

CHAPTER 11: REVENUE AND TAXATION

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CHAPTER 11: REVENUE AND TAXATION

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Cross-reference:

Auditor, see Charter § 8.10

Statutory reference:

Assessment of property for taxation, see ORS, Ch. 308

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Chapter 11 - Revenue and Taxation

MISCELLANEOUS FEE PROVISIONS

§ 11.001 POLICY AND PURPOSE OF FEES.

Because of the increasing costs to the county of providing services to the public and of discharging the legal responsibilities of the county, and because of the decreased availability of general county revenue to defray costs, the Board declares it to be in the interests of the people of the county for the fees established in this code of ordinances to be imposed and collected by the county from the persons directly served or affected by the provision of such services and the performance of such responsibilities.

(' 90 Code, § 5.10.005, 07/01/1998; Ord. 105, passed, 07/10/1975)

§ 11.002 FEES FOR PUBLICATIONS AND RECORDS.

The director of each department of the county shall establish a schedule of fees, which shall be conspicuously posted at appropriate locations, for publications and copies of records provided by the department. The fees for copies of records shall, where appropriate, differentiate between and specify fees for copies according to the method and format of reproduction. The fees authorized by this section shall be based upon actual cost as determined by the directors.

(' 90 Code, § 5.10.060, 07/01/1998; Ord. 157, passed, 12/29/1977)

§ 11.003 FEES FOR TAPES AND DOCUMENTS PROVIDED BY THE CLERK OF THE BOARD'S OFFICE.

The fees for the code and duplication of the records of the Board shall be set by the office of the Board clerk to cover the actual cost of printing and distribution.

(' 90 Code, § 5.10.080, 07/01/1998; Ord. 706, passed, 12/05/1991; Ord. 459, passed, 02/28/1985; Ord. 390, passed, 09/01/1983)

PERSONAL PROPERTY TAX SALES

§ 11.100- SALE FOR AMOUNT DUE.

The personal property tax collector or any deputy or agent shall first attempt at public auction to sell seized personal property for the taxes, interest and penalties due.

(* 90 Code, § 5.20.005, 07/01/1998; Ord. 734, passed, 10/01/1992)

§ 11.101 INSUFFICIENT BID.

(A) If no bidder at the sale offers to pay the amount due, the personal property tax collector may then attempt to sell the property at the same auction.

(B) The personal property tax collector shall sell the property at the auction if, based on the information available at the time, it is determined that:

(1) The county may incur significant costs to keep the property until a later sale;

(2) The county may not get the best possible price at a later sale.

(* 90 Code, § 5.20.010, 07/01/1998; Ord. 734, passed, 10/01/1992)

MOTOR VEHICLE FUEL TAX

§ 11.200- DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

AIRCRAFT FUEL. Any gasoline and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of aircraft, except gas or liquid, the chief use of which, as determined by the Division, is for purposes other than the propulsion of aircraft.

DEALER. Any person who:

(1) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in, and after the same reaches the county. **DEALER** does not include any person who imports into the county motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under this subchapter and who assumes liability for the payment of the applicable license fee to the county; or

(2) Produces, refines, manufactures or compounds motor vehicle fuels in the county for use, distribution or sale in the county; or

(3) Acquires in the county for sale, use or distribution in the county motor vehicle fuels with respect to which there has been no license fee previously incurred.

DISTRIBUTION. In addition to its ordinary meaning, also includes the delivery of motor vehicle fuel by a dealer or subdealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer or subdealer.

DIVISION. The Motor Vehicles Division of the Department of Transportation.

HIGHWAY. Every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

MOTOR VEHICLE. All vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

MOTOR VEHICLE FUEL. Includes gasoline and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas or liquid, the chief use of which, as determined by the Division, is for purposes other than the propulsion of motor vehicles upon the highways of the state. The term shall not include diesel fuel.

SERVICE STATION. Includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

SUBDEALER. Includes every person other than a dealer engaging in the business of handling motor vehicle fuel for sale and distribution both within and without the county.

(* 90 Code, § 5.30.010, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.201 FEE IMPOSED; ADMINISTRATION BY DIVISION.

