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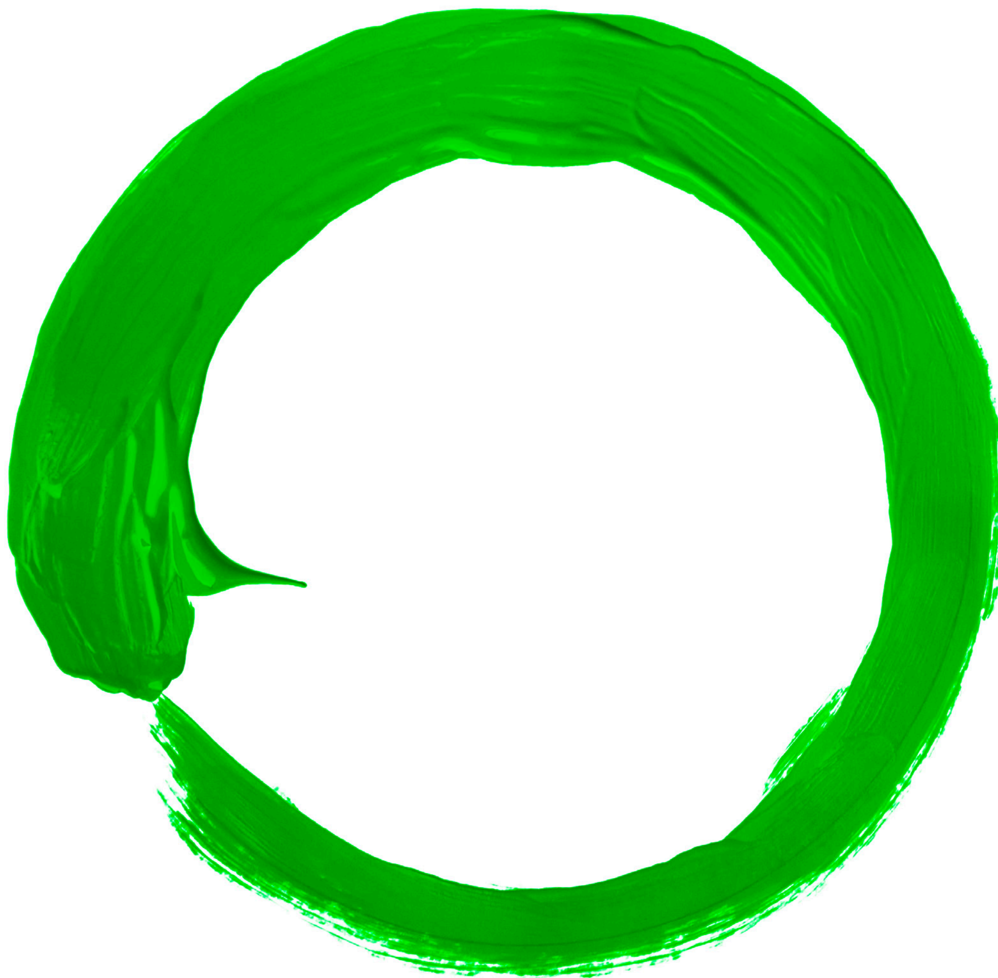

Inside Deloitte

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By Sara Clear and Scott Schiefelbein, Deloitte Tax LLP

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The Oregon CAT Subtraction: Potential Issues and Opportunities

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In this installment of Inside Deloitte, Clear and Schiefelbein focus on how a business can calculate its subtraction from the new Oregon corporate activity tax.

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In 2019 Oregon enacted its brand-new corporate activity tax (CAT), a sweeping tax that applies to most businesses for tax years beginning on or after January 1, 2020.[1] Imposed in addition to Oregon's existing taxes, the CAT is intended to raise $1 billion in new annual revenue[2] to fund state investments in education.

