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# NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
**DEPARTMENT OF REVENUE**

**FILED: 10/28/2026 5:13 PM**
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Provides guidance to assist Oregon Corporate Activity Tax taxpayers in computing their subtraction.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/01/2026 5:00 PM
*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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HEARING(S)
*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 12/01/2026
TIME: 9:00 AM
OFFICER: Maribel Luna

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 503-446-4951
SPECIAL INSTRUCTIONS:
Join by Teams video: https://teams.microsoft.com/meet/287820800679047?p=yn7qH4yH3hZj1Tvlp7
Meeting ID: 287 820 800 679 047
Passcode: wd68HG3P
Join by telephone: 503-446-4951
Conference ID: 604 400 508#

NEED FOR THE RULE(S):

Provides guidance to assist taxpayers in how to compute the cost input or labor cost subtraction for purposes of the

Oregon Corporate Activity Tax (CAT). The amendments are needed to update statutory references; reference the precious metals exclusion as an item ineligible for the cost subtraction; clarify that alternative apportionment requests may be submitted with return; and clarify how the apportionment factor percentage must be calculated when taxpayer is identical to the entity filing for corporation income or excise tax purposes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes: 317A.100 – 317A.161.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

This rule has no direct impact on racial equity.

FISCAL AND ECONOMIC IMPACT:

There is no direct fiscal or economic impact from the rule. All entity types with more than $1 million in commercial activity are required to file a corporate activity tax return. The cost inputs or labor cost subtraction is available to all corporate activity tax filers. Approximately 44,000 businesses will be subject to the corporate activity tax. Based on this information, we estimate Oregon has approximately 25,000 small businesses with fewer than 50 employees are subject to corporate activity tax and this rule.

COST OF COMPLIANCE:
*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) This rule has no impact on state agencies or units of local government. As for taxpayers, administrative compliance activities, including professional service costs, generally are a result of statutory requirements. It is anticipated that guidance provided in the rule and the amendments proposed will clarify reporting and recordkeeping burdens, reduce or lead to more focused questions from taxpayers and tax professionals, and reduce or clarify potential issues in audits or litigation.
(2)(a) We estimate Oregon has approximately 25,000 small businesses with fewer than 50 employees that are subject to corporate activity tax and this rule.
(b) General recordkeeping requirements such as documentation to substantiate inventory, deductions, and credits are already required under both federal and state law. We don't anticipate additional costs for professional services resulting from this rule.
(c) None known.

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

The department formed a rules advisory committee, with members representing the Oregon Farm Bureau, Oregon Business & Industries and tax practitioners representing various business industries. In addition, the department will be notifying interested parties of the rulemaking process including the public hearing prior to adopting these rules as permanent. During the public comment period, interested parties, including small businesses, can provide the department with feedback.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 150-317-1200

RULE SUMMARY: Provides guidance to compute the subtraction for purpose of the Oregon Corporate Activity Tax.

CHANGES TO RULE:

