

ADMINISTRATIVE RULE REVIEW

	Rule No. 150-316-0435	
Amended Rule	Page Page 1 of 2	Last Revised Date October 20, 2016
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated November 2016	Hearing Scheduled November 22, 2016

PURPOSE: Update obsolete form name.

1 **150-316-0435**

2 **Petitioning Department to Equally Split Joint Liability**

3 (1) A tax liability incurred by spouses filing a joint tax return is joint and several. Each spouse is  
 4 responsible for the entire liability. However, the department may split a joint tax liability equally between  
 5 two separated or divorced spouses. Either spouse may file a petition to split the joint liability equally  
 6 between the spouses. In order to split the liability, the department must be satisfied that payment of the  
 7 entire liability by the petitioning spouse will cause undue hardship on the petitioner and petitioner's  
 8 household. Mere inconvenience is insufficient to establish hardship. A statement in the divorce decree is  
 9 also insufficient to relieve either spouse of the liability.

10 (2) The conditions listed below may constitute hardship. The examples given are not intended to be all-  
 11 inclusive.

12 (a) Annual household income of the petitioning spouse, number of dependents and limited assets within  
 13 the household are such that petitioner could not, in the department's opinion, pay the entire liability  
 14 within five years.

15 **Example 1:** The petitioning spouse receives social security income with no other income and only  
 16 minimal assets.

17 **Example 2:** The petitioning spouse earns \$20,000 annually, is not receiving child or spousal support, and  
 18 is the sole support of three adolescent dependents. Household assets are minimal. The liability owed  
 19 jointly with the petitioner's ex-spouse is \$4,000.

20 (b) Major medical problems or a prolonged illness of either the petitioning spouse or a family member  
 21 that either severely limits petitioning spouse's earning ability or creates an extreme financial burden on  
 22 household resources.

23 **Example 3:** Petitioning spouse or family member has a major illness and has been forced to retire. The  
 24 only household income is from social security.

25 **Example 4:** The petitioning spouse has a major illness and family is living on disability and attempting  
 26 to meet high medical costs.

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- 1 (3) Included within the petition must be:
- 2 (a) An explanation of how payment of the entire liability will cause undue hardship on the petitioner and
- 3 petitioner's household;
- 4 (b) The current address of the non-petitioning spouse (if known);
- 5 (c) A ~~completed Statement of Financial Condition for Individuals (form number 150-860-009)~~[statement](#)
- 6 [of financial condition submitted on a form prescribed by the department;](#)
- 7 (d) A copy of the legal separation or divorce decree; and
- 8 (e) An explanation of how the petitioner will pay the remaining liability.
- 9 (4) Following review of the petition, the department will either:
- 10 (a) Accept the petition, cause the liability to be split equally between spouses and notify both spouses of
- 11 the action; or
- 12 (b) Notify the petitioning spouse the petition has not been accepted.
- 13 (5) Acceptance by the department of the petition is discretionary. If the department denies a petition to
- 14 split a joint liability, the petitioner may appeal that denial to the Magistrate Division of the Oregon Tax
- 15 Court.
- 16 **Stat. Auth.:** ORS 305.100
- 17 **Stats. Implemented:** ORS 316.368