The CAT in many respects represents a hybrid of the Ohio commercial activity tax and the Texas margin tax. Like the Ohio tax, the CAT uses commercial activity sourced to the state as its tax base.[3] However, while the Ohio tax is a traditional gross receipts tax, the CAT follows the Texas margin tax by allowing taxpayers a single subtraction from commercial activity sourced to Oregon.[4]

This article focuses on the subtraction from commercial activity sourced to Oregon. While compliance with any new tax presents potential challenges and opportunities, there may be no other provision in the CAT that is more complex for taxpayers to apply. Given that the CAT is imposed on a calendar-year basis for all taxpayers[5] and taxpayers expected to owe more than $10,000 in CAT for the 2020 tax year must make estimated payments,[6] taxpayers subject to the CAT should carefully review the potential issues and

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[1]The CAT is codified in Or. Rev. Stat. ch. 317A. The governor signed a technical amendment bill for the CAT, H.B. 4202, effective September 25, 2020. As of the date of this writing, this legislation is not yet reflected in the official published version of chapter 317A; accordingly, some citations may not be accurate for later readers.

[2]*See* Revenue Impact of HB-3427-A, 80th Leg., Reg. Sess., prepared by Chris Allanach, state economist (Apr. 29, 2019).

[3]Or. Rev. Stat. 317A.125.

[4]Or. Rev. Stat. 317A.119.

[5]Or. Rev. Stat. 317A.116(1).

[6]Or. Admin. R. 150-317-1300(12). While the CAT legislation is codified in chapter 317A, the applicable administrative rules are found in division 317 (there is no division 317A).

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opportunities presented by this complicated new calculation.

Brief Overview of the CAT

Before diving into the nuances of the subtraction from commercial activity, this article provides a brief overview of the CAT. Many of the provisions touched upon in this overview merit their own careful analysis, and the reader is encouraged to consider these provisions as well.

Despite being named the corporate activity tax, the CAT is imposed on "each person with taxable commercial activity" for the privilege of doing business in Oregon.[7] The CAT defines a person to include virtually every potential taxpayer, from C corporations to passthrough entities such as partnerships to trusts to entities disregarded for federal income tax purposes to individuals.[8] There are specified excluded persons, including some nonprofit organizations, hospitals, and other organizations subject to other Oregon assessments, and a person whose commercial activity does not exceed $750,000 for the calendar year (unless the person is a member of a unitary group with commercial activity exceeding $750,000).[9]

The CAT defines a taxpayer as a person or unitary group of persons required to register, file, or pay the CAT, but excluded persons are not taxpayers.[10] The unitary group is any group of persons with more than 50 percent common ownership (direct or indirect, measured by voting power and value) engaged in a unitary business.[11] Therefore, the CAT treats a unitary group is a single taxpayer (intercompany transactions are not subject to the CAT).[12] The definitions of unitary group and taxpayer do not limit the unitary group to a water's-edge return, but there is an election applicable to the subtraction that will be discussed later; accordingly, the default filing method for the CAT is a worldwide combined return.

The tax base for the CAT is taxable commercial activity.[13] The CAT defines "commercial activity" broadly as the amounts realized by a person from transactions and activity in the regular course of the person's trade or business, without deductions for business expenses.[14] The CAT also provides for nearly 50 different categories of receipts that are not commercial activity, ranging from sweeping categories such as sales of motor fuel and groceries to narrow exclusions designed to prevent the CAT from being imposed on other taxes or fees collected by the taxpayer.[15]

To be subject to the CAT, commercial activity must be sourced to Oregon.[16] At a high level, the CAT's sourcing rules follow Oregon's apportionment regime for its corporate excise (income)[17] tax:

- sales of tangible personal property are sourced to Oregon if the property is delivered to a purchaser in Oregon;[18] and
- sales of intangibles and services are sourced under market sourcing principles.[19]

The CAT sourcing rules do deviate from Oregon's apportionment rules in some key respects (for example, there is no "throwback rule" in the CAT). As of the date of the publication of this article, the Oregon Department of Revenue is still drafting administrative rules for sourcing commercial activity for specific special industries, but has

[7] Or. Rev. Stat. 317A.116(1).

[8] Or. Rev. Stat. 317A.100(14).

[9] Or. Rev. Stat. 317A.100(4)(j).

[10] Or. Rev. Stat. 317A.100(17).

[11] Or. Rev. Stat. 317A.100(19); and Or. Admin. R. 150-317-1020(10). While the scope of Oregon's unitary business test is beyond the scope of this article, the CAT definition generally follows the unitary business test Oregon applies for other taxes. Or. Rev. Stat. 317A.100(18).

[12] Or. Rev. Stat. 317A.106.

