, and where they are available: None

Fiscal and Economic Impact: None expected.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None expected.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
An unknown number of small businesses may qualify for a reforestation tax credit. The rule changes are expected to have no impact on those businesses as the changes delete obsolete language.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
None expected.

c. Equipment, supplies, labor and increased administration required for compliance:
None expected.

How were small businesses involved in the development of this rule?

The changes are housekeeping and involve deletion of obsolete language. Small businesses were not consulted specifically.

Administrative Rule Advisory Committee consulted?: No

If not, why?: The department consults with external stakeholders in developing its rules, including members of the Oregon Society of Certified Public Accountants and members of the Tax Section of the Oregon State Bar.

Signature

Debra L Buchanan
Printed name

6/15/2009
Date

ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150- 267.385(5)	
	Page Page 1 of 3	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Because of legislative changes to apportionment, the rule requires revisions which would remove most of the rule text. Remaining information could be made available to the public through the transit tax form and instructions, and department web site. An administrative rule is no longer necessary.

- 1 **150-267.385(5)** [Repealed 7/31/09]
- 2 **Tri-Met Self-Employment Tax**
- 3 ~~(1) Any taxpayer having net earnings from self employment from activity both within and without the~~
- 4 ~~Tri Met District must allocate and apportion such net earnings in a manner consistent with that required~~
- 5 ~~for allocation and apportionment of income under ORS 314.280, 314.605 to 314.675, and the~~
- 6 ~~administrative rules adopted thereunder. A taxpayer may have net earnings from self employment from a~~
- 7 ~~unitary business or from more than one trade or business. See OAR 150-314.615 (D) and OAR 150-~~
- 8 ~~314.615 (E).~~
- 9 ~~Example 1: A operates a medical practice entirely within the Tri Met District. A also owns a farm that is~~
- 10 ~~not located within the district and that does not have property, payroll, or sales within the district. A~~
- 11 ~~cannot combine income or loss from the medical practice with income or loss from the farm in~~
- 12 ~~determining net earnings from self employment. All of the medical practice income is apportioned to the~~
- 13 ~~district.~~
- 14 ~~Example 2: B operates a retail store that has an outlet in the Tri Met District and an outlet outside of the~~
- 15 ~~district. B should combine income or loss from the two outlets in determining net earnings from self-~~
- 16 ~~employment. A portion of such net earnings should be apportioned to the district based on the combined~~
- 17 ~~factors for the two stores.~~
- 18 ~~Example 3: C is a partnership that manufactures goods within the Tri Met District and sells the~~
- 19 ~~merchandise outside of the district. C should apportion income or loss from the business to the district as~~
- 20 ~~provided in ORS 314.280 and 314.605 to 314.675 and the administrative rules thereunder.~~
- 21 ~~(2) Taxpayers must be allowed to use the three factor method of apportioning income or, if so elected,~~
- 22 ~~only the sales factor. If these methods do not fairly represent the extent of the taxpayer's business~~
- 23 ~~activities within the Tri Met District, and violate the taxpayer's rights under the constitution of Oregon or~~



ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150- 267.385(5)	
	Page Page 2 of 3	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Because of legislative changes to apportionment, the rule requires revisions which would remove most of the rule text. Remaining information could be made available to the public through the transit tax form and instructions, and department web site. An administrative rule is no longer necessary.

- 1 of the United States, the taxpayer may use a different method to apportion income if approved or
2 required by the Department of Revenue. See ORS 314.670 and OAR 150-314.670.
- 3 ~~(3) If a taxpayer uses the three factor method of apportioning income and if the denominator of a~~
4 ~~particular factor is zero for that taxpayer in a taxable year, then the remaining two factors ordinarily must~~
5 ~~be used for apportionment in that taxable year.~~
- 6 ~~Example: A files a 1984 Tri-Met self-employment tax return using the three factor formula for~~
7 ~~apportioning income. However, A does not have any payroll. Thus, A does not have a payroll factor.~~
8 ~~Subject to the approval of the department, two factors should then be used to apportion income (sales and~~
9 ~~property). The two factors should be added together and divided by two to arrive at the apportionment~~
10 ~~percentage.~~
- 11 ~~(4) The election to use only the sales factor must be made on the original Tri-Met return filed by the~~
12 ~~taxpayer for a taxable year. Such an election will be binding for that year and all future years, unless~~
13 ~~revoked with the written consent of the department. No special method of making the election is required~~
14 ~~other than the use of only the sales factor on the return. A partnership may elect to use only the sales~~
15 ~~factor with respect to partnership earnings. Such an election will bind all the partners with respect to~~
16 ~~partnership earnings in that year and all future years, but not with respect to earnings from other sources.~~
- 17 ~~(5) To revoke a prior election, the taxpayer must obtain written permission from the Department of~~
18 ~~Revenue. If a partnership originally elected, then only the partnership may request permission to revoke.~~
19 ~~The request for permission to revoke the election must include the following information:~~
- 20 ~~(a) Individual or partnership name, as shown on the Tri-Met self-employment tax return;~~
21 ~~(b) Social security number or federal employer ID number in the case of a partnership;~~
22 ~~(c) Taxpayer's mailing address;~~
23 ~~(d) An explanation of the business purpose for changing the method of apportionment; and~~



ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150- 267.385(5)	
	Page Page 3 of 3	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Because of legislative changes to apportionment, the rule requires revisions which would remove most of the rule text. Remaining information could be made available to the public through the transit tax form and instructions, and department web site. An administrative rule is no longer necessary.

- 1 ~~(e) A schedule showing the taxes that would have been due under the three-factor method in years that~~
- 2 ~~are still open under the statute of limitations on the date of the request.~~
- 3 ~~(6) All requests for permission to revoke a prior election must be sent to: Oregon Department of~~
- 4 ~~Revenue, Business Division Administrator, Revenue Building, 955 Center Street, NE, Salem, Oregon~~
- 5 ~~97301.~~
- 6 ~~(7) The Department of Revenue may permit revocation of a prior election only in rare cases and only if~~
- 7 ~~the taxpayer can show that a substantial business purpose exists for the change and that no substantial~~
- 8 ~~distortion of income will result. If the request for permission to revoke is approved, the taxpayer must~~
- 9 ~~thereafter make returns and compute self-employment earnings using the methods of apportioning~~
- 10 ~~income specified in ORS 314.280 and 314.605 to 314.675. Before granting permission to revoke, the~~
- 11 ~~department may impose conditions relating to any taxable years.~~
- 12 Stat. Auth.: ORS 305.100
- 13 Stats. Implemented: ORS 267.385



ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150-465.200(1)	
	Page Page 1 of 1	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Effective December 2002 the Dry Cleaner program is administered by DEQ under DEQ administrative rules. This rule is no longer applicable and not needed in DOR administrative rules.

