2008 Corporate Tax Changes

Affiliate information

The Oregon Department of Revenue issued a letter in an attempt to educate corporations with affiliates doing business in Oregon to accurately complete their Schedule AF.

The purpose of Schedule AF is to list only those affiliates doing business in Oregon, or with Oregon source income, that are included in the Oregon consolidated return. Corporations included in the Schedule AF will be the same as federal Form 851 only if all the corporations listed meet the criteria shown above.

For tax year 2008, every corporation listed on the Schedule AF is subject to a $10 minimum tax (ORS 317.090). The Department would like to ensure our ability to accurately assess tax due without additional burden on the corporations caused by reporting errors contained in the Schedule AF. Failure to accurately reflect your Oregon corporations on your Schedule AF may result in notification of additional tax due.

Please report the following on Schedule AF:

- Each affiliate corporation's name and address;
- Federal Employer Identification Number (FEIN);
- Oregon Business ID Number (BIN);
- Date the affiliate became part of the unitary group if this occurred during the tax year being reported;
- Date the affiliate left the unitary group if this occurred during the tax year being reported;

Include as many schedules as necessary to list all the appropriate corporations.

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Tie to federal tax law

Beginning January 1, 2008 Oregon disconnects from the federal income exclusion allowed under IRC 139A for federal subsidies for prescription drug plans. For Oregon purposes, this federally excluded income is an addition on the Oregon return.

There is a retroactive connection to federal changes made since December 31, 2002, to the definition of federal taxable income, with two exceptions:

- No connection to the qualified production activities income (QPAI) deduction. An addition to the Oregon return is required, effective January 1, 2005; and

No connection to certain subsidies excluded under IRC 139A for prescription drug plans. An addition to the Oregon return is required, effective January 1, 2008.

Effective January 1, 2005, an automatic connection to future changes to the federal definition of taxable income applies in Oregon, unless a specific Oregon law provides for different treatment.

Oregon's computation of taxable income for C corporations begins with federal taxable income, with modifications required under Oregon tax law.

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Reportable transactions

Oregon now has a mandatory reporting requirement for participation in listed or reportable transactions. If you are required to report listed or reportable transactions to the IRS on Form 8886 or if you participated in a real estate investment trust (REIT) or regulated investment company (RIC) as defined in Senate Bill 39 of the 2007 Oregon Legislature you must check the "8886/REIT/RIC" box on your Oregon tax return.

The bill also contains penalties for failure to comply with this requirement as well as various other penalties for transactions discovered on or after January 1, 2008.

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Credits

Diesel engine repower or retrofit credit. A credit is available for 25 percent of the certified cost for repower and 50 percent of the certified cost for retrofit. Certification will be done by The Environmental Quality Commission who will also establish, by rule, standards to qualify for the credit. This credit may be transferred to another taxpayer when notice is given to the Department of Revenue. This credit will be available in tax years beginning on or after January 1, 2008.

Please refer to the corporation tax credits 2008 for all allowable corporation credits and who to contact for more information or certification.

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Form changes

Form 37, Underpayment of Oregon Corporation Estimated Tax. Part 1 - Figuring the underpayment has changed. The required installment on line 3 is the lesser of the four exception amounts shown on lines 11 through 14, and any payment made in excess of the required installment will be applied to the next installment period.

Form 20, 20-I, 20-INS, and 20-S

- Added 1-D barcode.
- Deleted “OR School Fund” checkbox as there is no surplus for tax year 2008.
- Discontinued “One-time small sales credit.”
- New line for "withholding payments made on your behalf from a pass-through entity or real estate income" (Form 20, line 33; Form 20-I, line 24; and Form 20-INS, line 33). See "Withholding on sales of Oregon real property by nonresidents" and "Pass-through entity withholding requirement" below for additional information.

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Withholding on sales of Oregon real property by nonresidents

Beginning with transactions occurring on or after January 1, 2008, there is a new requirement to withhold tax from the proceeds of sales of Oregon real property by nonresidents. This applies to individual nonresidents as well as C corporations that are not doing business in Oregon. See Nonresident Withholding Taxes for more details. The amount to be withheld is the least of three amounts:

- 4 percent of the consideration (sales price);
- 4 percent of the net proceeds (amount dispersed to the seller); or
- 10 percent of the gain that is includible in Oregon taxable income for the year.

Withholding is not required if one of the following requirements is met:

- The consideration for the real property does not exceed $100,000;
- The property is acquired through foreclosure;
- The transferor (owner) is a resident of Oregon—or if a C corporation—has a permanent place of business in this state; or
- The transferor receives professional advice that the transfer will not result in Oregon taxable income.

See Form OR-18, Withholding on Real Property Conveyances instructions, or Oregon Administrative Rule (OAR) 150-314.258 for more information.

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Pass-through entity withholding requirement

A pass-through entity (S corporation, partnership, or LLC treated as a partnership) with one or more nonresident owners that have no other Oregon-source income are required to withhold tax on the nonresident owner's distributive share of income.

The requirement is waived if the nonresident owner makes an election to join in the filing of a composite return, sends the department a signed Oregon Affidavit for a Nonresident Owner in a Pass-through Entity, or meets another exception listed in Oregon Administrative Rule (OAR) 150-314.775.

See Form OR-19, Pass-Through Entity Withholding instructions for more information.

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