

## **Business Tax Administrative Rule 400.93-1A**

### **400.93-1A – Exemption from Tax for Individuals and Joint Return Filers (LIC-4.01)**

If an individual or a joint return filer has any subject business income in addition to income from an activity specifically exempted by the Business License/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 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 exempt status of the residential rentals and brings all income producing activities into the calculations for net and gross incomes.

Example 2: John Abbott owns two residential dwelling units located in Multnomah County. He rents both these units while he gets his medical degree in Boston. Upon his return, he moves into one, continues to rent the other, and opens his medical practice near a hospital in SE Portland. Prior to the establishment of his medical practice, Mr. Abbott was exempt from filing requirements with the County. Upon the establishment of his medical practice, Dr. Abbott must file with both the City and County, and include the gross and net income from the residential rental with the gross and net income from his 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. She has no rentals outside of Multnomah County and has no other business activity. She has been exempt because the residential rental activity has been her only “business” activity as defined under the Business Income Tax Law. In the current tax year she sells one of the rental units and has a capital gain (or capital loss). The sale voids the “exclusive source” that was the basis for her exemption. If the sum of her capital gain and gross rents equal or exceed \$50,000 she will be required to file and pay 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 less than \$50,000, however, the combined gross receipts exceed \$50,000.00. 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 \$100,000 annually. Oregon law precludes local taxation of Tony’s insurance agent income. Tanya earns less than \$50,000 in gross receipts from her business and reports a net loss on her separate Schedule C. In determining exemption for the City of Portland Business License Tax

and Multnomah County Business Income Tax, all gross receipts from 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 1: Beginning with tax year 2012, the City of Portland Business License Law will no longer grant an exemption to individuals whose only business activity is renting or leasing less than ten (10) residential real property dwelling units.

Note 2: This rule sunsets 12/31/2022 and does not apply to tax years beginning on or after 1/1/2023. See 400.23-1 (LIC 4.05) for later tax years.

XX-XX-2023

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Date

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Amended XX-XX-2023

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