



MULTISTATE INCOME/FRANCHISE TAX

## Oregon enacts modifying provisions of the Corporate Activity Tax Tax Alert

### Overview

[Oregon Senate Bill 164](#) ("SB 164"), signed on July 19, 2021, modifies various provisions of the Corporate Activity Tax ("CAT") related to fiscal year filings, insurance companies, and other exemptions and definitions. The amendments under SB 164 are effective the 91<sup>st</sup> day after the legislature adjourned sine die on June 27, 2021 and apply to tax years beginning on or after January 1, 2021.

This Tax Alert summarized some of the provisions in SB 164.

### Oregon bill amends provisions of the CAT

SB 164 modifies various provisions of the Oregon CAT and applies to tax years beginning on or after January 1, 2021. Noted below are some of the more significant amendments within the bill.

- SB 164 adds a fiscal year filing requirement starting for calendar year 2021 reporting. Taxpayers reporting on a fiscal tax year basis for federal purposes must register as a fiscal year filer with the Department of Revenue and file a short year tax return for the period covering January 1, 2021 through the last day of fiscal tax year ending in 2021. Additionally, a taxpayer filing the short year return must prorate the \$750,000 commercial activity threshold, the \$1 million taxability threshold, and the subtraction amount based on the number of days in the short year period. This fiscal short year return is due April 15, 2022.
- SB 164 expands the exclusion under the motor vehicle dealer transactions to include all new vehicle exchanges between franchised motor vehicle dealerships.
- The bill expands the exemption of wholesale and retail sales of groceries to include the consignment sales business model, solely related to grocery sales, generally utilized by grocery outlets.

- SB 164 amends the definition of excluded person to include an insurance company that is subject to Oregon's retaliatory tax under ORS 731.854 and 731.859.
- The bill additionally amends the definition of tax year as a taxpayer's annual accounting period used for federal income tax purposes under Internal Revenue Code section 441.
- SB 164 provides that if all members of the Oregon CAT group use the same accounting period, then the Oregon CAT group's tax year is the annual accounting period used by all members for federal income tax purposes. If Oregon CAT group members use different accounting periods and two or more members file as part of a federal consolidated return, then the Oregon CAT group's tax year is the annual accounting period of the federal consolidated group. In other cases, the Oregon CAT group's tax year is the accounting period used by the Oregon CAT group's designated reporting entity. Taxpayers must notify the Department of Revenue of any changes to the taxpayer's tax year for federal income tax purposes.
- SB 164 provides that a single member shall be designated by the Oregon CAT group as a reporting entity. Changes to the reporting entity may only be made when the reporting entity no longer has substantial nexus with the state, is no longer a member of the unitary group, or is otherwise allowed or required to be changed under Department of Revenue rules.
- The bill clarifies the due dates for the Oregon CAT return and payments. The Oregon CAT return shall be filed by no later than the 15<sup>th</sup> day of the fourth month following the end of the tax year. Payment of the CAT liability is also due the 15<sup>th</sup> day of the fourth month. Additionally, the bill provides the quarterly estimated tax payments for the previous quarter are due on or before the fourth, seventh, and tenth months of the tax year; and the first month immediately following the end of the tax year.
- SB 164 provides that for any taxpayer that quits their business, sells out, exchanges, or otherwise disposes of their business or any stock of goods, any Oregon CAT liability payment is due on the 15<sup>th</sup> day of the fourth month following the end of the tax year.

SB 164 is effective the 91<sup>st</sup> day after the legislature adjourns sine die, which occurred June 27, 2021. These amendments to the Oregon CAT are applicable to tax years beginning on or after January 1, 2021.

## Get in touch

[Scott Schiefelbein](#)

[Sara Clear](#)



30 Rockefeller Plaza  
New York, NY 10112-0015  
United States

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