

Chapter 7.05 Income Tax Administration for Personal and Business Taxes

New language for Chapter 7.05 is indicated by underlined text, and deleted language is indicated by ~~strikethrough~~ text.

1. Amend Section 7.05.020 "Definitions" to add two new definitions and revise an existing definition as follows:

Business Income has the same meaning as "apportionable income" defined in Oregon Revised Statutes 314.610.

Nonbusiness Income means income ~~not created in the course of a taxfiler's business activities~~ has the same meaning as "nonapportionable income" defined in Oregon Revised Statutes 314.610.

Notice means a written document mailed by first class by the Administrator or District to the last known address of a taxfiler as provided to the Administrator or District in the latest registration form or tax return on file with the Administrator. Alternatively, notice may be delivered in person, by facsimile, email, or other means with taxfiler consent.

2. Amend Section 7.05.160 "Protests and Appeals; Penalty Waiver" as follows:

(a) A taxfiler may protest any determination by the Administrator. The Administrator must receive written notice of the protest within 30 days after the Administrator mailed or delivered the initial notice of determination to the taxfiler. Failure to file such a written notice within the time permitted is deemed a waiver of any objections, and the Administrator will dismiss the appeal. The protest must state the name and address of the taxfiler and an explanation of the general grounds for the protest. The Administrator must respond within 30 days after the protest is filed with ~~either a revised determination or a~~ final determination. The Administrator's final determination must include the reasons for the determination and state the time and manner for appealing the final determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator for good cause. Requests for extensions of time must be received before the original 30-day protest deadline expires. The Administrator will give written notice to the taxfiler if the Administrator's deadline is extended.

(b) A taxfiler may appeal any final determination by the Administrator to the appeals board. The Administrator must receive written notice of the appeal within 30 days after the Administrator mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appellant and include a copy of the final determination.

(c) Within 90 days after the Administrator mails or delivers the final determination to the appellant, the appellant must file with the appeals board a written statement containing:

1. The reasons the Administrator's determination is incorrect; and

2. What the correct determination should be.

Failure to file this a written statement within the time permitted is a waiver of any objections, and the appeal will be dismissed.

- (d) Within 150 days after the Administrator mails or delivers the final determination to the appellant, the Administrator will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response must be mailed to the address provided by the appellant within 10 days after the Administrator files it with the appeals board.
- (e) The ~~Administrator~~ appeals board must provide the appellant written notice of the hearing date and location at least 14 days before the hearing. The appellant and the Administrator may present relevant testimony, evidence, and oral argument at the hearing. The appeals board may request additional written comment and documents as the board deems appropriate.
- (f) Decisions of the appeals board must be in writing, state the basis and legal authority for the decision and be signed by the appeals board chair.
- (g) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.
- (h) The filing of an appeal with the appeals board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.
- (i) Penalty waiver or reduction requests are not subject to the protest/appeal process or timeline outlined in subsections 7.05.160(a) through 160(h). The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce or waive penalties within 60 days from the date the written request is received. As provided in subsections 7.05.260(f) and 7.05.270(e), the Administrator may waive or reduce penalties in certain situations. If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator (or Administrator's designee) within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Appeals Board.

Chapter 7.07 Business Income Tax

New language for Chapter 7.07 is indicated by underlined text, and deleted language is indicated by ~~strikethrough~~ text.

1. Amend Section 7.07.090 "Presumptive Tax" to remove the current subsection (c) as follows:

(a) If a person fails to file a return, a rebuttable presumption exists that the tax payable amounts to \$500 for every tax year for which a return has not been filed.

(b) Nothing in this section prevents the Administrator from assessing a tax due that is less than or greater than \$500 per tax year.

~~(c) If the taxfiler filed a tax return the previous tax year, then presumptive taxes assessed under this section will be considered a tax return. Presumptive taxes assessed under this section are considered filed documents and subject to the time limitations for deficiencies and refunds as described in Metro Code Section 7.05.150.~~

(c)~~(d)~~ Taxes determined under this section are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.05.170 in accordance with Sections 7.05.260 and 7.05.280. The Administrator will send notice of the determination and assessment to the taxfiler.