[13] Or. Rev. Stat. 317A.116(1), 317A.125.

[14] Or. Rev. Stat. 317A.100(1)(a)(A). While beyond the scope of this article, special definitions of commercial activity are provided for financial institutions and insurers. Or. Rev. Stat. 317A.100(1)(a)(B).

[15] Or. Rev. Stat. 317A.100(1)(b).

[16] Or. Rev. Stat. 317A.116.

[17] Oregon imposes a corporate excise tax, measured by net income, on C corporations that are doing business in Oregon. Or. Rev. Stat. ch. 317. Oregon also imposes a corporate income tax on the income of C corporations that are not doing business in Oregon but that have income from Oregon sources. Or. Rev. Stat. ch. 318. Most C corporate taxpayers in Oregon file corporate excise tax returns, and the corporate excise tax is generally referred to as the corporate income tax. For purposes of this article, except as otherwise indicated, references to the corporate income tax are to the Oregon corporate excise tax.

[18] Or. Rev. Stat. 317A.128(1)(c); Or. Admin. R. 150-317-1030.

[19] Or. Rev. Stat. 317A.128(1)(d), (e); Or. Admin. R. 150-317-1040.

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adopted a rule for sourcing commercial activity of financial institutions.[20] Taxpayers are encouraged to closely review their sourcing calculations and monitor Oregon's rulemaking process.

Once the taxpayer has calculated its Oregon-source commercial activity, it must calculate its subtraction (discussed in greater detail below). The taxpayer then takes this subtraction from its Oregon-source commercial activity and the difference is the taxable commercial activity.[21]

At this point, the CAT calculation becomes less complex. If the taxable commercial activity is $1 million or less, the taxpayer owes no tax under the CAT.[22] If the taxable commercial activity exceeds $1 million, the taxpayer owes a tax of $250 on the first $1 million, and the excess taxable commercial activity over $1 million is taxed at the rate of 0.57 percent.[23]

While this overview glides over several key issues raised by the CAT, including nexus, registration, conformity to federal law, and compliance, the focus now turns to calculating the subtraction.

The CAT Calculation in Detail

The Starting Point for the Subtraction — What Are Cost Inputs and Labor Costs?

At first glance, the CAT subtraction appears to be straightforward. The starting point for the subtraction is determining the greater of the taxpayer's cost inputs or labor costs.[24] Taxpayers cannot subtract cost inputs or labor costs attributable to receipts that are not commercial activity (for example, intercompany transactions).[25] The taxpayer then multiplies the greater of these two amounts by 35 percent.[26] The taxpayer then multiplies this amount by its Oregon apportionment factor.[27] The taxpayer subtracts this amount from Oregon-source commercial activity to yield the taxable commercial activity. The subtraction may not exceed 95 percent of the taxpayer's Oregon-source commercial activity.[28]

Cost inputs are generally defined as the taxpayer's cost of goods sold used to calculate federal taxable income.[29] Labor costs are the amounts paid as total compensation to employees, capped at $500,000 for any single employee.[30] It does not matter where these costs are incurred (that is, they do not need to be incurred in Oregon), as long as the entity incurring the costs is a member of the unitary group filing the CAT return.[31]

To illustrate at a high level how this calculation works, assume you have a unitary group consisting of corporations A, B, and C filing a unitary CAT return. Assume further that the three entities have the following cost inputs and labor costs:

Entity:	Cost Inputs:	Labor Costs:
Corporation A	$10,000,000	$5,000,000
Corporation B	$0	$12,000,000
Corporation C	$20,000,000	$10,000,000
Total	$30,000,000	$27,000,000

Because the CAT treats a unitary group as a single taxpayer, the unitary CAT return for corporations A, B, and C will use as its starting point for the subtraction the group's cost inputs ($30 million) because it exceeds the group's labor costs ($27 million). The group is not allowed to take the greater of each affiliate's two costs (that is, it cannot subtract A's cost inputs and B's labor costs). In this simplistic example, the unitary

[20] Or. Admin. R. 150-317-1050. The Department of Revenue provides links to adopted administrative rules and published draft administrative rules.

[21] Or. Rev. Stat. 317A. 100(16).

[22] Or. Rev. Stat. 317A.125(2).

[23] Or. Rev. Stat. 317A.125(1).

