

**CHAPTER 7.06**

**PERSONAL INCOME TAX**

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#### **7.06.010 Title**

This chapter is known and may be cited as the Metro Personal Income Tax Law.

#### **7.06.020 Administration of Personal Income Tax Law**

The Personal Income Tax Law will be administered under the provisions set forth in this chapter and Metro Code Chapter 7.05, as applicable.

#### **7.06.030 Definitions**

For purposes of this chapter, the terms used are defined as provided in Chapter 7.05, unless the context requires otherwise.

#### **7.06.040 Personal Income Tax Imposed; Filing Status**

- (a) A tax of one percent is imposed on the entire Oregon Taxable Income of every resident of the District subject to tax under ORS chapter 316. Taxfilers that file a joint Metro return may exempt the first \$200,000 of taxable income; taxfilers that file a single Metro return may exempt the first \$125,000 of taxable income.
- (b) A tax of one percent is imposed upon the Metro Taxable Income of every nonresident of the District subject to tax under ORS chapter 316. Taxfilers that file a joint Metro return may exempt the first \$200,000 of taxable income; taxfilers that file a single Metro return may exempt the first \$125,000 of taxable income.
- (c) Taxfiler filing status must follow the filing status of the taxfiler's Oregon income tax return.
  - 1. Taxfilers using Oregon filing statuses married filing jointly, head of household and qualifying widow(er) must file a joint Metro return.
  - 2. Taxfilers using Oregon filing statuses single and married filing separately must file a single Metro return.

#### **7.06.050 Effective Date and Reauthorization; Term**

- (a) The Metro Personal Income Tax takes effect in Tax Year 2021 (Tax Year beginning on or after January 1, 2021).

- (b) The Metro Personal Income Tax will remain in effect for all periods through Tax Year 2030 (Tax Year beginning on or after January 1, 2030).
- (c) After Tax Year 2030, the tax will expire unless reauthorized by Metro voters on or before that date. After the tax expires, Metro or the entity authorized to collect the Personal Income Tax may continue to take all reasonable and necessary actions to ensure that taxes still owing are paid in full.

#### **7.06.060 Tax Exemptions**

- (a) Exemptions Required by Law. A person whom Metro is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon or the Metro Charter is exempt from payment of the tax set forth in this chapter.
- (b) Notwithstanding the exemptions listed in subsection (a), the Administrator may require the filings of tax returns or other documentary verification of any exemption claimed under this section.

#### **7.06.070 Individuals Required to File a Tax Return**

- (a) Every resident of the District who is required to file an Oregon income tax return for the taxable year and who reports Oregon Taxable Income over \$200,000 using Oregon filing status married filing jointly, head of household or qualifying widow(er), or over \$125,000 using Oregon filing status single or married filing separately is required to file a Metro Personal Income Tax return.
- (b) Every nonresident of the District who is required to file an Oregon income tax return for the taxable year and who reports Metro Taxable Income over \$200,000 using Oregon filing status married filing jointly, head of household or qualifying widow(er), or over \$125,000 using Oregon filing status single or married filing separately is required to file a Metro Personal Income Tax return.
- (c) Nothing contained in this section precludes the Administrator from requiring any individual to file a return when, in the judgment of the Administrator, the individual should file a return.
- (d) The Administrator will release the form that the taxfiler must file. The Administrator may accept substitute forms (such as created by tax software) provided the forms include identical information in comparable format as provided on the Metro tax return form.
- (e) A copy of the taxfiler's Oregon tax return is required to be filed with the tax return. If the personal income tax has been withheld from wages, a copy of Form W-2 is required to be

filed with the Personal Income Tax return unless otherwise notified by the Administrator. The Administrator is authorized to require a taxfiler to submit additional information with the taxfiler's report if, in the Administrator's sole discretion, such information is necessary to effectively administer the tax imposed under this chapter.

#### **7.06.080 Taxfiler Identification Number**

- (a) A taxfiler must provide information on tax records as required on and forms established by the Administrator. This includes tax returns, refund claims, applications, registrations, records, requests for information, reports, and other items of a similar nature filed with the Administrator as required by the item being filed.
- (b) The Administrator uses Tax Identification Numbers as a part of providing expeditious and practicable processing systems in the administration of the laws by the Administrator, including (but not limited to) such matters as the issuance of tax refunds, allocation or application of incoming tax payments and other matters of a similar nature. The Administrator may require a taxfiler to provide a copy of the taxfiler's social security card.
- (c) A social security number used as a taxfiler identification number is confidential information. Disclosure of social security numbers resulting in a breach of confidentiality will result in penalties pursuant to Metro Code Section 7.05.240.

