

PRESCHOOL FOR ALL PROGRAM

INCOME TAX ADMINISTRATION FOR PERSONAL INCOME TAX

Section	Title
11-5-000	Purpose and Applicability
11-5-103	Additional Definitions
11-5-106	Nexus
11-5-109	Tax as a Debt; Collection Authority
11-5-112	Administration
11-5-115	Administrative Authority
11-5-118	Ownership of Taxfiler Information
11-5-121	Taxfiler Representation Restrictions
11-5-124	Information Request; Examination of Books, Records or Persons
11-5-127	Taxfiler Records Retention
11-5-130	Return Due Date
11-5-133	Estimated Payments by Individuals
11-5-136	Payments of Tax by Original Due Date; Underpayment Penalty Safe Harbor
11-5-139	Payment Plan; Fee
11-5-142	Liability for Unpaid Withholdings
11-5-145	Settlement Offers and Agreements
11-5-148	Changes to Federal or State Tax Returns
11-5-151	Penalties for Violations
11-5-154	Civil Penalty for Unauthorized Access of Tax Information
11-5-157	Penalties for Violations of Personal Income Tax Law
11-5-160	Payments Applied
11-5-163	Interest on Refunds
11-5-166	Accountability of Funds; Audits

§ 11-5-000 Purpose and Applicability.

The purpose of this Preschool For All Personal Income Tax Administrative Code is to provide consistent, efficient and transparent administration of the Preschool For All Personal Income Tax Law. These rules apply to the administration of the Preschool For All Personal Income Tax Law, as applicable.

§ 11-5-103 Additional Definitions.

Terms used in the Preschool For All Personal Income Tax Administrative Code are defined as provided in this section and in Multnomah County Code (MCC) § 11.510.

ADMINISTRATIVE RULES refers to the rules comprising the Preschool For All Personal Income Tax Administrative Code.

APPEALS BOARD means the hearings body designated by the Administrator to review Taxfiler appeals from final determinations by the Administrator.

INDIVIDUAL means a natural person, including a natural person who reports that person's income to the state of Oregon in a joint personal State income tax return. In this case, Individual also refers to the joint Taxfiler.

MULTNOMAH COUNTY TAXABLE INCOME means income attributable to sources within the County less deductions from income attributable to sources within the County. This includes, but is not limited to:

- (a) Wages received by a Nonresident Taxfiler attributable to work performed within Multnomah County;
- (b) Items reported to a Nonresident Taxfiler attributable to the Taxfiler's ownership interest in a pass-through entity that does business in the county and reports tax items attributable to that ownership interest to the Taxfiler on a Schedule K-1; and
- (c) Income and expenses from a sole proprietorship or disregarded entity attributable to business in the county and reported on a Nonresident Taxfiler's Individual return.

OREGON TAXABLE INCOME means the Taxable Income of Residents, part year Residents or Nonresidents as reported or as reportable to the state of Oregon for personal income tax purposes before any credits or exemptions. The income tax form will provide specific guidance on which line from the state of Oregon tax returns should be used for the Preschool for All Personal Income Tax.

RECEIVED means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile or the receipt date from the online file and pay application confirmation notice.

§ 11-5-106 Nexus.

The Preschool For All Personal Income Tax applies to all Individuals who have substantial nexus with the County, subject only to constitutional limitations on Multnomah County's authority.

§ 11-5-109 Tax as a Debt; Collection Authority.

- (a) The Preschool For All Personal Income Tax becomes a debt due to Multnomah County at the time such liability for the tax is incurred. This includes any penalties and interest assessed.
- (b) The Administrator is authorized to collect any deficient taxes, interest and penalties owed. This includes initiating and defending any civil actions and other legal proceedings.
- (c) Multnomah County or the Administrator, as appropriate, may assign a delinquent tax account to a collection agency for collection.
- (d) As allowed by law, including ORS 697.105, any assignment to an outside collection agency is subject to a reasonable fee to be added the amount of the debt, payable by the delinquent Taxfiler, to compensate Multnomah County, in whole or in part, for the collection agency fee incurred or to be incurred.

§ 11-5-112 Administration.

- (a) The Administrator is the administrator of record and has the authority to administer and enforce the Preschool For All Personal Income Tax Law and Administrative Rules, including, but not limited to, administrative return processing, auditing, and determinations; collection of taxes, penalties and interest (including instituting legal action in any court of competent jurisdiction by or on behalf of Multnomah County); and protests and appeals.
- (b) The Administrator has access to and maintains all tax filings and records under the Preschool For All Personal Income Tax Law on behalf of Multnomah County. The Administrator may, upon Taxfiler's written request and at the sole discretion of the Administrator, interpret how the Preschool For All Personal Income Tax Law and the Administrative Rules apply to Taxfiler's facts and circumstances. Nothing in these rules precludes or is intended to preclude the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Administrator.

§ 11-5-115 Administrative Authority.

- (a) If the Administrator is a third-party contractor instead of the Chief Financial Officer of Multnomah County, the Administrator will notify Multnomah County's Chief Financial Officer at least 30 days in advance of a public hearing to adopt administrative rules relating to matters within the scope of this section to administer compliance with the Preschool For All Personal Income Tax Law.

