

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED

02/28/2025 11:43 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Policy – Application of Various Provisions of Tax Law to Domestic Partners

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/18/2025 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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Filed By:
Katie McCann
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 03/18/2025

TIME: 10:00 AM

OFFICER: Robert Oakes

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

SPECIAL INSTRUCTIONS:

Join meeting by video:

<https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Meeting ID: 287 621 777 377

Passcode: Nj6N7rw7

Join meeting by phone:

+1 503-446-4951

Conference ID: 468 564 097

NEED FOR THE RULE(S)

The rule requires amendments to delete terms made obsolete due to the passage of House Bill 2032 (2023 Regular Session). Historical provisions of the rule will also be removed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 2032 (2023), available on OLIS - <https://olis.oregonlegislature.gov/liz/2023R1/>

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

No impacts to racial equity in this state have been identified.

FISCAL AND ECONOMIC IMPACT:

The proposed amendment will have no fiscal or economic impact.

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) The proposed amendment aligns the rule with the statutory definition of "domestic partner." As such, it does not impose compliance requirements.

(2)(a) Because the rule affects how fringe benefits from an employer are taxed, many small businesses of every type and industry are subject to the rule for purposes of withholding and reporting. The proposed amendments align the current rule with statutory definitions, and do not impose new requirements on these businesses.

(b) No additional costs are expected based on the proposed amendment.

(c) No additional costs are expected based on the proposed amendment.

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

According to the federal Small Business Administration, Oregon has approximately 402,928 small businesses with fewer than 500 employees, which employee approximately 54.4% of the state's workforce. Based on this information and information from the Oregon Employment Department Withholding Employer file reporting number of employees, we estimate that 128,652 small businesses in the state of Oregon with fewer than 50 employees are subject to this rule, for purposes of withholding and reporting.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed amendment aligns the definition of "domestic partner" with statute. It also deletes historical provisions. These changes do not alter any processes or procedures, so a Rule Advisory Committee is not necessary.

AMEND: 150-316-0009

RULE SUMMARY: House Bill 2032 (2023) removed the requirement that registered domestic partners be members of the same sex. This amendment aligns the rule with the bill and removes historical provisions.

CHANGES TO RULE:

150-316-0009

Policy - Application of Various Provisions of Tax Law to Domestic Partners ¶¶

(1) ~~Definitions.~~¶¶

~~(a) As used in this rule,~~As used in this rule:¶¶

~~(a) "Domestic partner" means a "partner" as that term is defined in ORS 106.310.~~¶¶

~~(b) "Fringe benefits" means employee benefits provided to an employee's domestic partner that are tax exempt when provided to an employee's spouse. Fringe benefits typically include, but are not limited to:~~¶¶

~~(A) Health insurance;~~¶¶

~~(B) Tuition payments; and~~¶¶

~~(C) Tuition reduction programs.~~¶¶

~~(b) As used in this rule, "Imputed value" means the amount included in federal taxable income of the employee because the fringe benefits are provided to the domestic partner rather than a spouse.~~¶¶

~~(c) As used in section (2) of this rule, "domestic partner" means a "partner" as that term is defined in ORS 106.310.~~

This statute defines "partner" to be "an individual joined in a domestic partnership" and "domestic partnership" is defined as "a civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon."¶¶

(2) Policy after effective date of the Oregon Family Fairness Act (ORS 106.300): 2) The imputed value of certain fringe benefits provided by an employer on or after February 1, 2008 to an employee's domestic partner is exempt from Oregon income tax if those benefits are exempt from federal income tax for married individuals.¶¶

(3) Sections (4)-(5) of this rule are effective for benefits provided on or after January 1, 2000 through January 31, 2008.¶¶

(4) Policy from January 1, 2000 through January 31, 2008. The imputed value of certain fringe benefits provided by an employer to an employee's domestic partner are exempt from state income tax.¶¶

(5) As used in section (4) of this rule, "domestic partner" means a person in a relationship with an employee, each of whom:¶¶

(a) Is under no legal disability to marry the other person, but for the fact that each is of the same sex;¶¶

(b) Desires a relationship of marriage under Oregon law and would enter into marriage with the other person, and only with the other person, if Oregon law permitted it;¶¶

(c) Is committed to the care and support of the other person;¶¶

(d) Is responsible for the needs of the other person;¶¶

(e) Is responsible for financial obligations to others equivalent to such financial obligations that arise within a marriage recognized under Oregon law; and¶¶

(f) Is not married and has no similar commitment and responsibility relative to any other individual.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 314.023