150-317-1200
Cost Input or Labor Cost Subtraction
(1) The subtraction provided in ORS 317A.119 includes all labor costs or cost inputs of a taxpayer, whichever is greater, regardless of the place the labor cost or cost input is incurred, except for cost inputs or labor costs that are attributable to the taxpayer's receipts from an item that is not commercial activity. For purposes of the subtraction, a unitary group, as determined pursuant to ORS 317A.106, must include the labor costs or cost inputs of all members of the unitary group, regardless of where incurred, except for expenses from transactions among members of the group as provided in ORS 317A.119(2)(a) for which receipts are excluded under ORS 317A.106.¶
(2) Determining Costs Eligible for Subtraction. Costs described in ORS 317A.119(2)~~(a) and (b)~~ ("ineligible costs") are not eligible for subtraction. "Eligible costs" equals 35 percent of the greater of the excess of total labor costs over the amount of labor costs that are ineligible costs or the excess of total cost inputs over the amount of cost inputs that are ineligible costs.¶
(a) If a taxpayer can reasonably determine, from the taxpayer's books and records maintained in the ordinary course of business, how much of its total labor costs or cost inputs are ineligible costs or that it has no ineligible costs, the taxpayer may calculate the subtraction using the appropriate method under section (3), unless otherwise permitted or required under this rule.¶
Example 1: South Street operates an automotive repair shop. All but an incidental amount of South Street's receipts are from commercial activity. South Street's labor costs are greater than its cost inputs. All South Street's employees perform their activities primarily for the purpose of producing receipts that are included in commercial activity. Because South Street can reasonably determine from its books and records that all its labor costs are attributable to commercial activity, South Street may use the general rule in section (3) of this rule for determining its cost subtraction.¶
(b) A taxpayer who cannot reasonably determine how much of either its total labor costs or cost inputs are ineligible costs based on its books and records may use a reasonable method to approximate eligible costs. The taxpayer must document the approximation method used and retain the documentation in the taxpayer's records. Documentation must be provided to the department upon request. The department may disallow the approximation method used by the taxpayer under this section if the department determines the method does not reasonably approximate the taxpayer's eligible costs.¶
(3) General Rule. Computation of subtraction for eligible costs after reduction of ineligible costs.¶
(a) If all the taxpayer's commercial activity is sourced to Oregon, the taxpayer's subtraction equals its eligible costs.¶
(b) If the taxpayer has commercial activity both within and without Oregon, the taxpayer must apportion the taxpayer's eligible costs as follows, unless the taxpayer elects to use the substitute rule under section (4).¶
(A) If the corporate activity taxpayer is identical to the entity or group of entities reporting on the apportionment schedule filed for purposes of Oregon income or excise tax under ORS chapters 314, 316, 317, or 318, that taxpayer must multiply its eligible costs by the apportionment factor percentage ~~f~~pro~~m~~perly reported on the taxpayer's Oregon apportionment schedule filed ~~under ORS chapt~~with the taxpayer's ~~314, 316, 317, or 318 to calculate the subtraction a~~most recent return covering a 12-mo~~u~~nth period. The taxpayer~~ must use the~~'s apportionment ~~schedule filed with the most recent return covering a 12-month period filed with the department.~~factor, as reported, remains subject to adjustment for compliance with ORS chapters 314, 316, 317 or 318 and applicable rules. ¶
(B) If a corporate activity taxpayer is not identical to the entity or group of entities reporting on the apportionment schedule filed for purposes of Oregon income or excise tax under ORS chapters 314, 316, 317, or 318, the taxpayer must compute its Oregon apportionment factor percentage using the applicable apportionment method under ORS chapters 314~~ or 317,~~, 316, 317, and 318 except as otherwise required or permitted under this rule. The taxpayer must multiply its eligible costs by the computed apportionment factor percentage.¶
(c) Notwithstanding section (3)(b) of this rule, unitary group taxpayers with members subject to multiple apportionment methods under ORS chapters 314 or 317 must compute the group's eligible costs as follows, except as otherwise required or permitted under this rule.¶
(A) Separate the unitary group into subgroups. Each subgroup consists of members that use the same apportionment method under ORS chapter 314 or 317.¶
(B) Each subgroup must separately determine eligible costs as required under section (2) of this rule.¶
(C) Each subgroup must separately compute their apportionment factor using the applicable apportionment method under ORS chapter 314 or 317, except that transactions between all unitary group members must be eliminated, regardless of whether transactions are between or among unitary group members subject to sales