[24] Or. Rev. Stat. 317A.119(1).

[25] Or. Rev. Stat. 317A.119(2).

[26] Or. Rev. Stat. 317A.119(1).

[27] Or. Rev. Stat. 317A.119(3).

[28] Or. Rev. Stat. 317A.119(5).

[29] Or. Rev. Stat. 317A.100(2).

[30] Or. Rev. Stat. 317A.100(12). The subtraction defines compensation as: Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, a former employee or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in [IRC Section 125] or any similar employee reimbursement. [Or. Admin. R. 150-317-1220(1)(b).]

[31] Or. Admin. R. 150-317-1200(1).

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group then multiplies $30 million by both 35 percent and its Oregon apportionment factor to yield its total subtraction from Oregon-source commercial activity.

To reiterate a key point: The $30 million cost input total for the group reflects the group's COGS for federal income tax purposes, not just the costs incurred in Oregon.[32] The requirement of the taxpayer to apportion these costs is the statutory mechanism for sourcing the subtraction.

As of the date of the publication of this article, the DOR has not drafted an administrative rule clarifying the definition or calculation of cost inputs. Accordingly, taxpayers should look to their federal income tax COGS calculation as the starting point for making this calculation. However, the department has adopted an administrative rule clarifying some aspects of the labor cost subtraction, including:

- The term "employee" does not include:
  - a partner in a partnership or a member of a limited liability company in which the partner or member receives guaranteed payments or distributive income;
  - statutory employees described in IRC section 3121(d)(3); or
  - independent contractors, as defined in Or. Rev. Stat. 670.600.
- Payroll taxes, including but not limited to Social Security, Medicare, and federal unemployment, are excluded from labor costs.[33]

The Subtraction and Fiscal-Year Taxpayers — The Problem of Mismatched Tax Years

While determining the starting point of the subtraction is straightforward for calendar-year taxpayers, this calculation can be much more complex for fiscal-year taxpayers because the CAT must be filed on a calendar-year basis.[34] The original version of the CAT statutes did not contain any provision for this discrepancy. How should a fiscal-year taxpayer filing federal and state corporate income tax returns calculate its Oregon CAT?

When it comes to calculating commercial activity and sourcing it to Oregon, all fiscal-year taxpayers must recalculate these amounts on a calendar-year basis. In this regard, the CAT is consistent with other taxes based on gross receipts.[35]

However, the fact that the CAT subtraction for cost inputs is directly tied to the amount "as calculated in arriving at federal taxable income," makes the fiscal year/calendar year mismatch problematic, as does the overall complexity of performing a special federal COGS calculation just to calculate one state tax.

Accordingly, Oregon has amended its CAT statute to provide that — only for purposes of calculating the subtraction — a fiscal-year taxpayer may elect to use its "most recent fiscal year information."[36] This provision is likely to be heavily used by fiscal-year taxpayers claiming the cost input subtraction. A taxpayer claiming the labor cost subtraction may still be able to calculate its compensation paid on a calendar-year basis because employees are on a calendar-year basis. The election must be made on a timely filed original return and applies only for the tax year in which the election was made.[37] As of the date of publication of this article, the DOR has yet to issue any administrative rules regarding this election, and the CAT return has not yet been made available.

The Next Step in the Subtraction — Determining Eligible and Ineligible Costs

Unfortunately, few taxpayers may be able to make such a simple calculation of their subtraction from Oregon-source commercial activity. The subtraction is limited to those costs associated with transactions that generate commercial activity, which makes sense from a policy perspective. For example, assume you have

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[32] *Id.*

[33] Or. Admin. R. 150-317-1220.

[34] Or. Rev. Stat. 317A.116(1).

[35] Annual filers for the Washington business and occupation tax, for example, are on a calendar-year basis and must file their returns by April 15 of the following year. Rev. Code Wash. section 82.32.045(3).

[36] Or. Rev. Stat. 317A.119(7). If the taxpayer is a unitary group filing a combined CAT return, the election applies to the entire unitary group. The statute does not provide any details for unitary groups that may include taxpayers with different fiscal years.