- 1 **150-465.200(1)** [Repealed 7/31/09]
- 2 **Dry Store Exception**
- 3 ~~For purposes of the Dry Cleaning Solvent Sales and Use Fee, a dry store shall not include those~~
- 4 ~~businesses which provide dry cleaning pick-up and delivery as an incidental service to their main~~
- 5 ~~business. Such services are often called "valet" services. These services are commonly provided as a~~
- 6 ~~courtesy by hotels and motels to their guests.~~
- 7 ~~Stat. Auth.: ORS 305.100~~
- 8 ~~Stats. Implemented: ORS 401.000~~

ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150-465.517(2)	
	Page Page 1 of 1	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Effective December 2002 the Dry Cleaner program is administered by DEQ under DEQ administrative rules. This rule is no longer applicable and not needed in DOR administrative rules.

1 **150-465.517(2)** [Repealed 7/31/09]

2 **Partial Refund or Payment of Dry Cleaning Fee**

3 ~~(1) The fee imposed for operating an active dry cleaning facility in Oregon will be prorated only when a~~
 4 ~~business begins operation during the calendar year. The prorated fee will be based on the number of full~~
 5 ~~months the facility will be in operation during the calendar year. If a facility begins operation anytime~~
 6 ~~within a month, that month will be considered a full month of operation for purposes of computing the~~
 7 ~~fee due.~~

8 ~~Example: XYZ Cleaners (XYZ) begins operating a dry cleaning facility on April 12, 2000. Because XYZ~~
 9 ~~began operation during a calendar year, the \$1,000 fee will be prorated. April is considered a full month~~
 10 ~~of operation for computing the fee due. XYZ's fee for calendar year 2000 is \$750 (9/12ths of \$1,000).~~

11 ~~(2) A partial refund of the fee imposed for operating an active dry cleaning facility in Oregon will be~~
 12 ~~allowed only when the facility ceases to operate during the tax year for which the fee has been paid. A~~
 13 ~~facility ceases to operate when:~~

14 ~~(a) The dry cleaning machinery is no longer in use;~~

15 ~~(b) The solvent has been removed from the machinery; and~~

16 ~~(c) The machinery has been disabled so that it cannot be used.~~

17 ~~(d) A facility does not cease to operate when a change of ownership occurs. The refund amount will be~~
 18 ~~based on the number of full months left in the calendar year after the facility ceases to operate. If a~~
 19 ~~facility ceases operation anytime during a month, that month will be considered a full month of operation~~
 20 ~~for purposes of computing the refund amount.~~

21 ~~Example: XYZ Cleaners (XYZ) paid a \$1,000 dry cleaning fee to the department on January 1, 2000. As~~
 22 ~~of October 18, 2000, the dry cleaning machinery is no longer in use, solvent has been removed from all~~
 23 ~~machines and the machines have been disabled so that they can no longer be used. XYZ may apply to the~~
 24 ~~department for a refund of part of the fee paid for calendar year 2000. October is considered a full month~~
 25 ~~of operation for computing the refund due. XYZ will receive a refund of \$167 (2/12ths of \$1,000).~~

26 ~~(3) If a facility changes ownership during the calendar year, the department will not refund any of the~~
 27 ~~fee. The fee is imposed for the entire calendar year whether paid in full or in installments. It is up to the~~
 28 ~~prior owner and the new owner to arrange reimbursement for any fee already paid or to determine who~~
 29 ~~will make any remaining installment payments for the calendar year.~~

30 Stat. Auth.: ORS 305.100

31 Stats. Implemented: ORS 465.517

ADMINISTRATIVE RULE REVIEW

	Rule No. OAR 150-465.517(3)	
Repealed Rule	Page Page 1 of 1	Last Revised Date 03/27/09
	NOTICE OF INTENDED ACTION	
Permanent Rule	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Effective December 2002 the Dry Cleaner program is administered by DEQ under DEQ administrative rules. This rule is no longer applicable and not needed in DOR administrative rules.

1 **150-465.517(3)** [Repealed 7/31/09]

2 **Dry Cleaning Services Defined**

3 ~~Gross revenue of a dry cleaning facility derived from dry cleaning services is used as the base in~~
 4 ~~determining the annual environmental fee to be paid by the facility. "Dry cleaning services" is defined as~~
 5 ~~the cleaning of garments or other fabrics by and at a dry cleaning facility as defined in ORS 465.200(6)~~
 6 ~~using a dry cleaning solvent as defined in ORS 465.200(9). Dry cleaning services do not include soap~~
 7 ~~and water laundering, sales of goods such as hangers or other accessories, and garment storage. Pressing~~
 8 ~~and alteration are excluded only if these services are charged for separately.~~

9 ~~Stat. Auth.: ORS 305.100~~

10 ~~Stats. Implemented: ORS 465.517~~

ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150-465.517(5)	
	Page Page 1 of 1	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Effective December 2002 the Dry Cleaner program is administered by DEQ under DEQ administrative rules. This rule is no longer applicable and not needed in DOR administrative rules.

1 **150-465.517(5)** [Repealed 7/31/09]

2 **Payment of the Operating Fee**

3 ~~(1) For calendar years beginning on or after January 1, 2002, the annual operating fee must be paid in a~~
4 ~~single payment that is due on the facility's first day of operation in the calendar year.~~

5 **Example:** ~~AB Dry Cleaners begins operation of its facility on July 1 of the current year. Its first annual~~
6 ~~payment is due on July 1 and will be prorated based on six months of operation during the calendar year.~~
7 ~~The payment for the following year will be due on January 1 of that next year.~~

8 ~~(2) For calendar years beginning on or after January 1, 2000, and before January 1, 2002, the annual~~
9 ~~operating fee for a dry cleaning facility or dry store may be paid in a single payment on January 1 or in~~
10 ~~four equal installments payable on January 1, April 1, July 1, and October 1.~~

11 Stat. Auth.: ORS 305.100 & ORS 465.543

12 Stats. Implemented: ORS 465.517

ADMINISTRATIVE RULE REVIEW

Repealed Rule	Rule No. OAR 150-465.992	
	Page Page 1 of 1	Last Revised Date 03/27/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Effective December 2002 the Dry Cleaner program is administered by DEQ under DEQ administrative rules. This rule is no longer applicable and not needed in DOR administrative rules.

