

Business Tax Administrative Rule 400.23-1

400.23-1 – Exemption from Tax for Individuals and Joint Return Filers (LIC-4.05)

If an individual or a joint return filer has any subject business income in addition to income from an activity specifically exempted by the City of Portland Business License or Multnomah County Business Income Tax, the income from such specifically exempted activity is no longer exempt. Generally, income from the specifically exempted business activity must be included in the net income and apportionment calculations.

Example 1: Jane and Bob Madison are joint tax return filers. Jane and Bob Madison own seven residential dwelling units, one of which is in Multnomah County. In prior years, Jane and Bob were exempt from the Multnomah County Business Income Tax because this was the only business activity conducted in the County. During the current tax year, Jane Madison purchased a commercial building and Bob Madison earned \$5,000 in gross receipts from a Schedule C business activity. The non-exempt activity of renting a commercial real property or having Schedule C income voids the County's exempt status of the residential rentals and brings all business activities into the calculations for net income and the sales factor.

Example 2: John Abbott owns two residential dwelling units located in Multnomah County. John rents both these units while John gets John's medical degree in Boston. Upon John's return, John moves into one, continues to rent the other, and opens John's medical practice near a hospital in SE Portland. Prior to the establishment of John's medical practice, John was exempt from filing requirements with the County. Upon the establishment of John's medical practice, John must file with both the City and County, and include the sales and net income from the residential rental with the sales and net income from John's medical practice in the apportionment and tax calculations.

Example 3: June Bennett has owned 9 residential units within Multnomah County for the past several years. June has no rentals outside of Multnomah County and has no other business activity. June has been exempt from the Multnomah County Business Income Tax because the residential rental activity has been June's only business activity as defined under the Multnomah County Business Income Tax Code. In the current tax year, June sells one of the rental units and has a capital gain (or capital loss). The sale voids the Multnomah County Business Income Tax exemption for exclusively renting or leasing residential property. If the sum of June's capital gain and gross rents equal or exceed the City of Portland Business License Tax gross receipts threshold for the tax year, June will be required to file and pay the City of Portland Business License Tax and Multnomah County Business Income Tax upon the total net incomes or losses including the net rental income and the capital gain (or loss).

Example 4: George and Martha Smith are joint return filers. George and Martha Smith have two individual Schedule C businesses. The gross receipts of each individual Schedule C are below the gross receipts exemption threshold, however, the combined gross receipts exceed the threshold. Since George and Martha are joint return filers, a single combined tax return is required that combines the gross receipts from each individual activity plus any joint activity in determining exemption.

Example 5: Tony and Tanya Hardly are joint return filers. Tony and Tanya Hardly have two individual Schedule C businesses. Tony is an independent insurance agent earning more than \$500,000 annually. Oregon law precludes local taxation of Tony’s insurance agent income. Tanya’s gross receipts from her business are below the gross receipts exemption threshold and reports a net loss on Tanya’s separate Schedule C. In determining their exemption for the City of Portland Business License Tax and Multnomah County Business Income Tax, all gross receipts from all business activities—including otherwise exempt incomes—are to be included. However, in determining the tax due, the tax due is computed only upon the subject business income of the nonexempt activity. In this example, minimum tax would be due.

Note: Applies to tax years beginning on or after 1/1/2023.

XX-XX-2023

Thomas Lannom

Date

Director, Revenue Division

Adopted XX-XX-2023

DRAFT