#### **7.06.090 Deduction for Pass-through Income**

- (a) A taxfiler is allowed a deduction from taxable income for pass-through income subject to tax under Metro Chapter 7.07 Business Income Tax. Pass-through income comes from a business whose net income is taxed on the owners' or partners' personal tax returns. This includes, but is not limited to, entities taxed as partnerships and S-corporations.
- (b) The deduction amount allowed in subsection (a) is the individual owners' or partners' distributive share of taxable income on the Metro Business Income Tax return, as calculated and reported to the owner or partner by the business.
- (c) If the taxable income per the Metro Business Income Tax return is zero, the taxfiler is not allowed a deduction.

#### **7.06.100 Proration of Income for Part-Year Residents**

If a taxfiler is a part-year resident of the District for the tax year at issue, the taxfiler's taxable income includes:

- (a) For the portion of the year in which the taxfiler was a resident of Metro, the taxfiler's Oregon Taxable Income;
- (b) For the portion of the year in which the taxfiler was a nonresident, the taxfiler's Metro Taxable Income.

#### **7.06.101 Credit for Personal Income Taxes Paid by Residents to Another State Jurisdiction**

- (a) A resident that pays personal income taxes based on or measured by net income to another state jurisdiction is allowed a credit against tax otherwise owed under this chapter for the amount of income tax imposed on the taxfiler for the tax year by that other state jurisdiction on income derived from sources therein and that is also subject to the Metro Personal Income Tax.
- (b) The credit provided under this section is the lesser of the District tax based on mutually taxed income or the tax actually paid to the other state.
- (c) No credit is allowed under this section for income taxes paid to a state that allows a nonresident a credit against the income taxes imposed by that state for taxes paid or payable to the state of residence.
- (d) The Administrator will establish by written policy the criteria and procedures for obtaining the credit, such as furnishing proof of tax payment to another state jurisdiction, and examples when this credit is allowed. The Administrator may refer to ORS 316.082 to establish these policies.

#### **7.06.110 Overpayments of Personal Income Tax**

To the extent a refund is allowed by Metro Code 7.05.150(a), the Administrator will apply overpayments of the personal income tax in the following manner:

- (a) Overpayments will first be applied against any outstanding balances due from prior years (with the net overpayment, if any, to be refunded).
- (b) If the Administrator determines that prior Metro tax returns were due but have not yet been filed, overpayments will be transferred as a credit to the estimated tax account of ~~to~~ the earliest prior year~~(s)~~ yet to be filed.
- (c) If the Administrator determines that no outstanding balances are due and no prior returns are outstanding, the Administrator will offer the taxfiler the option of either a refund of all overpayments or a credit of the balance to the current open estimated tax account.

- (d) The credit will be applied as of the fifteenth day of the fourth month of the taxable year to the extent that the overpayment of tax is attributable to payments received prior to that date. Payments received after the first quarter estimated tax due date will be applied to estimated tax as of the date the payment is received. In the case of an amended or delinquent return, the amount will be credited to the estimate tax installment as of the date the amended or delinquent return was filed or the date a payment was received, whichever is later.
- (e) No refunds or credits toward estimated taxes will be allowed for overpayments on returns filed outside the time periods for refunds allowed by Metro Code 7.05.150(a).

### **7.06.120 Withholding Tax on Wages**

(a) Employer Withholding from Employee Wages.

1. Beginning January 1, 2021 withholding will be voluntary. However, an employer must offer to its employees in writing to withhold the Metro personal income tax from the employees' wages as soon as the employer's payroll system(s) can be configured to capture and remit the taxes withheld.
2. Beginning January 1, 2022, and each year thereafter, withholding is mandatory for all employees ~~that who~~ work in the Metro District and earn \$200,000 or more during the calendar year. ~~This applies to residents and nonresident employees.~~
  - A. For employees who are residents of the District, withholding is calculated on all wages.
  - A.B. For employees who are nonresidents of the District, the minimum required withholding is calculated on wages paid for services performed in the District.
3. Employers must also offer withholding to all employees who are not subject to mandatory withholding.
- 2.4. An employee below the \$200,000 earning threshold in subsection (2) may choose to "opt in" to withholding with the employer, based on the employee's tax situation. An employee who meets the mandatory withholding criteria in subsection (2) may choose to "opt out" of withholding by the employer based on the employee's tax situation. The Administrator will provide guidance to employers on the information a taxfiler (employee) must provide to taxfiler's employer to "opt in" or "opt out" of withholding. Once provided, the employer must honor the employee's withholding election until notified of a change.
- 3.5. An employer must provide all "opt out" information to the Administrator on an annual basis in such form as the Administrator prescribes or upon a withholding audit by the Administrator.