factor apportionment under ORS 314.650 or those subject to another apportionment method under ORS chapter 314 or 317.¶
(D) Each subgroup must multiply its eligible costs, as determined under section (2) of this rule, by the subgroup's apportionment factor percentage determined under subsection (3)(c)(C).¶
(E) The unitary group's subtraction is the sum of the apportioned eligible costs of each subgroup.¶
Example 2: Rosslyn Inc., McPherson Corp., Palisades Inc., and Delta Inc. are a unitary group under ORS 317A.100(19) and must file as a single taxpayer under 317A.106. For Oregon income tax purposes, Rosslyn Inc., and McPherson are required to apportion using the sales factor under ORS 314.650. Delta and Palisades are telecommunications firms that elect to use the double-weighted sales apportionment factor under ORS 314.650 (1999 Edition) for their Oregon income tax return per OAR 150-314-0060. As the unitary group members are subject to multiple apportionment methods under ORS 314, the group must determine and apportion eligible costs under section (3)(c) of this rule, forming two subgroups: Subgroup A includes sales and eligible costs from Rosslyn and McPherson. Subgroup B includes Delta and Palisades. After eliminating transactions between all unitary group members, Subgroup A~~, calculates its sales factor apportionment factor~~'s sales factor, pursuant to ORS 314.650, ~~to be~~equals 11.1110%. The eligible costs of Subgroup A, determined in accordance with section (2) of this rule, are $2 million. After applying the apportionment factor percentage to eligible costs, Subgroup A has apportioned eligible costs of $222,220 ($2 million x 11.1110% = $222,220).¶
~~Subgroup B, a~~After eliminating all transactions between unitary group members, ~~calculates the~~Subgroup B's double-weighted apportionment factor, pursuant to OAR 150-314-0060, ~~to be~~equals 41.6667%. The eligible costs of Subgroup B, determined in accordance with section (2) of this rule, are $1 million. After applying the double-weighted sales factor apportionment percentage to eligible costs, Subgroup B has apportioned eligible costs of $416,667 ($1 million x 41.6667%). The unitary group adds the apportioned eligible costs from each subgroup to determine the group's total subtraction ($222,220 + $416,667 = $638,887).¶
(4) Substitute Rule. A taxpayer may, in lieu of calculating and apportioning eligible costs as required in sections (2) and (3) of this rule, elect to approximate and apportion eligible costs by means of the commercial activity ratio.¶
(a) Costs for commercial activity ratio. A taxpayer's costs under the commercial activity ratio ("applicable costs") equal 35 percent of the greater of total cost of goods everywhere or total labor costs everywhere, as those costs are determined before application of ORS 317A.119(2)(b). Expenses from transactions among members of a unitary group must be excluded.¶
(b) Commercial Activity Ratio. The commercial activity ratio is a fraction, the numerator of which is the taxpayer's commercial activity sourced to Oregon and the denominator of which is the sum of the taxpayer's total commercial activity everywhere plus amounts excluded under ORS 317A.100(1)(b)(Q), ORS 317A.100(1)(b)(Y), ORS 317A.100(1)(b)(AA), ORS 317A.100(1)(b)(DD), ORS 317A.100(1)(b)(EE), ORS 317A.100(1)(b)(TT), ORS 317A.100(1)(b)(VV), ORS 317A.100(1)(b)(WW)(i) and ORS 317A.123(2). Receipts from transactions among unitary group members are not included in either the numerator or denominator.¶
(c) Subtraction. For purposes of the substitute rule, the taxpayer's subtraction is calculated by multiplying the applicable costs under subsection (a) by the taxpayer's commercial activity ratio under subsection (b).¶
Example 3: Grocery & TV Mart has $10 million of Oregon commercial activity and $70 million of everywhere commercial activity plus exclusions described in section (4)(b) of this rule ($50 million in commercial activity and $20 million in receipts from retail sales of groceries, excluded from commercial activity under ORS 317A.100(1)(b)(EE)). Almost all Grocery & TV Mart's employees assist in sales of both groceries and televisions. Grocery & TV Mart cannot reasonably determine from its books and records how much of its labor costs and cost inputs are attributable to sales of groceries excluded from commercial activity under ORS 317A.100(1)(b)(EE), and elects to use the substitute rule under section (4). Grocery & TV Mart has an everywhere labor cost of $28 million and everywhere cost inputs of $26 million.¶
Grocery & TV Mart computes the Oregon subtraction as follows:¶
Step 1: Determine costs for commercial activity. In this example, labor costs are greater than cost inputs. Multiply labor costs ($28 million) by 35 percent to determine applicable costs. $28 million x 35% = $9,800,000.¶
Step 2: Determine the commercial activity ratio. Oregon commercial activity of $10 million / $70 million (everywhere commercial activity plus required exclusions) = 14.2857% commercial activity ratio.¶
Step 3: Determine Grocery & TV Mart's subtraction. Total applicable costs for commercial activity of $9,800,000 multiplied by commercial activity ratio of 14.2857% = $1,399,999.¶
(5) If a unitary group is made up of members that report cost of goods sold (COGS) for federal income tax purposes and members that are engaged in farming operations, as defined under ORS 317A.102, that do not report COGS for federal income tax purposes, the unitary group taxpayer must calculate the cost inputs as the sum of: (1) COGS of the members that report COGS for federal income tax purposes; and (2) the operating expenses, excluding labor costs, of the members that are engaged in farming operations and do not report COGS for federal income tax purposes.¶
Example 4:~~-~~Terra2U Enterprises is a unitary group with 10 members. Five of those members are not farming