1 **150-465.992** [Repealed 7/31/09]

2 **Failure to Pay Penalty**

3 ~~(1)(a) The penalty for failure to pay tax provided in ORS 314.400 shall be imposed upon an operator of a~~
 4 ~~dry cleaning facility or dry store who fails to pay the annual operating fee by the due date as required~~
 5 ~~under ORS 465.517.~~

6 ~~(b) If the operator of a dry cleaning facility or dry store fails to pay the annual operating fee by the due~~
 7 ~~date a second time, a penalty of 100% of the tax due shall be imposed.~~

8 ~~(c) For the third and any subsequent failure to pay the annual operating fee by the due date, a penalty in~~
 9 ~~the amount of \$5,000 shall be imposed upon the operator of a dry cleaning facility or dry store.~~

10 ~~*Example:* A dry cleaner files a 2000 return electing to pay the \$1,000 dry cleaning fee in four equal~~
 11 ~~installments. A payment of \$250 is included with the return. The dry cleaner subsequently makes the~~
 12 ~~required second payment on April 1, 2000, and the third payment on July 1, 2000, but fails to make the~~
 13 ~~fourth payment on October 1, 2000. The dry cleaner makes the payment on November 22, 2000. A 5%~~
 14 ~~penalty for failure to pay timely would be imposed on the late payment.~~

15 ~~The dry cleaner files a 2001 return on January 1, 2001, again electing to pay the \$1,000 dry cleaning fee~~
 16 ~~in four equal installments. A payment of \$250 is included with the return. The dry cleaner does not make~~
 17 ~~the second payment due April 1st, the third payment due July 1st or the fourth payment due October 1st.~~
 18 ~~The department issues a billing for each quarter for \$250 (the payment due each quarter.) Because this is~~
 19 ~~the second year that the dry cleaner has failed to make a payment on the due date, a penalty of 100% of~~
 20 ~~the payment due (\$250) is imposed for each quarter for failure to pay timely.~~

21 ~~In the third year, the dry cleaner files a 2002 return electing to pay the \$1,000 fee all in one installment~~
 22 ~~but does not include payment of the fee with the return. The dry cleaner makes the \$1,000 payment on~~
 23 ~~March 1, 2002. Because this is the third year that the dry cleaner has failed to make a payment on the due~~
 24 ~~date, a penalty of \$5,000 will be imposed on the dry cleaner for failure to pay the fee timely.~~

25 ~~(2)(a) A penalty equal to the lesser of \$5,000 or 100% of the amount due shall be imposed upon an~~
 26 ~~operator of a dry cleaning facility who fails to pay the per gallon fee on the sale, transfer or use of dry~~
 27 ~~cleaning solvents as required under ORS 465.520 and ORS 465.523.~~

28 ~~(b) For the second and any subsequent failure to pay the per gallon fee on the sale, transfer or use of dry~~
 29 ~~cleaning solvents, a penalty in the amount of \$5,000 shall be imposed upon the operator of a dry cleaning~~
 30 ~~facility.~~

31 ~~Stat. Auth.: ORS 305.100~~

32 ~~Stats. Implemented: ORS 465.992~~



ADMINISTRATIVE RULE REVIEW

New Rule	Rule No. OAR 150-90.650	
	Page Page 1 of 2	Last Revised Date 6/17/09
	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: The statute requires the department to create a rule with a sample form that includes information about the personal income tax credit and property tax appeals.

1 **150-90.650**

2 **Notice of Tax Provisions to Tenants of Closing Manufactured Dwelling Park**

3 (1) A landlord must provide notice regarding the tax credit available to tenants of a
4 closing manufactured dwelling park.

5 (2) The notice to tenants of a closing park must include:

- 6 (a) The qualifications for the personal income tax credit
- 7 (b) Information on how to apply for the personal income tax credit, and
- 8 (c) Instructions regarding how to appeal the property tax assessment.

9 **Sample:**

10

11 **TAX CREDIT:**

12 If you own and live in a mobile (manufactured) home in a park that is closing, and
13 leave that park because you received a closure notice, you may qualify for a \$5,000
14 refundable tax credit on your Oregon personal income tax return.

15

16 To qualify, you must:

- 17 * Own and live in the manufactured home as your main residence;
- 18 * Rent space in the closing park;
- 19 * Receive a notice that the park is closing while you own and live in the manufactured
- 20 home; and
- 21 * Move out of the park because it's closing.

22

23 If you qualify, you must attach a completed Schedule MPC to your Oregon income tax
24 return for the year you leave the park.

25



ADMINISTRATIVE RULE REVIEW

New Rule	Rule No. OAR 150-90.650	
	Page Page 2 of 2	Last Revised Date 6/17/09
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Permanent Rule		

PURPOSE: The statute requires the department to create a rule with a sample form that includes information about the personal income tax credit and property tax appeals.

1 Example: You move out of a closing park on October 15, 2009 and you qualify for the
2 credit. You'll claim it on your 2009 Oregon income tax return, due April 15, 2010.

3
4 If the park converts to a subdivision and you sell your manufactured home to someone
5 who buys a lot in the subdivision, you won't qualify for this credit.

6
7 For more information and to download Schedule MPC, visit
8 www.oregon.gov/DOR/PERTAX.

9
10 **PROPERTY TAX APPEAL:**

11 If you receive notice that your park is closing, you may appeal the property tax
12 assessment on your manufactured home.

13
14 To appeal, send a completed *Real Property Petition, 150-310-063*, to the Board of Property
15 Tax Appeals in the county where the park is located.

16
17 For more information, see the publication, *How to Appeal Your Property Value*. The
18 petition and publication are at www.oregon.gov/DOR/PTD.

