

## Background

In 2019, Oregon's Corporate Activity Tax (CAT) was created in House Bill 3427 with a few technical modifications adopted in House Bill 2164.

During the June 2020 Special Session, House Bill 4202 was approved, and made a series of technical and policy clarifications to the statutes governing CAT. These changes apply to all tax years beginning on or after January 1, 2020.

## Amendments to Senate Bill 164

The -10 and -11 amendments to SB 164 included identical provisions addressing technical issues identified in the public hearing held on January 27, 2021.

### Underpayment Penalty

Section 16 adequately modifies underpayment penalty provisions, adopted in HB 4202, applying penalty relief to tax years 2020 and 2021 based on the required percentage of estimated tax paid prior to the return due date, regardless of the date the return is filed.

Sec. 78. (1) The amendments to ORS 317A.161 by section 9, **chapter 2, Oregon Laws 2020 (first special session)**, [of this 2020 special session Act] **and section 14 of this 2021 Act** apply to tax years beginning on or after January 1, 2020, and before January 1, 2022[, *and to returns filed on or before April 15, 2022*].

(2) The amendments to ORS 317A.161 by section 10, **chapter 2, Oregon Laws 2020 (first special session)**, [of this 2020 special session Act] **and section 15 of this 2021 Act** apply to tax years beginning on or after January 1, 2022[, *and to returns filed after April 15, 2022*].

### Closed or Sold Business

Section 13 amends ORS 317A.146 to remove the requirement to file a tax return and pay the amount of tax due within 45 days of the disposition or sale of the business.

ORS 317.146 (2) If any person quits business or sells out, exchanges or otherwise disposes of a business or stock of goods, any corporate activity tax imposed under ORS 317A.116 [shall become immediately due and payable. The person shall, within 45 days after the sale, exchange or disposition, make a return and pay the tax due] **is payable on April 15 of the following year.**

**The department recommends one additional change to this section:** The new due date of April 15 of the following year aligns with other annual tax programs, however this language should be updated to the 15<sup>th</sup> of the fourth month following the end of the tax year to align with the due date proposed in Section 12.

### Tax Administration Penalties

Sections 14 and 15 remove language in ORS 317A.161 added by HB 4202 explicitly applying failure to file penalties in ORS 314.400(1) and (2). The language was unnecessary because ORS 317A.149 ties the

## Modifications to Corporate Activity Tax Amendments to SB 164

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administration of CAT to other provisions, including penalties, in chapters related to taxation. This amendment clarifies administrative penalties, including failure to file penalties, may be imposed as are applicable.

Section 14: *[(3) The provisions of ORS 314.400 (1) and (2) apply to a taxpayer that fails to file an annual return as required under ORS 317A.137 or that fails to pay the tax imposed under ORS 317A.100 to 317A.158 by the due date of the annual return.]*

Section 15: *[(2) The provisions of ORS 314.400 (1) and (2) apply to a taxpayer that fails to file an annual return as required under ORS 317A.137 or that fails to pay the tax imposed under ORS 317A.100 to 317A.158 by the due date of the annual return.]*

### Minor Technical Clarification

ORS 317A.100(1)(B)(AA) excludes net revenue of residential care facilities or in-home care agencies for providing services to a medical assistance or Medicare recipient. “Net revenue” is not defined, and the CAT is based on “receipts” from commercial activity. Section 5 replaces “revenue” with “receipts” in the statute.

(AA) [*Net revenue*]**Receipts** of residential care facilities as defined in ORS 443.400 or in-home care agencies as defined in ORS 443.305, to the extent that the [*revenue is*]**receipts are** derived from or received as compensation for providing services to a medical assistance or Medicare recipient;

### Fiscal Year Filing

Additionally, the department worked with stakeholders in the development of the amendment provisions that allow taxpayers to use their federal tax year for purposes of calculating and filing their CAT return on a fiscal year basis. We do not have concerns with the amendments.

The department can implement the changes in either the -10 or -11 amendments.

### **Contact**

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