§ 11-5-118 Ownership of Taxfiler Information.

Multnomah County is the sole owner of all Taxfiler information under the authority of the Preschool For All Personal Income Tax Law. The Multnomah County Attorney, Chief Financial Officer, Administrator, and their agents have the right to access all Taxfiler information for purposes of administration.

§ 11-5-121 Taxfiler Representation Restrictions.

- (a) No Employee or official of Multnomah County, the Administrator, or any public agency authorized to collect taxes imposed by this section may represent any Taxfiler in any matter before the Administrator. This restriction against Taxfiler representation continues for two years after termination of employment or official status.
- (b) Members of the Appeals Board may not represent a Taxfiler before the Appeals Board. No member of the Appeals Board may participate in any matter before the board if the appellant is a client of the member or the member's firm.

§ 11-5-124 Information Request, Examination of Books, Records or Persons.

- (a) The Administrator may require a Taxfiler to produce documents. The Administrator may also examine any books, papers, records, or memoranda, including State and federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Administrator has the authority, after notice, to:
 - (1) Require the attendance of any person required to file a tax return under the Multnomah County Preschool For All Personal Income Tax Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Administrator may designate;
 - (2) Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
 - (3) Require proof for the information sought, as necessary to carry out the provisions of the Preschool for All Personal Income Tax Law and Administrative Rules.
- (b) The Administrator will designate the employees who have the power to administer oaths under this section.

§ 11-5-127 Taxfiler Records Retention.

Every person required to file a return under the Preschool For All Personal Income Tax Law must keep and preserve for not less than seven years such documents and records, including State and federal income and excise tax returns, accurately supporting the information reported

on the Taxfiler's return and calculation of tax for each Tax Year.

§ 11-5-130 Return Due Date.

- (a) If the due date falls on a weekend or federal or State holiday, the due date is the first business day following the weekend or holiday.
- (b) The tax return must contain a written declaration, verified by the Taxfiler, to the effect that the statements made therein are true.
- (c) The Administrator will prepare blank tax returns and make them available upon request. Failure to receive a form does not relieve any person from the obligation to pay a tax under the Preschool For All Personal Income Tax Law.

§ 11-5-133 Estimated Payments by Individuals.

Any payment of estimated tax Received by the Administrator for which the Taxfiler has made no designation of which Tax Year the payment is to be applied, will first be applied to the current Tax Year. Any excess amount will be applied to any other outstanding account balance due for the Taxfiler. If any amounts remain to be applied, they will be applied to the upcoming Tax Year.

§ 11-5-136 Payments of Tax by Original Due Date; Underpayment Penalty Safe Harbor.

The Preschool For All Personal Income Tax is due on April 15 each year. While an extension of time to file the return may be granted by the Administrator, such an extension is not an extension to pay that tax. To avoid an underpayment penalty on an extended or late return, the Taxfiler must pay by April 15 at least 90% of the tax due for that Tax Year or 100% of the prior year's tax liability to obtain a safe harbor exception to the underpayment penalty. These payments may be made by tax withholdings from an employer or estimated payments made by the Taxfiler on or before April 15 each year.

Interest will be assessed on all tax amounts not paid by April 15, even if the Taxfiler qualifies for the underpayment penalty safe harbor.

§ 11-5-139 Payment Plan; Fee.

If an Individual or an employer fails to pay the Preschool For All Personal Income Tax when due, the Administrator may establish a payment plan pursuant to written policy. The Administrator may charge a setup fee for each payment plan established.

§ 11-5-142 Liability for Unpaid Withholdings.

- (a) It is the employer's duty to hold in trust any amount of Preschool For All Personal Income Tax withholdings from employee wages and to assume custodial liability for amounts to be

paid to the Administrator. Any employer who fails to pay the tax when due is subject to penalty and interest assessments as provided in MCC § 11.538 and 11.540.

- (b) If a business is purchased by, merged or otherwise combined with another business, the resulting entity is regarded as the same employer as the business prior to the purchase, merger or combination.

§ 11-5-145 Settlement Offers and Agreements.

- (a) The Administrator may, upon good and sufficient cause, make settlement agreements with Taxfilers in the recomputation of taxes payable or in the collection of those taxes. These agreements must be consistent with ORS 305.150, 305.155, and 305.295 and corresponding Oregon Administrative Rules. The Administrator may provide applications for settlement offers to Taxfilers proposing settlement offers.
- (b) In addition to the general power granted under the Preschool For All Personal Income Tax, the Administrator may, upon a showing of good and sufficient cause, grant a Taxfiler's request to be treated as a single filer instead of a joint filer due to hardship when the Oregon Department of Revenue has granted relief to a Taxfiler under ORS 316.368 or 316.369. In such case, a Taxfiler who is granted relief will be treated as a single Taxfiler for purposes of the Preschool For All Personal Income Tax imposed.
- (c) The Administrator may, upon good and sufficient cause, make settlement agreements in the collection of Preschool For All Personal Income Taxes withheld but not remitted with employers and/or any responsible officer, partner, or member of the employer if held personally responsible for the amounts withheld but not remitted.