19
20 You may also contact the Department of Revenue for information at 1-800-356-4222 or
21 questions.dor@state.or.us.

22
23 **[Publications:** The publication(s) referred to or incorporated by reference in this rule is available
24 from the Department of Revenue pursuant to ORS 183.360(2) and ORS 183.355(6).]

25 **Stat. Auth.:** ORS 305.100, 90.650

26 **Stats. Implemented:** ORS 90.650



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. OAR 150-305.270(3)-(A)	
	Page Page 1 of 2	Last Revised Date 06/16/2009
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: Amend OAR 150-305.270(3)-(A) to:

- a. Define what constitutes a valid claim for refund for the purposes of ORS 314.415(2).
- b. Define what is required to receive a refund asserted to be due or to have a refund applied to estimated tax.

1 **150-305.270(3)-(A)**

2 **Claim for Refund**

3 ~~(1) A claim for refund is not required to be submitted on a particular form. A claim for refund may be~~
4 ~~submitted as an original return or report claiming a refund, an amended return or report claiming a~~
5 ~~refund, or any other document that contains a refund computation setting forth a claim for refund~~
6 ~~described in section (2). A claim for refund shall include the taxpayer's name, address, social security~~
7 ~~number or other identifying number, the tax year(s) or period(s) involved, the basis for the claim for~~
8 ~~refund and the amount of refund asserted to be due the taxpayer.~~

9 (2) A claim for refund (return) will be treated as filed for the purposes of ORS 314.415(2) if:

10 (a) It states that the taxpayer has paid more tax than is shown as due;

11 (b) It contains the taxpayer's name, address, social security or other identifying number, and tax year(s)
12 or period(s) involved; and

13 (c) It contains enough data concerning items of income, deductions, modifications, and credits to allow
14 the department to compute a tax liability (if applicable).

15 (3) A tax return filed under chapter 316 that is based on a "frivolous position," as defined in ORS
16 316.992, is not a valid claim for refund.

17 **Example 1:** Maggie filed an amended return for the 2005 tax year in March of 2009. She checked the
18 "Amended return" box on the return and accurately reported all income, deductions, and withholding.
19 She also attached a completed Oregon Amended Schedule to the back of the return. Maggie filed an
20 amended return because she previously understated her state withholding due to an error on her Form W-
21 2. She determined a refund of \$120 was due as a result of the error. However, Maggie did not provide the
22 corrected Form W-2 with her amended return. Upon receiving the amended return, the department
23 requested a copy of the corrected Form W-2. Maggie supplied the corrected Form W-2 in May of 2009.
24 Since Maggie provided sufficient information to allow the department to compute a tax liability, her
25 claim for refund was treated as filed for purposes of ORS 314.415(2) in March of 2009.

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. OAR 150-305.270(3)-(A)	
	Page Page 2 of 2	Last Revised Date 06/16/2009
	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009
Permanent Rule		

PURPOSE: Amend OAR 150-305.270(3)-(A) to:

- a. Define what constitutes a valid claim for refund for the purposes of ORS 314.415(2).
- b. Define what is required to receive a refund asserted to be due or to have a refund applied to estimated tax.

1 (4) To receive the refund asserted to be due or to have the refund applied to estimated tax, the claim for
2 refund must contain the following:
3 (a) The taxpayer's name, address, social security or other identifying number, and tax year(s) or period(s)
4 involved;
5 (b) The amount of refund asserted to be due to the taxpayer or to be applied to estimated tax; and
6 (c) Sufficient information, whether on the claim for refund or attachments, to allow the department to
7 recalculate and confirm the math and data reported by the taxpayer on the claim for refund. Attachments
8 may include a copy of the taxpayer's federal return as prescribed in ORS 316.457, Form(s) W-2 and/or
9 1099, and any additional forms, schedules, or records as required by the department.
10 (d) Sufficient information for corporate excise and income tax returns filed under chapters 317 and 318
11 also includes any information required by the department as authorized by ORS 317.510.
12 (5) A claim for refund not received with sufficient information as outlined in subsections (4)(c) and (d)
13 may be adjusted by the department based on the information available at the time the return is filed.
14 **Example 2:** Alicia filed her 2008 Oregon personal income tax return in March of 2009. She included her
15 name, address, and social security number and correctly reported all income and withholding from her
16 Form W-2. She calculated that she had a refund due of \$200. However, Alicia forgot to attach her Form
17 W-2 to her Oregon return. Although Alicia's return qualifies as a valid claim for refund for the purposes
18 of ORS 314.415(2), Alicia will not receive her refund until she provides her Form W-2 to the Department
19 of Revenue. She must provide enough information for the department to verify the data on her return. If
20 Alicia does not provide her Form W-2, the department may adjust her return based on the information
21 available.

22 **Stat. Auth.:** ORS 305.100

23 **Stats. Implemented:** ORS 305.265

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	
	Page Page 1 of 8	Last Revised Date 03/31/2009
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

1 **150-316.127-(A)**

2 **Gross Income of Nonresidents; Personal Services**

3 (1) *Personal service.*

4 (a) Except as provided in section (2) of this rule, the gross income of a nonresident (who is not engaged
5 in the conduct of a business, trade, profession or occupation on the nonresident's own account, but
6 receives compensation for services in the status of employee) includes compensation for personal
7 services only to the extent that the services were rendered in this state.

8 (b) Compensation for personal services rendered by a nonresident wholly outside this state and in no way
9 connected with the management or conduct of a business in this state is excluded from gross income
10 regardless of the fact that payment is made from a point within this state or that the employer is a resident
11 individual, partnership or corporation.

12 (c) Compensation for personal services rendered by a nonresident wholly within this state is included in
13 gross income although payment is received at a point outside this state or from a nonresident individual,
14 partnership or corporation.

15 (2) *Exception:* Various federal laws affecting certain non-residents are explained separately. See OAR
16 | 150-316.127-(E) or OAR 150-316.127(10).

