

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

FILED
10-13-16 11:14 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Revenue
Agency and Division

150
Administrative Rules Chapter Number

Information returns and W-2 penalties, information return filing requirements, tax compliance certificates

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

ADOPT: 150-418-0010
AMEND: 150-314-0140
AMEND: 150-316-0359

Statutory Authority:

ORS 305.100, 316.202, 316,360, 418.255

Other Authority:

Statutes Implemented:

ORS 314.360, 316.202, 418.255

Need for the Rule(s):

150-314-0140 - Amend definition of what constitutes "knowingly" for assessing the enhanced penalty of \$250 per information return to include the requirement of an employer being assessed the lower penalty before being eligible for the enhanced penalty. Amend the rule to require all 1099s to be filed electronically with the department and remove the exception for issuers of under 10 forms 1099.

150-316-0359 - Amend definition of what constitutes "knowingly" for assessing the enhanced penalty of \$250 per W-2 to include the requirement of an employer being assessed the lower penalty before being eligible for the enhanced penalty. Mandate electronic filing of the form WR starting in 2018. Remove March 31 due date for W-2s.

150-418-0010 - Establish administrative rule for child caring agencies with the following criteria that defines "tax compliance" for PIT, withholding, transit, corporation excise, and corporation income tax programs administered by DOR:

- All required returns or reports have been filed, whether timely or not, or, in the absence of a return or report, final assessments of tax have been issued by the department for the preceding three tax years and any tax period subsequent to the application date;
- Tax is paid in full for PIT, withholding, transit, corporation excise, and corporation income tax programs; or
- The child caring agency is in compliance with a department-approved payment plan for PIT, withholding, transit, corporation excise, and corporation income tax programs.

Documents Relied Upon, and where they are available:

Oregon Revised Statutes, available online through Legislative Counsel.

Fiscal and Economic Impact:

There is no fiscal impact due to these rule changes.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

There is no impact to state agencies and a de minimis effect on the counties and the public. These changes tend to be clarifying in nature and do not affect the cost.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

Oregon has approximately 123,000 small businesses with fewer than 250 employees that employ 81% of the state's workforce. Oregon has approximately 105,646 small businesses with fewer than 100 employees. Based on this information and information from tax returns reporting number of employees, we estimate Oregon has approximately 91,848 number of small businesses with fewer than 50 employees who are subject to this rule.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

There is a de minimus effect on those subject to the rules as these changes tend to be clarifying or interpretive in nature and does not affect projected reporting, recordkeeping or other administrative activities or costs.

c. Equipment, supplies, labor and increased administration required for compliance:

None known.

How were small businesses involved in the development of this rule?

We communicated and worked with small business liaison groups such as the Oregon State Bar Tax Section, Oregon Collectors Association, Oregon Board of Tax Practitioners and the Oregon Association of Tax Consultants to obtain their input into how this rule will impact their clients some of whom are small businesses. We also reached out to the Oregon Society of Certified Public Accountants to gain their input into how this rule would affect the small business community.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The Department of Revenue did not use a formal Advisory Committee for these rules; however, we did seek and receive input from groups of industry representatives. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore a committee is unlikely to provide further benefit.

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| <u>11-22-2016 5:00 p.m.</u> | <u>Lois Williams</u> | <u>lois.j.williams@oregon.gov</u> |
| Last Day (m/d/yyyy) and Time for public comment | Printed Name | Email Address |