[37] *Id.*

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Manufacturer and Distributor in a unitary group filing an Oregon CAT return. Manufacturer sells all its annual production to Distributor, who resells the inventory to third parties at retail. Because Manufacturer and Distributor are included in the same unitary CAT return, Manufacturer's sales to Distributor are excluded from commercial activity and therefore are not subject to the CAT.[38] It makes sense that the unitary group cannot deduct Manufacturer's COGS or labor costs associated with its manufacturing activity.

This limitation on the CAT subtraction applies to all exclusions from commercial activity, not just intercompany sales, and for many taxpayers can become very complex. The DOR has adopted an administrative rule that provides a structure for taxpayers to make this calculation.[39]

The rule allows that if the taxpayer can readily determine, from its own books and records, how much of its total cost inputs or labor costs are ineligible, the taxpayer may use the general rule.[40] If the taxpayer cannot make that determination from its books and records, it must use the substitute rule.[41]

The General Rule for Calculating the Subtraction

Under the general rule, the taxpayer must determine its eligible costs. This calculation is less complex: Determine the total costs (either labor costs or cost inputs) and subtract the taxpayer's ineligible costs.[42] The difference yields the eligible costs.

If the taxpayer does business only in Oregon, then under the general rule, the taxpayer's subtraction is 35 percent of its eligible costs.[43]

Taxpayers doing business in multiple states, however, face a more complex calculation. These taxpayers must calculate their apportioned eligible costs[44] by applying Oregon's apportionment regime (Or. Rev. Stat. 314.605 to 314.675, excluding Oregon's throwback rule) to their commercial activity.[45] For many taxpayers, this is much more complex than simply leveraging their Oregon sales factor for corporate income tax purposes. The apportionment regime applies only to the taxpayer's commercial activity — and there are many sales that qualify as apportionable sales for Oregon's corporate income tax that are not commercial activity (for example, sales of groceries, sales for export at wholesale outside Oregon, and so forth). Also, many taxpayers will have a very different unitary group filing the CAT return when compared with the group filing an Oregon consolidated income tax return (for example, the CAT return includes other entities besides C corporations, applies a greater-than-50-percent ownership test rather than 80 percent, and so forth).

Once the taxpayer apportions its eligible costs, the taxpayer then must multiply that amount by 35 percent to calculate its subtraction.[46]

The Substitute Rule for Calculating the Subtraction

Taxpayers who cannot use their books and records to determine ineligible costs must use the substitute rule for calculating their CAT subtraction.[47] Also, taxpayers who are eligible to use the general rule may elect to use the substitute rule.[48]

While the general rule uses Oregon's corporate income tax apportionment regime, the substitute rule requires taxpayers to use a commercial activity ratio. In this calculation, the taxpayer must start by determining whichever is greater — cost inputs or labor costs (including eliminating costs associated with amounts that are not commercial activity).[49] The taxpayer must then multiply the applicable amount by the following fraction[50]:

$$\frac{\text{Commercial Activity Sourced to Oregon}}{\text{Total Commercial Activity Everywhere, Plus Enumerated Exclusions From Commercial Activity}}$$

[38] Or. Rev. Stat. 317A.106.

[39] Or. Admin. R. 150-317-1200.

[40] Or. Admin. R. 150-317-1200(2).

[41] *Id.*

[42] Or. Admin. R. 150-317-1200(2)(a).

[43] Or. Admin. R. 150-317-1200(2)(b)(A).

[44] Or. Admin. R. 150-317-1200(2)(b)(B).

[45] *Id.*

[46] *Id.*

[47] Or. Admin. R. 150-317-1200(3).

[48] *Id.*

[49] Or. Admin. R. 150-317-1200(3)(a).

[50] Or. Admin. R. 150-317-1200(3)(b).

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For this fraction, the "enumerated exclusions" are exclusions from commercial activity defined in Or. Rev. Stat. chapter 317A; the exclusions that must be added to the denominator are:

- receipts from the sale of motor vehicle fuel;
- certain receipts of financial institutions;
- certain revenue of residential care facilities and in-home care agencies;
- receipts from the sale to an exporter in Oregon for resale at wholesale outside Oregon;
- receipts from the wholesale or retail sale of groceries; and
- receipts from farmer sales to agricultural cooperatives.[51]

The taxpayer then multiplies its applicable costs by this commercial activity ratio, and the product is referred as the ratio costs.[52] The taxpayer multiplies its ratio costs by 35 percent to calculate its subtraction.[53] Given that the commercial activity ratio involves the sourcing of commercial activity, there is no need for the taxpayer to also apportion this subtraction.