- (b) Due Date of Withheld Taxes to Administrator by Employer. An employer who withholds the Personal Income Tax from employee payroll must remit the withheld amounts to the Administrator within the time that each employer is required to remit taxes withheld for state income tax purposes for any period.

Withheld amounts remitted to the Administrator must be accounted for as part of the collections under this section. No employee has any right of action against an employer in respect of any moneys deducted from wages and remitted in compliance or intended compliance with this section.

- (c) Personal Liability of Responsible Officers, Partners, Members, or Employees. If an employer withholds amounts due under this chapter from an employee's wages with proper authorization from the employee, the employer must remit that withheld tax on the due date as set forth in subsection (b). This chapter provides no extension of time, nor can the Administrator grant an extension. The employer holds the funds involved in trust for Metro, and any use of the funds by the employer is an illegal conversion.

1. When an employer fails to remit in whole or in part any tax withheld at the time required under this section, the Administrator will assess a late payment penalty. The penalty is:
  - A. Five percent of the balance of the tax paid after the original due date if the failure to remit is for a period less than or equal to four months;
  - B. An additional 20 percent of the balance of the tax paid after the original due date if the failure to remit is for a period greater than four months; and,
  - C. An additional penalty of 100 percent of the balance of the tax paid after the original due date of all tax years if the failure to remit is for three or more consecutive tax years.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the employer that there was reasonable cause for the failure to remit the withheld taxes or any portion of the withheld taxes and that the employer acted in good faith.

2. If an employer fails to remit to the Administrator amounts that have been withheld under this section, any Responsible Officer, Partner, Member, or Employee of the employer is personally responsible for the amounts that were withheld but not remitted. A Responsible Officer, Partner, Member, or Employee is included in the definition of "employer." This subsection specifically adopts the criteria set forth in OAR 150-316-0243(2) and (3) to determine whether an individual is a Responsible Officer, Partner, Member, or Employee.
3. The Administrator is authorized to collect from the Employer, including any individuals who are included in the definition of employer, pursuant to subsection 2 above, or any combination thereof, up to 100 percent of the tax that was withheld but not remitted to

the Administrator. In addition, the employer is subject to interest for unpaid taxes as set forth in Chapter 7.05.

- (d) Credit for Tax Withheld. If the tax has actually been withheld by an employer and reported to the Administrator, credit or refund will be made to the employee even though the employer has not paid the tax to the Administrator. When the employer has neither reported nor paid the tax required to be withheld from an employee's wages but the employee submits evidence proving to the satisfaction of the Administrator that the employer actually did withhold the tax, the Administrator will allow the employee credit or refund for the amount so proved. Ordinarily, minimum satisfactory evidence will consist of a pay statement from the employer showing the amount of tax withheld and an affidavit of the employee as to the facts upon which the claim for credit or refund is based.

#### **7.06.130 Withholding Reconciliation by Employer for Payment of Withheld Tax**

- (a) Quarterly Withholding Reconciliation. On or before the last day of the month following the quarter in which withholdings pursuant to 7.06.120(a) have been made, the employer must file a quarterly tax report. If the due date is on a weekend or federal holiday, the report is due the next business day.
- (b) Annual Withholding Reconciliation. On or before the last day of January following any calendar year in which withholdings pursuant to 7.06.120(a) have been made, the employer must file with the Administrator a reconciliation of taxes withheld and taxes remitted. If the due date is on a weekend or federal holiday, the reconciliation is due the next business day.
- (c) The Administrator will determine by administrative rule the required format and information necessary to comply with subsections (a) and (b) above.

#### **7.06.140 Final Tax Return(s) of Deceased Taxfiler**

The Administrator may grant a fiduciary's request or enter into a settlement agreement with respect to the estates of decedents that are consistent with ORS 316.387 and corresponding Oregon Administrative Rules.

#### **7.06.150 Severability**

If a court of competent jurisdiction finds that any part, section or provision of this chapter is unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the chapter and the remaining parts, sections or provisions remain in full force and effect.