

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

FILED
4-15-16 8:27 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Revenue
Agency and Division

150
Administrative Rules Chapter Number

Marijuana tax: Establishes rules for permanent point-of-sale taxation of marijuana items.

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

In the Matter of:

Adopt 150-475B.710-(A)
Adopt 150-475B.710-(B)
Adopt 150-475B.710-(C)
Adopt 150-475B.715
Adopt 150-475B.720
Adopt 150-475B.740
Adopt 150-475B.755

Statutory Authority:

ORS 305.100, ORS 475B.750

Other Authority:

Statutes Implemented:

ORS 475B.700 to 475B.760

Need for the Rule(s):

150-475B.710-(A) - Establishes deposit due dates for remitting marijuana point-of-sale taxes to the Oregon Department of Revenue.

150-475B.710-(B) - Provides guidance for marijuana retailers to request an extension to file a quarterly marijuana tax return and clarifies definition of "good cause" used to consider filing extension requests.

150-475B.710-(C) - Requires marijuana retailers to register with the Oregon Department of Revenue to report and remit marijuana point-of-sale taxes.

150-475B.715 - Clarifies provisions in statute for assessing delinquent marijuana tax against a marijuana retailer or medical marijuana dispensary and any liable officer, member, or employee of a marijuana retailer or medical marijuana dispensary per statutory authorities. Establishes criteria the department will consider to assess liability against any responsible officer, member, or employee of a marijuana retailer or medical marijuana dispensary for delinquent marijuana tax.

150-475B.720 - Clarifies provisions in statute for providing guidance for acceptable recordkeeping formats and maintenance of books, papers, accounts, or other information related to marijuana tax and the authority of the department to request books, papers, accounts or other information for audit purposes.

150-475B.740 - Clarifies provisions in statute for consumer requests for refund of excess marijuana tax paid at the point-of-sale.

150-475B.755 - Clarifies provisions in statute for assessing a 100 percent penalty for failure to file a marijuana tax return for three consecutive years.

Documents Relied Upon, and where they are available:

Oregon Revised Statutes, available online through Legislative Counsel. (<https://www.oregonlegislature.gov/>)

Fiscal and Economic Impact:

There is no fiscal impact due to the implementation of these rules. Authorities provided for the Oregon Department of Revenue to implement and enforce the marijuana tax program under ORS 475B.700 to 475B.760 are similar to the income tax withholding program.

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 rules allow the Oregon Department of Revenue to administer and enforce the marijuana point-of-sale tax program.

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 320 medical marijuana dispensaries that are currently selling recreational marijuana items for the Early Start Marijuana Tax Program, and it's estimated that approximately 350 marijuana retailers will be licensed by the Oregon Liquor Control Commission and selling recreational marijuana items by the end of the 2015-17 biennium. There are an estimated 2,100 retail jobs currently in the legal marijuana market, resulting in an average of approximately seven retail employees per dispensary.

Marijuana Cash Handling Budget Narrative, 2015-17 Governor's Budget
<http://www.cannabisjobsreport.com/>

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

Under ORS 475B.720, marijuana retailers are required to keep receipts, invoices, and any other pertinent records related to retail sales of marijuana items for five (5) years from the time to which the record relates or for as long as the marijuana retailer retains the marijuana items to which the record relates, whichever is later. Marijuana retailers are also required to report marijuana point-of-sale taxes to the Oregon Department of Revenue on a quarterly basis under ORS 475B.710.

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

There are no known increases.

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 and marijuana industry representatives to gain their input into how these rules would affect the small business community.

**Administrative Rule Advisory Committee consulted?: No
If not, why?:**

The Oregon Department of Revenue did not use a formal Advisory Committee for these rules. However, we did seek 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 these proposed rules. Therefore, a committee is unlikely to provide further benefit.

<u>05-23-2016 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