

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.

Senate Bill 164 A

Senate Bill 164 A includes provisions addressing technical issues identified by the department and presented to Senate Finance and Revenue in the public hearing held on January 27, 2021 and to House Revenue in the public hearing for HB 2429 held on March 1, 2021.

Underpayment Penalty

Section 14 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 11 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 the 15th day of the fourth month following the end of the tax year.**

Tax Administration Penalties

Sections 12 and 13 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 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 12: *[(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 13: *[(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 3 (page 4, lines 23 to 26) 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 fiscal year filing 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 change to tax year and filing period.

The department can implement the provisions in SB 164 A.

Contact

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