

Chapter 7.02 Proposed Administrative and Housekeeping Changes

1. Proposed Code Section 7.02.100 Definitions changes:

A. – Q. unchanged.

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

S. – GG. Unchanged.

2. Amend Code Section 7.02.290 Protests and Appeals as follows:

A. Any determination by the Division may be protested by the taxfiler. Written notice of the protest must be received by the Division within 30 days after the Division mailed or delivered the initial notice of determination to the taxfiler. Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Division must respond within 30 180 days after the protest is filed with ~~either a revised determination or~~ a final determination. The Division’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 Division’s response may be extended by the Division for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the Division’s deadline is extended.

B. Any final determination by the Division may be appealed by the taxfiler to the Business License Revenue Division Appeals Board (the “Appeals Board”). Written notice of the appeal must be received by the Division within 30 days after the Division mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler (“appellant”) and include a copy of the final determination.

C. – D. unchanged.

E. The Division Appeals Board must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Division may present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.

F. – I. unchanged.

3. Amend Code Section 7.02.295 Business License Appeals Board as follows:

7.02.295 ~~Business License Revenue Division~~ Appeals Board.

The ~~Business License Revenue Division~~ Appeals Board (the “Appeals Board”) hears appeals and consists of the following members:

A. – C. - unchanged

D. Appointments to the ~~Business License~~ Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.

E. No employee or agent of the City may be appointed to or serve on the ~~Business License~~ Appeals Board.

4. Amend Code Section 7.02.500 Tax Rate as follows:

A. Except as otherwise provided in this chapter, a tax is imposed upon each person doing business within the City. The tax established by the Business License Law is 2.2 percent of adjusted net income, for tax years beginning on or before December 31, 2017. For tax years beginning on or after January 1, 2018, the tax is 2.6 percent of adjusted net income, except as provided in Subsections B., C., D. and E. of this Section.

B. – F. unchanged

5. Amend Code Section 7.02.550 Presumptive Tax as follows:

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

B. Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than \$500 per license tax year.

~~**C.** Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.~~

~~**CD.**~~ Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Division will send notice of the determination and assessment to the taxfiler.

6. Amend Code Section 7.02.611 Apportionment of Income as follows:

A. “Jurisdiction to tax” occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. The City of Portland’s (City) standard for jurisdiction to tax, or nexus, is the same as the State of Oregon’s found in the Oregon Revised Statutes and Oregon Administrative Rules related to taxation. ~~Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis.~~ If a taxpayer’s business is based in the City, a taxpayer must have business activity outside the City that results in a jurisdiction to tax outside the City to apportion the income of the business. Without jurisdiction to tax outside the City, all income of a business is taxable by the City.

B. – E. unchanged

7. Amend Code Section 7.02.840 Frivolous Filing as follows:

A \$500.00 penalty will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler’s tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of “frivolous positions” as provided in Oregon Administrative Rule ~~150-316-992(5)~~ 150-316-0652 are hereby adopted by direct reference.