A business license fee is imposed on every dealer or subdealer. The fee imposed shall be paid monthly to the Division, as agent for the county. The Division is designated the agent of the county for the purposes of administering the business license fee imposed by this subchapter and is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the fee as it is authorized under ORS 319.010 to 319.430 with regard to the business license tax imposed by these provisions.

(* 90 Code, § 5.30.020, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.202 MONTHLY STATEMENT BY DEALER; AMOUNT OF FEE.

(A) Subject to subsections (B) and (C), below, in addition to any fees or taxes otherwise provided for by law, every dealer and subdealer engaging in his own name, or in the name of others, or in the name of his representatives or agents in the county, in the sale, use or distribution of motor vehicle fuel or withdrawal of motor vehicle fuel for sale, use or distribution within areas in the county within which the county has the power to tax the sale, use or distribution of motor vehicle fuel, shall:

(1) No later than the 25th day of each calendar month, render a statement to the Division of all motor vehicle fuel sold, used, distributed or so withdrawn by him in the county as well as all such fuel sold, used or distributed in the county by a purchaser thereof upon which sale, use or distribution the dealer is liable for the applicable license fee during the preceding calendar month.

(2) Pay a license fee computed as of October 1, 1981, on the basis of \$0.03 per gallon of such motor vehicle fuel, upon which no license fee has previously been paid or is otherwise due under this subchapter, so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in this subchapter.

(B) In lieu of claiming refund of the fee paid as to motor vehicle fuel consumed by the dealer or subdealer in non-highway uses as provided in §§ 11.219, 11.220, and 11.223, or of any prior erroneous payment of license fee made to the county by the dealer or subdealer, the dealer or subdealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of fee.

(C) The license fee shall not be imposed whenever it is prohibited by the constitution or laws of the United States or the state.

(Ord. 1280, Amended, 02/20/20; ' 90 Code, § 5.30.030, 07/01/1998; Ord. 273, passed, 05/14/1981; Ord. 123, passed, 04/15/1976)

§ 11.203 LICENSE REQUIRED.

No dealer shall sell, use or distribute any motor vehicle fuel until he has secured a dealer's license as required by this subchapter. No subdealer shall sell, use or distribute any motor vehicle fuel until he has secured a subdealer's license as required by this subchapter.

(' 90 Code, § 5.30.040, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.204 APPLICATION AND ISSUANCE OF LICENSE.

(A) Every person, before becoming a dealer or subdealer in motor vehicle fuel in the county, shall make an application to the Division for a license authorizing such person to engage in business as a dealer or subdealer.

(B) Applications for the license must be made on forms prescribed, prepared and furnished by the Division.

(C) The applications shall be accompanied by a duly acknowledged certificate containing the following:

(1) The business name under which the dealer or subdealer is transacting business within the county;

(2) The place of business and location of distributing stations in the county; and

(3) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent.

(D) The application for a motor vehicle fuel dealer's or subdealer's license having been accepted for filing, the Division shall issue to the dealer or subdealer a license in such form as the Division may prescribe to transact business in the county. The license so issued is not assignable, and is valid only for the dealer or subdealer in whose name issued.

(E) The Division shall keep and file all applications with an alphabetical index thereof, together with a record of all licensed dealers and subdealers. (' 90 Code, § 5.30.050, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.205 FAILURE TO SECURE LICENSE; DELINQUENCY PENALTY.

(A) If any dealer or subdealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the license required by § 11.204, the license fee shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

(B) The Division shall proceed forthwith to determine, from the best available sources, the amount of such fee, and it shall assess the fee in the amount found due, together with a penalty of 100% of the fee, and shall make its certificate of such assessment and penalty. In any suit or proceeding to collect such fee or penalty or both, the certificate is prima facie evidence that the dealer or subdealer therein named is indebted to the county in the amount of the fee and penalty therein stated.

(C) Any fee or penalty so assessed may be collected in the manner prescribed in § 11.209 with reference to delinquency in payment of the fee or by an action at law, which the Division, through the Attorney General, shall commence and prosecute to final determination at the request of the Division. (' 90 Code, § 5.30.060, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.206 REVOCATION OF LICENSE.