17 (3) *Allocation of personal services.*

18 (a) Where compensation is received for personal services rendered partly within and partly without this
19 state, that part of the income allocable to this state is included in gross income. In general, income is
20 allocable to this state to the extent the employee is physically present in this state at the time the service
21 is performed. Physical presence is determined by the location of the employee at the time services are
22 rendered. Physical presence is not dependent on the location of the employer or the location from which
23 payment of compensation is made. Employees who work in Oregon and at an alternate work site located
24 outside of Oregon may allocate their compensation under the provisions of this rule.

25 **Example 1:** Dick, a nonresident, works as a medical transcriptionist for an Oregon employer. During the
26 year, Dick spends about 80 percent of his time working from his home in Washington. Dick spends the



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	Last Revised Date 03/31/2009
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PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

1 remainder of his work time in the Portland office. Only the time Dick spends at the Portland office is
2 considered time worked in Oregon.

3 (A) The gross income from commissions earned by a nonresident traveling salesperson, agent, or other
4 employee for services performed or sales made, whose compensation is in the form of a specified
5 commission on each sale made, or services rendered, includes the specific commissions earned on sales
6 made, or services rendered, in this state; and allowable deductions must be computed on the same basis.

7 (B) If nonresident employees are employed in this state at intervals throughout the year, as would be the
8 case if employed in operating boats, planes, etc., between this state and other states and foreign countries,
9 and are paid on a daily, weekly or monthly basis, the gross income from sources within this state includes
10 that portion of the total compensation for personal services which the total number of actual working
11 days employed within the state bears to the total number of working days both within and without the
12 state

13 (C) If employees work part of a day in Oregon and part of a day outside Oregon and are paid on an
14 hourly basis or are paid for working a set amount of hours, the gross income from sources within this
15 state includes that portion of the total compensation for personal services which the number of hours
16 worked in Oregon bears to the total number of hours worked within and without the state.

17 **Example 2:** Rod is a nonresident of Oregon. He works for ACE Cell Tower, Inc and is paid to work 40
18 hours each week. Some days he works both in Oregon and Idaho. Rod earned \$64,000 in 2008. At the
19 end of 2008 he had worked a total of 1,850 hours and his log and information from his employer shows
20 that 962 of those hours were worked in Oregon. His compensation taxable to Oregon is computed as
21 follows:

22 (Hours worked in Oregon divided by Total hours worked) x Total compensation = Oregon
23 compensation

24 (962 hours / 1,850 hours) x \$64,000 = \$33,280

25 Rod's compensation subject to Oregon tax is \$33,280.

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	
	Page Page 3 of 8	Last Revised Date 03/31/2009
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

- 1 | ~~(C)~~(D) If the employees are paid on a mileage basis, the gross income from sources within this state
2 | includes that portion of the total compensation for personal services which the number of miles traversed
3 | in Oregon bears to the total number of miles traversed within and without the state.
- 4 | ~~(D)~~(E) If the employees are paid on some other basis, the total compensation for personal services must
5 | be apportioned between this state and other states and foreign countries in such a manner as to allocate to
6 | Oregon that portion of the total compensation which is reasonably attributable to personal services
7 | performed in this state.
- 8 | (b) The gross income of all other nonresident employees, including corporate officers, includes that
9 | portion of the total compensation for services which the total number of actual working days employed
10 | within this state bears to the total number of actual working days employed both within and without this
11 | state during the taxable period.
- 12 | **Example 23:** ~~Jan~~Roberta is a nonresident of Oregon. She works for ~~A-Corp~~ Coffee Cup Corp. ~~Jan~~
13 | Roberta manages offices in Oregon and Washington. ~~A-Corp~~ Coffee Cup Corp. pays her a salary of
14 | \$30,000 for the management of both offices. She worked a total of 220 days and 132 days were worked
15 | in Oregon ~~132 days~~. She would figure her compensation subject to Oregon tax as follows:
16 | (Days actually worked in Oregon divided by Total days worked) x Total compensation = Oregon
17 | compensation
18 | (132 days / 220 days) x \$30,000 = \$18,000
19 | ~~Jan~~Roberta's compensation subject to Oregon tax is \$18,000.
- 20 | An exception to this general rule is made when the compensation is received for performance of services
21 | that, by their nature, have an objective or an effect that takes place within this state. In the case of
22 | corporate officers and executives who spend only a portion of their time within this state, but whose
23 | compensation paid by a corporation operating in Oregon is exclusively for managerial services rendered
24 | by such officers and executives, the entire amount of compensation so earned is taxable without
25 | apportionment.

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	
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PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

1 **Example 34:** ~~John Cade~~ is a nonresident of Oregon. He works for ~~B Corp~~ Best Engineering. ~~John Cade~~
 2 manages ~~B Corp~~ Best Engineering's only office, which is located in Oregon. ~~B Corp~~ Best Engineering
 3 pays him a salary exclusively for managerial services in the total amount of \$~~30~~58,000. Even though
 4 ~~John Cade~~ may perform some administrative duties from his home, the compensation he receives is for
 5 managing the Oregon office. The entire \$3058,000 is taxable to Oregon.

6 (c) Total compensation for personal services includes sick leave pay, holiday pay, and vacation pay. Sick
 7 leave days, holidays, and vacation days are not considered actual working days either in or out of this
 8 state and are to be excluded from the calculation of the portion of total compensation for personal
 9 services taxable to this state.

10 **Example 45:** Joan is a nonresident of Oregon. She actually worked a total of 220 days during the year
 11 and was paid for 40 non-working days (holidays, sick days and vacation days). She worked 110 days in
 12 Oregon. Her compensation (including compensation for holidays, sick leave and vacations) was \$26,000.
 13 She would figure her compensation subject to Oregon tax as follows:

14 ~~(Days actually worked in Oregon divided by Total days worked) x Total compensation = Oregon~~
 15 compensation

16 (110 days / 220 days) x \$26,000 = \$13,000

17 ~~Her~~ Joan's compensation subject to Oregon tax is \$13,000.

18 (d) *Payment in forms other than money.* Total compensation for personal services includes amounts paid
 19 in a form other than money. To the extent the payments are recognized as compensation income for
 20 federal income tax purposes, the payments will be recognized as compensation income for Oregon tax
 21 purposes and must be apportioned as provided in section (3) of this rule. Examples include but are not
 22 limited to, non-statutory stock options, taxable fringe benefits such as personal use of a business asset,
 23 and employer-paid membership fees.