operations, and they report a combined $2.5 million COGS for federal income tax purposes. The other five members are farming operations that do not report COGS for federal income tax purposes and their combined operating expenses, excluding labor costs, total $1.5 million. Terra2U Enterprises uses $4 million as the cost inputs to compute its subtraction for eligible costs, as required under sections (3) through (4) of this rule.¶
(6) Fiscal Year Election. For purposes of this rule, fiscal year means a period of 12 consecutive months ending on the last day of any month other than December or any taxpayer or unitary group that has made an election under IRC § 441 for a fiscal year which varies from 52 to 53 weeks. A taxpayer or unitary group may elect to use the taxpayer's or unitary group's most recent fiscal year information for purposes of determining the subtraction under this rule. An election under this section must be made on a timely filed, original return including extensions. An election under this section is binding for and applicable to the tax year in which it is made. This section is repealed for tax years beginning on or after January 1, 2021.¶
(7) Limitations.¶
(a) The subtraction may not exceed 95 percent of the taxpayer's Oregon commercial activity.¶
(b) Labor costs may not include total compensation paid to a single employee in excess of $500,000.¶
(c) Expenses from transactions among members of a unitary group with respect to receipts that are excluded under ORS 317A.106 and ORS 317A.100(1)(b)(FF) are not included in the calculation of the subtraction.¶
(d) A unitary group required to apportion the amount of the subtraction shall include all members of the unitary group for purposes of determining the group's subtraction amount and apportionment ratio, except that the unitary group may not include members excluded from the unitary group pursuant to an election under ORS 317A.106(~~2~~4).¶
(8) Alternative Apportionment. A taxpayer may petition the department for alternative apportionment, or the department may require alternative apportionment if the application of sections (3) to (6) of this rule does not fairly represent the costs of taxpayer's commercial activity in Oregon.¶
(a) A petition to use an alternative method of apportionment under section (8) of this rule must be filed in writing with the department. The request must be signed by the taxpayer or the taxpayer's authorized representative and m~~ust~~ay be filed ~~separately from the taxpayer's return~~either (i) with an original or amended return or [KL1] (ii) separately from the taxpayer's return. In either case, the taxpayer must use the standard apportionment provisions to complete the original or amended return, as applicable, pending the department's written ruling on the request for alternative apportionment. The request must include a complete explanation of the alternative method as well as an explanation why the application of section (3) to (6) should not be used. Upon receipt of the request, the department will review the request and issue a letter either authorizing or denying the request. If denied, the taxpayer can appeal that action as provided in ORS 305.275. An alternative apportionment method may be used only after receiving written authorization from the department. The authorization may be revoked if, upon audit, the department determines that the alternative method does not fairly represent the costs of taxpayer's commercial activity in Oregon. Once an alternative method has been authorized, that method must be used until a request to change is made and approved by the department or until the authorization is revoked after audit.¶
(b) Factors considered in approving alternative methods of apportionment include but are not limited to whether a modification:¶
(A) Will fairly and accurately reflect the taxpayer's costs attributable to receipts from commercial activity in Oregon; and¶
(B) Will effectuate an equitable apportionment of the taxpayer's costs attributable to receipts from commercial activity.
Statutory/Other Authority: ORS 305.100, 317A.143, 317A.119
Statutes/Other Implemented: ORS ~~317A.106,~~ 317A.119