

# Oregon releases 12 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.<sup>1</sup> Recently, the Oregon Department of Revenue released twelve temporary administrative rules relating to various provisions of the Oregon CAT. This tax alert summarizes the recently released administrative rules.

## New temporary CAT administrative rules

The Oregon CAT is will be 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.<sup>2</sup> Taxpayers whose taxable commercial activity does not exceed \$1 million are exempt from the Oregon CAT.<sup>3</sup> The tax is imposed on the person receiving the commercial activity and is not imposed directly on the purchaser.<sup>4</sup> 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,<sup>5</sup> reduced by the applicable subtraction for either cost inputs or labor costs.<sup>6</sup> The CAT legislation details a number of specific items, which are excluded from the definition of commercial activity.<sup>7</sup> 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.](#)

The Oregon Department of Revenue recently filed twelve temporary administrative rules with the Oregon Secretary of State, which have an effective date of January 1, 2020 through June 28, 2020.<sup>8</sup> The Oregon Department of Revenue is expected to release permanent rules by June 28, 2020. The new CAT temporary administrative rules are as follows:

- [Or. Admin. R. 150-317-1000](#): Definition of Commercial Activity
- [Or. Admin. R. 150-317-1010](#): Substantial Nexus Guidelines for Corporate Activity Tax
- [Or. Admin. R. 150-317-1020](#): Factors Used in Determining Whether a Group of Persons Forms a Unitary Group (Guidance on who is included in a unitary group; CAT unitary group is not tied to a taxpayer’s Oregon Corporate Income (Excise) Tax unitary group (e.g., CAT unitary group can include pass-through entities))
- [Or. Admin. R. 150-317-1030](#): Sourcing Commercial Activity to Oregon from Sales of Tangible Personal Property
- [Or. Admin. R. 150-317-1040](#): Sourcing Commercial Activity Other Than Sales of Tangible Personal Property in This State
- [Or. Admin. R. 150-317-1100](#): Agent Exclusion (Guidance to determine if a taxpayer meets the definition of an agent and is excluded from the Oregon CAT)
- [Or. Admin. R. 150-317-1130](#): Property Brought into Oregon (Guidance on whether property brought into Oregon is includable as taxable commercial activity)
- [Or. Admin. R. 150-317-1200](#): Cost Input or Labor Cost Subtraction
- [Or. Admin. R. 150-317-1300](#): Estimated Tax: When Estimated Payments Are Required

<sup>1</sup> 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)

<sup>2</sup> H.B. 3427, at Section 65(1).

<sup>3</sup> *Id.*, at Section 65(2).

<sup>4</sup> *Id.*, at Section 63(1).

<sup>5</sup> *Id.*, Section 58(1)(a), (17).

<sup>6</sup> *Id.*, at Section 64(1).

<sup>7</sup> The full list of exclusions is found in H.B. 3427, Section 58(1)(b).

<sup>8</sup> Or. Rev. Temporary Admin. Order Rev 15-2019, Or. Dept. of Rev. (12/30/2019), available [here](#).

- [Or. Admin. R. 150-317-1310](#): Estimated Tax Payments: Delinquent or Underestimated Payment or Both, Constitutes Underpayment
- [Or. Admin. R. 150-317-1320](#): Estimated Tax: Unitary Groups and Apportioned Returns
- [Or. Admin. R. 150-317-1330](#): Extension of Time to File (6 month extension available)

These 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](mailto:Cat.rules.dor@oregon.gov).<sup>9</sup>

## Considerations

The Oregon CAT is based on a reporting calendar year, regardless if the taxpayer has a fiscal year end for income tax purposes.<sup>10</sup> The Oregon CAT reporting due date is April 15<sup>th</sup>.<sup>11</sup> Under the temporary rule cited above, a taxpayer may request an extension of six months to file Oregon CAT return; making the Oregon CAT extended reporting due date October 15<sup>th</sup>.<sup>12</sup> These reporting due dates differ from the Oregon Corporate Income (Excise) Tax deadlines.<sup>13</sup>

These Oregon CAT administrative rules, while temporary and open for public comment, are binding on taxpayers;<sup>14</sup> 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.

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<sup>9</sup> Oregon Department of Revenue, [Corporate Activity Tax](#).

<sup>10</sup> H.B. 3427, at Section 70(1)-(2).

<sup>11</sup> *Id.*

<sup>12</sup> Or. Admin. R. 150-317-1330.

<sup>13</sup> See Or. Rev. Stat. § 314.385 and Or. Admin. R. 150-314-0167 for the corporate income tax deadlines.

<sup>14</sup> Or. Rev. Temporary Admin. Order Rev 15-2019, Or. Dept. of Rev. (12/30/2019).