24 (A) *Non-statutory stock options with a readily ascertainable fair market value.* Compensation income
 25 will be allocated to Oregon in the year an option is required to be reported on the federal return if a

ADMINISTRATIVE RULE REVIEW

	Rule No. 150-316.127-(A)	
Amended Rule	Page Page 5 of 8	Last Revised Date 03/31/2009
Permanent Rule	NOTICE OF INTENDED ACTION	
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PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

1 nonresident taxpayer performed services in connection with the grant of such option in Oregon during the
2 year in which the option was granted and:

- 3 (i) Is required to report under IRC section 83(a) as compensation income the value of a non-statutory
4 stock option granted in connection with the performance of services that has a "readily ascertainable fair
5 market value," as described in Treasury Regulation 1.83-7(b), as of the date the option was granted; or
6 (ii) Elects under IRC 83(b) to report the value of such an option as of the date the option was granted. If a
7 nonresident taxpayer performed personal services partly within and partly without Oregon in the year in
8 which the option was granted, the taxpayer must use the allocation applied to the taxpayer's other
9 compensation under section (3) of this rule for the tax year in which the option was granted and apply
10 that ratio to the compensation income required to be reported on the federal return. For example, if the
11 taxpayer allocates his income under subsection (3)(a) of this rule and worked 25 percent of his time in
12 Oregon during the year the option was granted, he must include in Oregon income 25 percent of the
13 compensation income related to the option included in federal taxable income. Generally, Oregon will
14 not tax the subsequent gain or loss on the sale of the stock unless the stock has acquired a business situs
15 in Oregon. See OAR 150-316.127-(D).

16 (B) *Non-statutory stock options without a readily ascertainable fair market value that are taxable at*
17 *exercise, or in a pre-exercise disposition.* If a non-statutory stock option granted in connection with
18 performance of services that does not have a readily ascertainable fair market value at the date of the
19 grant is recognized as compensation income for federal tax purposes and the taxpayer worked in Oregon
20 during the year the option was granted, the taxpayer must allocate the compensation related to the option
21 to Oregon in the same year it is taxable for federal purposes. The income that is recognized for federal
22 purposes must be allocated to Oregon if the taxpayer worked in Oregon during the tax year the option
23 was granted. The amount of compensation includable in Oregon source income is computed using the
24 following formula:

25
$$\frac{\text{Total Days worked in Oregon from date of grant to date of federal recognition}}{\text{Total Days worked everywhere from date of grant to date of federal recognition}} \div (\text{divided by})$$

26

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	
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	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

- 1 | x (times) Compensation Related to Option Exercise = Amount taxable by Oregon
- 2 | Any further appreciation or depreciation in the value of the stock after the date of exercise represents
- 3 | investment income or loss and is not includable in the Oregon source income of a nonresident unless the
- 4 | stock acquired a business situs in Oregon (see OAR 150-316.127(D)).
- 5 | (C) *Treatment of taxable fringe benefits.* Income recognized for federal purposes must be allocated to
- 6 | Oregon if the nonresident worked in Oregon during the tax year the benefit was received. The
- 7 | nonresident must use the same allocation rules applicable to the taxpayer's other compensation under
- 8 | section (3) of this rule to the taxable fringe benefits. For example, if the taxpayer allocates his income
- 9 | under subsection (3)(a) of this rule and worked 55 percent of his time in Oregon, 55 percent of the
- 10 | amount of the taxable fringe benefit that is included in federal taxable income is included in Oregon
- 11 | taxable income.
- 12 | (e) *Unemployment compensation.* Total compensation includes unemployment compensation benefits to
- 13 | the extent the benefits pertain to the individual's employment in Oregon. If unemployment compensation
- 14 | benefits are received for employment in Oregon and in one or more other states, the unemployment
- 15 | compensation benefits must be apportioned to Oregon using any method that reasonably reflects the
- 16 | services performed in Oregon.
- 17 | **Example 5-6:** Gary, a nonresident, worked in Oregon and Washington for the last 5 years. On January 1,
- 18 | ~~2005~~2008, he was laid off by his employer and received unemployment compensation of \$2,000. Gary
- 19 | may use the Oregon wages as a percentage of total wages reported on his nonresident tax return for the
- 20 | prior year (~~2004~~2007) to determine the percentage of unemployment benefits to be included in Oregon
- 21 | income for ~~2005~~2008. In ~~2004~~2007, Gary earned a total of \$45,000 of which \$30,000 was earned in
- 22 | Oregon. The unemployment compensation taxable to Oregon is \$1,334, computed as follows:
- 23 | (Oregon prior year wages divided by Total prior year wages) x Total current year unemployment
- 24 | compensation = Oregon unemployment compensation
- 25 | (\$30,000 / \$45,000) x \$2,000 = \$1,334

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	
	Page Page 7 of 8	Last Revised Date 03/31/2009
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

1 Oregon will tax \$1,334 of Gary's unemployment compensation even though he received it in a tax year
2 when he did not work in Oregon because the unemployment compensation is based on Oregon
3 employment. He may not allocate the unemployment based on time worked in Oregon in 2008 because it
4 does not reasonably reflect services performed in Oregon.

5 (f) *Severance pay*. Compensation includes severance pay to the extent the pay is attributable to services
6 performed in Oregon. For purposes of this rule, "severance pay" means compensation payable on
7 voluntary termination or involuntary termination of employment based on length of service, a percentage
8 of final salary, a contract between the employer and the employee, or some other method but does not
9 include "retirement income" as defined in ORS 316.127(9). If severance pay is received for employment
10 within and without Oregon, the severance pay is allocated to Oregon using any method that reasonably
11 reflects the services performed in Oregon. Severance pay is taxable to Oregon even though a taxpayer
12 received it in a tax year when the taxpayer did not work in Oregon if the severance pay is based on
13 Oregon employment.