The Modified Substitute Rule for Calculating the Subtraction

The DOR has provided one additional method for calculating the subtraction. If a taxpayer can readily determine, based on its books and records, how much of either its total labor costs or its total cost inputs are ineligible, but not both, then the taxpayer may elect to use either the greater of the following:

- the taxpayer's subtraction under the general rule for the category of costs when the taxpayer can readily determine its ineligible costs; or
- the taxpayer's subtraction under the substitute rule for the category of costs when the taxpayer cannot readily determine its ineligible costs.[54]

Because the CAT form is not yet available, several details are unknown regarding how the election must be made. However, it appears from Oregon's administrative rules that as of the date of publication of this article, the elections regarding the CAT subtraction may be annual and not binding for future years.

Taxpayers will need to perform several calculations to determine which method to apply. Any taxpayer seeking to apply the general rule must be prepared to demonstrate that it is eligible to do so by showing from its books and records that the taxpayer accurately determined its eligible and ineligible costs. Many taxpayers will need to balance the interests of precision that the general rule may provide against the administrative costs of compliance with the general rule and the relative simplicity of the substitute rule and, potentially, the modified substitute rule.

The Exclusion of Some Non-U.S. Affiliates From the Unitary Group

One feature of the CAT attracted considerable attention — its mandatory worldwide combined filing requirement. Multinational taxpayers faced the prospect of including a multitude of foreign unitary affiliates in the combined CAT return even though these foreign affiliates were not making any sales into Oregon. While including these foreign affiliates would not increase the amount of commercial activity sourced to Oregon and subject to the CAT, these affiliates would need to be included when calculating the taxpayer's subtraction from commercial activity.

Taxpayers faced the daunting administrative prospect of having to calculate labor costs and cost inputs for such foreign affiliates, including eliminations of such costs as required by the Oregon CAT, to include these costs in the start point for the CAT subtraction. Taxpayers also faced the even more difficult prospect of calculating the amounts required of these foreign unitary affiliates for the necessary apportionment or commercial activity ratios. When one remembers that the Oregon subtraction is reduced to 35 percent of eligible costs and that every 35 cents of remaining costs would be diluted by the sales or commercial activity of such foreign unitary affiliates that would be added to the denominator of the apportionment or commercial activity ratios, it becomes clear that

[51] *Id.*

[52] Or. Admin. R. 150-317-1200(3)(c).

[53] *Id.*

[54] Or. Admin. R. 150-317-1200(3)(d).

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including a foreign unitary affiliate in a combined CAT return would most likely not affect the amount the taxpayer's CAT due but would further complicate basic tax return preparation.

Accordingly, the CAT was amended to allow unitary group taxpayers to elect to exclude from the group filing the CAT return all foreign members with no commercial activity (or amounts that would be commercial activity but for an exclusion) sourced to Oregon.[55]

To implement this statutory change, the DOR adopted a new administrative rule.[56] In this rule, the department clarifies its position that the election allows taxpayers to exclude entities formed outside the United States.[57] As defined in the rule, the election appears to allow taxpayers to make this election on an entity-by-entity basis (whereas the statute refers to an election to exclude "all foreign members").[58]

Careful consideration must be made before excluding foreign affiliates from the CAT return, but for many taxpayers this election is expected to make compliance with the CAT administratively easier by simplifying the subtraction calculation.

Additional Practical Considerations

Despite the complexity regarding calculating the subtraction from commercial activity, these rules cannot anticipate every circumstance. For example, a taxpayer may believe that the otherwise applicable apportionment rules do not provide a fair representation of its Oregon commercial activity. Such taxpayers may petition the DOR for alternative apportionment, or the department may require alternative apportionment.[59] This request must be filed in writing and separately from the taxpayer's return.[60] For the right taxpayer, a petition for alternative apportionment may provide significant value, if only by providing clarity.

A taxpayer may also face ambiguities or unresolvable complexities regarding the subtraction that do not involve apportionment, such as whether an exclusion from commercial activity applies to its specific facts and circumstances. The DOR has the discretion to issue binding declaratory rulings to taxpayers upon request.[61] Taxpayers seeking clarification regarding the new CAT must also monitor the department's ongoing rulemaking process to ensure they are up to speed on the latest developments.

