

IN CONSIDERATION OF ORDINANCE 24-1521, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.05 (INCOME TAX ADMINISTRATION) REGARDING RESPONSE DEADLINES TO PROTESTS AND APPEALS

Date: October 21, 2024
Department: Finance & Reg. Services
Meeting Date: November 7, 2024

Presenter(s): Justin Laubscher, Tax Compliance Program Manager
Length: 10 minutes

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ISSUE STATEMENT

In 2022, the Metro Council changed how SHS business income is sourced and, therefore, taxed. At the time, Metro and its tax Administrator anticipated increased workload due to possible increased tax appeals and protests regarding the income sourcing changes.

Accordingly, during those 2022 Metro Code changes, Metro had intended to also change the response deadlines for protests and appeals from 30 days to 180 days to address anticipated increased workload issues. Unfortunately, those response deadline changes were inadvertently omitted from the Code change package.

The City of Portland and Multnomah County made those changes to their codes at that time. Thus, Metro’s Code does not currently align with the City and County income tax codes, which creates uncertainty for taxpayers and inconsistency for the Tax Administrator. Metro should correct its earlier omission by changing response deadlines for protests and appeals from 30 days to 180 days.

ACTION REQUESTED

Staff requests that Metro Council adopt Ordinance No. 24-1521.

IDENTIFIED POLICY OUTCOMES

The Metro Income Tax Laws (Chapters 7.05, 7.06, and 7.07 collectively) codify certain provisions of the Supportive Housing Services Measure approved by the voters. The policy outcome of the proposed ordinance would align Metro Code language with the other jurisdictions’ response time for income tax protest and appeals.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

- Adopt this ordinance. This results in better alignment with our partner jurisdictions regarding protests and appeals response time.
- Adopt this ordinance with revisions or modifications as set forth by Council.
- Reject this ordinance with other direction to staff. The existing income tax code would remain in place regarding protests and appeals provisions.

STAFF RECOMMENDATIONS

Staff recommend that Metro Council adopt Ordinance No. 24-1521.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

In the fall of 2022, Metro, Multnomah County, and the City of Portland adopted several code changes. The major thrust was the change to market-based sourcing for apportionment of business income. In addition, minor housekeeping updates were adopted at the same time to the protests and appeals code sections.

As part of the income sourcing code changes and in anticipation of increased appeals resulting from those changes, Metro also intended to extend the Tax Administrator's deadline in which to respond to tax protests from 30 days to 180 days, and to also extend the Tax Administrator's response deadline for penalty reduction and waiver requests from 60 days to 180 days. However, these deadline response times were inadvertently omitted from the 2022 Income Tax Law updates.

Although Metro's code still retains a 30-day deadline instead of 180 days, the City and County changed their deadlines as originally intended. For administration efficiency and consistency, Metro's code deadlines should match the City and County's. (For reference, the State Department of Revenue's response time is one year).

A response to a taxpayer's appeal of an audit adjustment may be difficult to achieve within 30 days due to the complexity and volume of workload. The Administrator determined that 180 days is a more reasonable deadline for how long it may take to respond during peak demand. Updating Metro Code Section 7.05.160 allows clarity in discussing (1) how and the timeline for the taxpayer to file a protest to an initial determination, and (2) the timeline for the Administrator to respond.

If the Administrator misses the response deadline, the deficiency is not automatically canceled. However, the Administrator would not impose penalty and interest if the Administrator determines that the deficiency is otherwise valid. It is appropriate to have some consequence for the Administrator's failure to meet a required deadline. Metro's proposed treatment mirrors the State's practice. (Note: Other interest or penalties not related to the deficiency will remain in place.)