14 **Example-67:** JT, a nonresident, worked for Plumbing Inc. for twenty years: eight years in Idaho and
15 twelve years in Oregon. At the end of his 20th year, Plumbing Inc. reorganized and eliminated JT's
16 position. Because of JT's loyalty to the company for his twenty years of service, the company gave JT a
17 lump-sum payment of \$36,000. This lump-sum was based on 3 percent% of his final annual salary
18 (\$60,000 x 3% = \$1,800) multiplied by his number of years of service (20). The lump-sum payment was
19 made because of prior services, thus it is allocable to Oregon to the extent the services were performed in
20 Oregon. JT will include \$36,000 in federal taxable income and \$21,600 in ~~the~~ Oregon taxable income,
21 computed as follows:

22 (Years worked in Oregon for company divided by Total years worked for company) x Total
23 compensation = Oregon compensation
24 (12 years / 20 years) x \$36,000 = \$21,600

25 **Example-78:** Shawn, a nonresident, worked in Oregon for Lincoln Foods, Inc. Smack Foods, Inc. for six
26 years before resigning from the company. ~~Lincoln Foods, Inc. Smack Foods, Inc.~~ and Shawn entered into

ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.127-(A)	
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Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled July 21, 2009

PURPOSE: To explain the allocation of income of a nonresident who works part of the day in Oregon and part of the day outside Oregon. This amendment shows how to calculate hours to determine the amount of compensation that is taxed by Oregon. Examples were also updated.

- 1 a termination agreement that provided \$25,000 for Shawn to release a specific claim he may have against
 2 the company for wrongful termination or other potential claims. The termination agreement also
 3 provided \$10,000 to require that Shawn not work for any other food chain within a 100 mile radius of
 4 ~~Lincoln Foods, Inc~~ Smack Foods, Inc. for a period of 36 months. No employment agreement, benefit
 5 plan, or any facts or circumstances indicate that Shawn is entitled to a payment for services he rendered
 6 prior to resigning from the company. The payment that Shawn receives pursuant to the termination
 7 agreement is in exchange for the release of the wrongful termination claim and the covenant not to
 8 compete and is not allocable to Oregon because it is not based on services performed in Oregon.
- 9 **Example-89:** Assume the same facts in Example 78 except that the termination agreement also provided
 10 for a lump-sum payment of one month's salary per year worked (~~\$4230,000~~) in addition to a \$25,000
 11 payment for release of a wrongful termination claim and \$10,000 payment for the covenant not to
 12 compete. No employment agreement, benefit plan, or other agreement indicates that Shawn is entitled to
 13 a payment for services he rendered prior to resigning from the company. The \$25,000 payment for the
 14 release of the wrongful termination claim and the \$10,000 payment for the covenant not to compete are
 15 not allocable to Oregon because neither is based on services performed in Oregon. The ~~\$4230,000~~ lump-
 16 sum cash payment based on Shawn's salary and years of service associates the payment with the
 17 employer-employee relationship. It is 100 percent allocable to Oregon because Shawn worked in Oregon
 18 and the facts and circumstances indicate that it is paid because of prior performance of services and no
 19 other reason.
- 20 Stat. Auth.: ORS 305.100
 21 Stats. Implemented: ORS 316.127



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.587(5)(d)	
	Page Page 1 of 1	Last Revised Date 6/18/2009
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: To delete obsolete provisions related to refunds of interest on underpayment of estimated tax.

1 **150-316.587(5)(d)**

2 **Estimated Tax: Partnership and S Corporation Income of Part-year Residents and Nonresidents**

3 For purposes of imposing interest on underpayment of estimated tax, an exception exists for part-year
4 and nonresidents receiving income from an S corporation. No interest will be imposed on the
5 underpayment attributable to the shareholders pro rata share of the S corporation income if the income is
6 for the initial year in which S corporation status is elected and the shareholder is a nonresident or for the
7 prior tax year was a part-year resident for Oregon. This exception applies to tax years beginning on or
8 after January 1, 1987. ~~Taxpayers may request that any interest on underpayment of estimated tax that is~~
9 ~~unpaid be canceled but no refunds of interest will be made due to the above exception.~~

10 **Example:** Frank and Ethel move to Oregon in August, 2006. Frank is a partner in an Oregon partnership.
11 The partnership incorporates in 2007 and elects S corporation status. For 2007, Frank and Ethel file as
12 full-year Oregon residents and report their share of the S corporation income. No interest is imposed on
13 any underpayment attributable to Frank's share of the S corporation income because they meet the
14 exception. They are part-year residents for 2006; ~~and~~ 2007 is the initial year of election of S corporation
15 status.

16 [Publications: Publications referenced are available from the agency.]

17 Stat. Auth.: ORS 305.100

18 Stats. Implemented: ORS 316.587



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-316.587(8)-(B)	
	Page Page 1 of 2	Last Revised Date 6/18/09
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Correct math error in problem and update example

1 **150-316.587(8)-(B)**

2 **Estimated Tax: Joint Return to Single or Separate Return**

3 For estimated tax payments due for tax years beginning on or after January 1, 1988, in
 4 computing the required ~~instalment~~ installment for the current year, the tax liability for the prior
 5 year may be used even though the current year is a single or separate return and the prior year's
 6 return is a joint return. The prior year's return must be filed timely including extensions, ~~must~~
 7 ~~have a tax liability~~, and must cover 12 months. The prior year's tax will be allocated in the
 8 following manner:

9 (1) Recompute the prior year's tax liability as if each spouse had filed a single or separate return;
 10 and

11 (2) Multiply the joint tax liability for the prior year by a ratio of each spouse's single or separate
 12 liability to the combined single or separate liabilities.

13 Example: George and Martha filed a joint return for the calendar year 1987 showing taxable income of
 14 \$20,000 and a tax of \$1,520. Of the \$20,000 taxable income, \$18,000 was attributable to George and
 15 \$2,000 was attributable to Martha. George and Martha will file separate returns for 1988. The tax shown
 16 on the return for the preceding taxable year, for determining the required instalments for 1988, is
 17 determined as follows:

18	George's Taxable Income for 1987	\$18,000
19	Tax on \$18,000 (on basis of separate return)	\$ 1,480
20	Martha's Taxable Income for 1987	\$ 2,000
21	Tax on \$2,000 (on basis of separate return)	\$ 100
22	Aggregate Tax of George and Martha (on basis of separate returns)	\$ 1,580
23	Portion of 1987 tax shown on joint return attributable to George $\$1,480 / 1,580 \times \$1,520$	\$ 1,429
24	Portion of 1987 tax shown on joint return attributable to Martha $\$100 / 1,580 \times \$1,520$	\$ 91

