



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-314-0140	
	Page Page 1 of 3	Last Revised Date October 21, 2016
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated November 2016	Hearing Scheduled November 22, 2016

PURPOSE: To require taxpayers to file all information returns with Oregon electronically, setting a date for persons issuing fewer than 11 information returns to begin filing, and exempting persons issuing fewer than 11 information returns from the penalty for failure to file if the returns are due before January 1, 2018; to amend definition of “knowingly” penalty for information returns to include assessment of “unknowingly” penalty before assessing “knowingly” penalty.

1 **150-314-0140**

2 **Information Returns**

3 (1) Definition. As used in this rule:

4 (a) “Information return,” as used in ORS 314.360(4) and sections (7) and (8) of this rule, means a federal
5 form W-2 or 1099.

6 (b) “Payer” means any person required to issue a 1099-MISC, 1099-G, 1099-R, or a W-2G.

7 (2) In general, taxpayers are ~~not~~ required to file information returns as described in ORS 314.360 except
8 as provided in this rule.

9 (3) Any person that issues one or more ~~than 10~~ information returns, where the recipient, winner, or the
10 payer has an Oregon address, is required to file the information returns electronically with the department
11 ~~and using~~ by the federal due dates. For purposes of this rule, information returns required to be filed
12 electronically include:

13 (a) 1099-MISC Miscellaneous Income;

14 (b) 1099-G Certain Government Payments;

15 (c) 1099-R Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, etc.

16 (d) W-2G Certain Gambling Winnings.

17 (4) For information regarding the reporting requirements of salaries and wages, see ORS 316.202 and
18 related rules.

19 (5) The department may grant an exception to this filing requirement in section (3) upon a showing of
20 undue hardship. Undue hardship is based on the facts and circumstances specific to each payer and
21 determined on a case-by-case basis.

22 (6) ~~In addition to any other filing requirement in this rule~~ For persons issuing fewer than 11 information
23 returns:

24 (a) The requirement to file electronically begins with tax year 2017 forms due in 2018; and

25 (b) For information returns due before January 1, 2018, the department may require the filing of ~~any type~~

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- 1 ~~of information~~ the return(s) as it deems necessary. If requested under this section, an information return
2 that is due before January 1, 2018 must be provided within 30 days of the date of the department’s
3 written request to be considered timely under ORS 305.217.
- 4 (7) Penalties. The department will assess penalties, as described in ORS 314.360(4), if a payer fails to file
5 an information return with the department by the due date as required under section (3) of this rule or
6 files an incorrect or incomplete information return.
- 7 (a) An information return is incorrect or incomplete if one or more of the following circumstances exist:
8 (A) Identifying employee information is missing from the information return, such as first or last name or
9 social security number.
- 10 (B) The information return contains an incorrect statement of state income tax withheld, federal income,
11 or state income amounts. Obvious math or clerical errors are not considered an incorrect statement for
12 this purpose.
- 13 (C) Other information is incorrect or missing on the information return.
- 14 (b) A payer knowingly fails to file an information return by the due date if:
15 (A) the ~~The~~ information return was not received by the department on or before the due date of the
16 corresponding federal return for the tax year under consideration, ~~and~~
17 ~~(AB) The payer has failed to file an information return for two consecutive years prior to the due date of~~
18 ~~the information return required for the second consecutive year.~~
19 ~~(B) The payer has been assessed the penalty under ORS 314.360(4) for one or more filing periods~~
20 ~~preceding the period at issue.~~ The payer has been assessed the penalty under ORS 314.360(4)(a) for one
21 or more filing periods preceding the period at issue; and
- 22 (C) The payer fails to file the information return upon written request to file the information return by the
23 department; or
- 24 (D) The department determines that the facts and circumstances in the particular case warrant penalty
25 assessment.



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- 1 (c) A payer knowingly files an incomplete, false or misleading information return if [one or more of the](#)
- 2 [following occur](#):
- 3 (A) A pattern of conduct exists by the payer of repeatedly filing incorrect information returns-;
- 4 (B) The payer failed to correct the information return upon discovering incorrect information-;
- 5 (C) The payer corrected the information return only upon written request to correct the information return
- 6 by the department-;
- 7 (D) The amount of the potential information return penalty is less than the cost of complying with the
- 8 requirement to include correct information on the information return-;
- 9 (E) The department determines that the facts and circumstances in the particular case warrant penalty
- 10 assessment.
- 11 [\(d\) A penalty may be assessed under ORS 314.360\(4\)\(b\) even though a prior penalty assessed under ORS](#)
- 12 [314.360\(4\)\(a\) was waived under OAR 150-305-0062.](#)
- 13 [\(e\) Payers issuing fewer than 11 information returns will not be assessed penalties imposed by this](#)
- 14 [section for failing to file information returns due before January 1, 2018.](#)
- 15 (8) If the payer fails to produce documentation to support the information return, as requested by the
- 16 department, the department will use the best information available to determine the appropriate penalty
- 17 assessment amount.
- 18 **Stat. Auth.:** ORS 305.100, ~~&~~ 314.360
- 19 **Stats. Implemented:** ORS 314.360