While the CAT return for 2020 is not due until April 15, 2021,[62] taxpayers who expect to owe more than $10,000 in CAT liability for this year must file quarterly estimated CAT payments, with payments for the third quarter due October 31 and the fourth quarter on January 31, 2021.[63] Taxpayers who are finding it difficult to calculate their estimated tax payments may take some comfort in the department's rule that it will not impose any penalties for underpayments of estimated CAT payments for 2020 as long as the taxpayer makes a good-faith effort to comply.[64] Oregon considers each of the following factors to demonstrate good faith:

- the taxpayer cannot reasonably determine, at the time the quarterly payment is due, whether the taxpayer will have a 2020 CAT liability because of COVID-19;
- the taxpayer lacks sufficient funds to pay the quarterly payment because of COVID-19; or
- the taxpayer cannot reasonably determine the required quarterly payment or annual tax liability because of COVID-19.[65]

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[55] Or. Rev. Stat. 317A.106(2).

[56] Or. Admin. R. 150-317-1025.

[57] Or. Admin. R. 150-317-1025(1). The Oregon statute creates some ambiguity when it refers to foreign members, which could arguably be extended to apply to all members that are not organized under Oregon law.

[58] Compare Or. Admin. R. 150-317-1025(2): "certain unitary groups may file a modified group return omitting from the return a non-U.S. member's information," and Or. Rev. Stat. 317A.106(2): "unitary group taxpayers may elect to modify unitary group membership to exclude all foreign members with no commercial activity." The DOR apparently felt empowered to make this distinction under the broad delegation of rulemaking authority granted by Or. Rev. Stat. 317A.106(2).

[59] Or. Admin. R. 150-317-1200(5).

[60] Or. Admin. R. 150-317-1200(6). Detailed provisions regarding the petition for alternative apportionment are included in this subsection but are beyond the scope of this article.

[61] Or. Rev. Stat. 305.105. The DOR also must respond to taxpayer requests to construe the tax law, but such guidance is not binding on either the taxpayer or the department. Or. Rev. Stat. 305.110.

[62] Or. Rev. Stat. 317A.137(1).

[63] Or. Rev. Stat. 317A.137(2); and Or. Admin. R. 150-317-1300(4), (12).

[64] Or. Admin. R. 150-317-1500.

[65] Or. Admin. R. 150-317-1500(1)(b).

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Any taxpayer seeking to claim this good-faith safe harbor must document the reasons why the taxpayer qualifies.[66] These good-faith exceptions would appear to include the taxpayer's difficulties in calculating estimated taxes.

Conclusion

Many taxpayers are challenged by the complex calculations required to determine their subtraction from Oregon-source commercial activity and as such may wish to weigh the potentially limited impact of this subtraction. Consider a taxpayer that has $1 billion in cost inputs and a 1 percent Oregon sales factor. Barring other specific facts, the approximate value of this taxpayer's subtraction is computed as follows:

Starting Point:	$1 billion
After Applying Statutory 35% Limit:	$350 million
After Applying 1% Oregon Sales Factor:	$3.5 million
Tax Rate:	0.57%
Tax Savings From Subtraction:	$19,950

For such a taxpayer, there may be a question regarding whether parsing through a complex calculation to refine the $1 billion cost input starting point will pay significant dividends. Of course, a taxpayer with identical cost inputs but a 75 percent Oregon sales factor would enjoy a much more significant subtraction.

Regardless, the subtraction from commercial activity can only help a taxpayer reduce its Oregon CAT liability. Accordingly, this calculation should not be overlooked. However, the relative significance of this subtraction may help taxpayers determine whether a precise calculation is warranted, or an approved estimated approach may be appropriate (for example, using the substitute rule). Similarly, for the right taxpayer, it might be worthwhile to seek additional relief guidance from the DOR, perhaps in the form of a petition for alternative apportionment or a request for a declaratory ruling.

This is a brand-new tax for stakeholders to consider, and because of the complexities outlined in this article, a careful review of the subtraction is recommended. ■

[66] Or. Admin. R. 150-317-1500(3).

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