§ 11-5-148 Changes to Federal or State Tax Returns.

- (a) If a Taxfiler's reported income under applicable laws imposing a tax on or measured by income is changed by the Internal Revenue Service or a state department of revenue, or amended by the Taxfiler to correct an error in the original federal or state return, the Taxfiler must file a report of that change with the Administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- (b) The Administrator may assess deficiencies and grant refunds resulting from changes to any relevant federal, state or local income tax return within the time periods provided for in MCC § 11.542, treating the report of change in federal, state or business income tax return as the filing of an amended tax return.
- (c) The Administrator may assess penalties and interest on the additional tax due as provided in MCC § 11.538 and 11.540 or may refuse to grant a refund of taxes as a result of the amended

return if the amended return is not filed with the Administrator within the time limits set forth in subsection (a).

§ 11-5-151 Penalties for Violations.

A violation of MCC § 11.552 is punishable by a fine not exceeding \$500. In addition, any Multnomah County employee or Administrator's employee (if the Administrator is not the Chief Financial Officer) convicted for violation of MCC § 11.552 or MCC § 11.554 is subject to possible dismissal from employment and barred from employment for a period of five years thereafter. Any agent of Multnomah County who is convicted is ineligible for participation in any Multnomah County contract for a period of five years thereafter.

§ 11-5-154 Civil Penalty for Unauthorized Access of Tax Information.

(a) As used in this section, the following definitions apply:

DATABASE means any computer application(s) used by the Administrator to calculate or store business, personal, and financial data collected under the authority granted by the Preschool For All Personal Income Tax Law.

LOSS means any reasonable cost incurred by Multnomah County or the Administrator, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

(b) Any Individual who intentionally accesses the Database without authorization will be fined:

- (1) \$10,000 if the Individual accesses any information regarding any business or personal account found in the Database;
- (2) \$10,000 or the cost of the Loss (whichever is greater) if the Individual uses or attempts to use the accessed information for financial gain of any kind; or
- (3) \$10,000 or the cost of the Loss (whichever is greater) if the Individual causes the transmission of a program, information, code, or command to the Database, and, as a result of such conduct, causes damage to the Database.

§ 11-5-157 Penalties for Violations of Personal Income Tax Law.

The Administrator may assess the following penalties:

- (a) If a Taxfiler fails to file a return with the intent to evade the tax imposed under the Personal Income Tax Law, or a Taxfiler prepares or causes to be prepared a return and files that return with the intent to evade the tax imposed under the Personal Income Tax Law, the

Administrator may impose a penalty in the amount of 100% of any deficiency that the Administrator determines is due.

(b) If the Administrator determines that there is a substantial understatement of tax due under the Preschool For All Personal Income Tax Law, the Administrator will add to the amount of tax required to be shown on the return a penalty equal to 20% of the amount of any underpayment of tax attributable to the understatement.

(1) For purposes of this subsection, a substantial understatement of tax exists if the amount of the understatement exceeds \$1,000 of tax otherwise due.

(2) In the case of any item attributable to an abusive tax shelter: no reduction of the amount of the understatement will be made with regard to that item regardless of the existence of substantial authority for the treatment of the item by the Taxfiler; and, no reduction of the amount of the understatement will be made with regard to that item regardless of the disclosure of the facts affecting the tax treatment of the item unless, in addition to the disclosure, the Administrator determines in the Administrator's sole discretion, that the Taxfiler reasonably believed that the tax treatment of the item was more likely than not the proper treatment. This section expressly adopts the definitions contained in ORS 314.402 and the administrative rules thereunder.

(3) The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the Taxfiler that there was reasonable cause for the understatement or any portion thereof, and that the Taxfiler acted in good faith.

(c) Each penalty imposed under this section is in addition to any other penalty imposed.

§ 11-5-160 Payments Applied.

Tax payments Received may be applied first to any penalty accrued, then to interest accrued, then to taxes due, unless the Administrator determines in accordance with its written policies that a more equitable method exists for a particular Taxfiler's account. The Administrator will apply tax payments Received without a designation or other clear indication for a specific period to the oldest periods first in the order set forth above.

§ 11-5-163 Interest on Refunds.

When a Taxfiler is entitled to a refund of a portion or all of a tax paid to the Administrator, the Taxfiler will receive simple interest on that amount at the rate specified, subject to the following:

(a) Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four months after the later of:

(1) The due date of the tax return, including extensions;


(2) The date the tax return was filed or the refund was otherwise requested; or

(3) The date the tax payment was Received, to the date of the refund.


(b) Any overpayments of taxes that are the result of an amended return being filed will be refunded with interest for each month or fraction thereof for the period beginning four months after the date the Taxfiler filed the amended return. This subsection also applies to tax returns that are amended due to a change to any relevant federal, state, or local income tax return.

§ 11-5-166 Accountability of Funds; Audits.

(a) The revenue and expenditures from the taxes are subject to performance audits conducted by the Office of the Multnomah County Auditor and the City of Portland Auditor.

By:  _____

Eric Arellano, County Chief Financial Officer

By:  _____

William Glasson, Assistant County Attorney