28 Example: Dan and Jessica filed a joint return for the calendar year 2008 showing taxable income
 29 of \$63,000 and a tax after credits of \$4,084. Of the \$63,000 taxable income, \$38,000 was
 30 attributable to Dan and \$25,000 was attributable to Jessica. Dan and Jessica will file separate
 31 returns in 2009. The tax shown on the return for the preceding taxable year, for determining the
 32 required installments for 2009, is determined as follows:

ADMINISTRATIVE RULE REVIEW

Amended Rule		Rule No. 150-316.587(8)-(B)	
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		Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: Correct math error in problem and update example

	<u>Dan's taxable income for 2008</u>		<u>\$38,000</u>	
	<u>Tax on \$38,000 (based on separate return).....</u>			<u>\$ 2,629</u>
	<u>Jessica's taxable income for 2008.....</u>		<u>\$25,000</u>	
	<u>Tax on \$25,000 (based on separate return).....</u>			<u>\$ 1,531</u>
	<u>Aggregate tax for Dan and Jessica (based on separate returns).....</u>			<u>\$ 4,160</u>
1	<u>Portion of 2008 tax shown on joint return attributable to Dan:</u>			
	<u>Tax on \$38,000</u>		<u>Tax on \$63,000</u>	<u>Dan's portion</u>
	<u>(based on separate return)</u>		<u>(based on married filing joint)</u>	<u>of 2008 tax</u>
	<u>-- divided by --</u>	<u>x</u>	<u>=</u>	
	<u>Aggregate tax for Dan and Jessica</u>			
	<u>(based on separate returns)</u>			
	<u>(\$2,629 divided by \$4,160)</u>	<u>x</u>	<u>\$4,084</u>	<u>=</u>
				<u>\$2,581</u>
2	<u>Portion of 2008 tax shown on joint return attributable to Jessica:</u>			
	<u>Tax on \$25,000</u>		<u>Tax on \$63,000</u>	<u>Jessica's</u>
	<u>(based on separate return)</u>		<u>(based on married filing joint)</u>	<u>portion of</u>
	<u>-- divided by --</u>	<u>x</u>	<u>=</u>	<u>2008 tax</u>
	<u>Aggregate tax for Dan and Jessica</u>			
	<u>(based on separate returns)</u>			
	<u>(\$1,531 divided by \$4,160)</u>	<u>x</u>	<u>\$4,084</u>	<u>=</u>
				<u>\$1,503</u>

3

4 Stat. Auth.: ORS 305.100

5 Stats. Implemented: ORS 316.587



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-310.630(8)(a)-(O)	
	Page Page 1 of 1	Last Revised Date April 10, 2009
	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled
Permanent Rule		

PURPOSE: To update references and terms related to the Elderly Rental Assistance program.

1 **150-310.630(8)(a)-(O)**

2 **Welfare Payments -- Excludable Amounts**

3 (1) Welfare payments for medical care, drugs, and medical supplies are excludable from household
4 income if the recipient doesn't receive such payments directly.

5 (2) Welfare payments for in-home services authorized and approved by the Department of Human
6 ~~Resources Services~~ or any of its divisions are excludable from household income. "In-home services"
7 include but are not limited to ~~chore services, companionship services, escort services, home care~~
8 ~~services, homemaker services~~ nursing tasks, housekeeper services, meal preparation, assistance with
9 shopping and transportation, and personal care services.

10 (3) Welfare payments for direct or indirect reimbursement of expenses paid or incurred for participation
11 in work or training programs are excludable from household income. These payments include but are
12 not limited to reimbursements for tuition, books, supplies, and transportation.

13 **Stat. Auth.:** ORS 305.100

14 **Stats. Implemented:** ORS 310.630



ADMINISTRATIVE RULE REVIEW

	Rule No. 150-315.104(1)	
Amended Rule	Page Page 1 of 1	Last Revised Date March 19, 2009
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: To delete obsolete dates from Section 2 of the rule.

1 **150-315.104(1)**

2 **Qualified Reforestation Costs**

3 (1) For credits first claimed in tax years beginning on or after January 1, 2001, a credit is allowed in an
4 amount equal to 50 percent of reforestation project costs paid or incurred to reforest underproductive
5 Oregon forest lands. Qualified reforestation project costs are determined in accordance with Oregon State
6 Department of Forestry rules, chapter 629, division 023 (e.g., Oregon Administrative Rules 629-023-410
7 to 629-023-460) and by ORS 315.104. Qualified project costs do not include amounts paid through
8 federal or state cost share, financial assistance or other incentive programs.

9 ~~(2) For tax years beginning on or after January 1, 1987, and before January 1, 2001, a credit is allowed~~
10 ~~in an amount equal to 30 percent of reforestation project costs paid or incurred to reforest~~
11 ~~underproductive Oregon forest lands.~~

12 ~~(3)~~ (2) Subject to the credit carryover provisions of ORS 305.104(5), one-half of the credit must be taken
13 in the tax year for which the Department of Forestry issues a preliminary certificate certifying that certain
14 conditions exist as stated in ORS 315.104(1). The balance of the credit must be taken in the tax year for
15 which the forest is certified as being established.

16 Stat. Auth.: ORS 305.100

17 Stats. Implemented: ORS 315.104



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-315.104(10)	Last Revised Date 6/18/2009
	Page Page 1 of 1	
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated July 2009	Hearing Scheduled

PURPOSE: To correct the reference to an administrative rule number from OAR 629-023-410 to OAR 629-023-420. To correct the date the referenced rule was last amended, which is September 1, 2008.

1 **150-315.104(10)**

2 **Reforestation Credit: Reasons Beyond the Taxpayer's Control**

3 For purposes of reforestation credit, the Department of Revenue adopts the definition of "reasons beyond
4 the taxpayer's control" defined in Department of Forestry rule OAR 629-23-410~~420~~ filed 8-1-08 and
5 certified effective 9-1-08~~January 10, 1986~~.

6 [Publications: The publication(s) referred to or incorporated by reference in this rule is available from the
7 agency pursuant to ORS 183.360(2) and ORS 183.355(6).]

8 Stat. Auth.: ORS 305.100

9 Stats. Implemented: ORS 315.104