

Oregon releases four additional temporary Corporate Activity Tax (CAT) administrative rules

Overview

The Oregon Corporate Activity Tax (Oregon CAT) became effective in late September 2019 and is applicable for years beginning on or after January 1, 2020.¹ The Oregon Department of Revenue previously released twelve temporary administrative rules relating to various provisions of the Oregon CAT. This tax alert summarizes four additional temporary administrative rules recently released by the Oregon Department of Revenue.

New temporary CAT administrative rules

The Oregon CAT is imposed on “taxable commercial activity” in excess of \$1 million at the rate of 0.57 percent, plus a flat tax of \$250 for the first \$1 million of taxable commercial activity.² Taxpayers whose taxable commercial activity does not exceed \$1 million are exempt from the Oregon CAT.³ The tax is imposed on the person receiving the commercial activity and is not imposed directly on the purchaser.⁴ Generally, “taxable commercial activity” means the “total amounts realized” by the taxpayer arising from transactions and activity in the regular course of the taxpayer’s trade or business that are sourced to Oregon,⁵ reduced by the applicable subtraction for either cost inputs or labor costs.⁶ The CAT legislation details a number of specific items, which are excluded from the definition of commercial activity.⁷ For additional details on the general provisions of the Oregon CAT, see Deloitte Multistate Tax Alerts, [Oregon enacts Corporate Activity Tax \(CAT\), imposed on modified gross receipts](#) and [Oregon “Corporate Activity Tax” now effective law, applies to tax years beginning on or after January 1, 2020](#).

It is important to remember that the Oregon CAT is a separate and distinct tax imposed by the state, which will not directly affect Oregon’s corporate excise/income tax systems. The Oregon corporate excise tax, codified in Chapter 317, is a net income tax imposed on C corporations doing business in Oregon. Whereas the Oregon corporate income tax, codified in Chapter 318, is imposed on C corporations that are not doing business in Oregon but that have income sourced to Oregon. Oregon has codified the CAT legislation in a new Chapter 317A of the Oregon Revised Statutes.⁸ As such the Oregon CAT will apply in addition to the Oregon corporate excise tax and Oregon corporate income tax.

The Oregon Department of Revenue previously filed twelve temporary administrative rules with the Oregon Secretary of State, which have an effective date of January 1, 2020 through June 28, 2020.⁹ For additional details on those previously filed temporary rules, see Deloitte Multistate Tax Alert, [Oregon releases 12 temporary Corporate Activity Tax \(CAT\) administrative rules](#). The Oregon Department of Revenue is expected to release permanent rules by June 28, 2020. On January 27, 2020, the Oregon Department filed four additional temporary administrative rules with the Oregon Secretary of State.¹⁰ The four additional CAT temporary administrative rules are as follows:

- [Or. Admin. R. 150-317-1140](#): Wholesale Sale of Groceries Exclusion
- [Or. Admin. R. 150-317-1150](#): Retail Sale of Groceries Exclusion
- [Or. Admin. R. 150-317-1400](#): Determining Property Resold Out of State, and Methods of Determining (provides guidance regarding exclusions for property purchased for resale outside or Oregon)
- [Or. Admin. R. 150-317-1410](#): Motor Vehicle Resale Certificate – Documentation Required

¹ H.B. 3427-A, Sections 63; 79-80. Oregon CAT established under Ore. Laws 2019, ch. 122, sections 58 to 76 (enrolled H.B. 3427) as amended by Oregon Laws 2019, ch. 579, sections 50 to 60 (enrolled H.B. 2164) (codified under Or. Rev. Stat. § 317A et seq.), available [here](#).

² H.B. 3427, at Section 65(1) (codified as Or. Rev. Stat. § 317A.125(1)).

³ *Id.*, at Section 65(2) (codified as Or. Rev. Stat. § 317A.125(2)).

⁴ *Id.*, at Section 63(1) (codified as Or. Rev. Stat. § 317A.116).

⁵ *Id.*, Section 58(1)(a), (17) (codified as Ore. Rev. Stat. §§ 317A.100(1)(a); 317A.128).

⁶ *Id.*, at Section 64(1) (codified as Ore. Rev. Stat. §§ 317A.100(1)(b); 317A.119).

⁷ The full list of exclusions is found in H.B. 3427, Section 58(1)(b) (codified as Or. Rev. Stat. § 317A.100(1)(b)).

⁸ See Or. Rev. Stat. § 317A et seq., available [here](#).

⁹ Or. Rev. Temporary Admin. Order Rev 15-2019, Or. Dept. of Rev. (12/30/2019), available [here](#).

¹⁰ Or. Rev. Temporary Admin. Order Rev 2-2020, Or. Dept. of Rev. (1/27/2020), available [here](#).

All of the temporary CAT administrative rules are open for input from the public. To provide input to the Oregon Department of Revenue regarding these administrative rules, taxpayers are instructed to email Cat.rules.dor@oregon.gov.

Considerations

The Oregon CAT administrative rules, while temporary, are binding on taxpayers;¹¹ therefore, it is advised that taxpayers review each of these rules in their entirety in order to understand how these rules may impact their business. Deloitte is continuing to monitor the release of additional temporary administrative rules by the Oregon Department of Revenue.

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¹¹ *Id.*