The Division shall revoke the license of any dealer or subdealer refusing or neglecting to comply with any provision of this subchapter. The Division shall mail by registered mail addressed to such dealer or subdealer at his last known address appearing on the files of the Division, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within ten days from

the mailing of the notice the dealer or subdealer has not made good its default or delinquency. (' 90 Code, § 5.30.070, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.207 CANCELLATION OF LICENSE.

(A) The Division may, upon written request of a dealer or subdealer, cancel any license issued to such dealer or subdealer, the cancellation to become effective 30 days from the date of receipt of the written request.

(B) If the Division ascertains and finds that the person to whom a license has been issued is no longer engaged in the business of a dealer or subdealer, the Division may cancel the license of such dealer or subdealer upon investigation after 30 days' notice has been mailed to the last-known address of the dealer or subdealer. (' 90 Code, § 5.30.080, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.208 REMEDIES CUMULATIVE.

Except as otherwise provided in §§ 11.209 and 11.211, the remedies provided in §§ 11.205 to 11.207 are cumulative. No action taken pursuant to those sections shall relieve any persons from the penalty provisions of this subchapter. (' 90 Code, § 5.30.090, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.209 PAYMENT OF FEE AND DELINQUENT PENALTY.

(A) The license fee imposed by §§ 11.201 and 11.202 shall be paid on or before the 25th day of each month to the division which, upon request, shall provide a receipt to the dealer or subdealer therefor.

(B) Except as provided in subsection (D), to any license fee not paid as required by subsection (A) there shall be added a penalty of 1% of such license fee.

(C) Except as provided in subsection (D), below, if the fee and penalty required by subsection (B) are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10% shall be paid

in addition to the penalty provided for in subsection (B).

(D) If the Division determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by subsections (B) and (C) shall be waived. Penalties imposed by this section shall not apply when the penalty provided in § 11.205 has been assessed.

(E) If any person fails to pay the license fee or any penalty provided for by this subchapter, the amounts thereof shall be collected from such person for the use of the county. The Division, through the Attorney General, shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.

(F) No dealer who collects from any person the fee provided for in this subchapter shall knowingly and willfully fail to report and pay the same to the Division as required by this subchapter.

(Ord. 1280, Amended, 02/20/20; ‘ 90 Code, § 5.30.100, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.210 MONTHLY STATEMENTS REQUIRED.

Every dealer or subdealer in motor vehicle fuel shall render to the Division, on or before the 25th day of each month, on forms prescribed, prepared and furnished by the Division, a signed statement of the number of gallons of motor vehicle fuel sold, distributed or used by him during the preceding calendar month. The statement shall be signed by one of the principal officers, or by an authorized agent in the case of a corporation; or by the managing agent or owner in case of a firm or association. All statements filed with the Division, as required in this section, are public records.

(‘ 90 Code, § 5.30.110, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.211 FAILURE TO FILE MONTHLY STATEMENT.

If any dealer or subdealer, except one subject to § 11.205, fails to file the report required by § 11.210, the Division shall proceed forthwith to determine from the best available source the amount of motor vehicle fuel sold, distributed or used by such dealer or subdealer for the period unreported, and such determination shall be prima facie evidence of the

amount of such fuel sold, distributed or used. The Division immediately shall assess the license fee in the amount so determined, adding thereto a penalty of 10% for failure to report. The penalty shall be cumulative to other penalties provided in this subchapter. In any suit brought to enforce the rights of the county under this section, the certificate of the Division showing the amount of fees, penalties and costs unpaid by any dealer or subdealer and that the same are due and unpaid to the county is prima facie evidence of the facts as shown.

(‘ 90 Code, § 5.30.120, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.212 BILLING PURCHASERS.

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers or subdealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the Division the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Division are maintained. The bills required hereunder may be the same as or incorporated in those required under ORS 319.210.

(‘ 90 Code, § 5.30.130, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.213 RECEIPT, PAYMENT OR SALE WITHOUT INVOICE OR DELIVERY TAG PROHIBITED.

No person shall receive and accept any shipment of motor vehicle fuel from any dealer or subdealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer or subdealer in motor vehicle fuel.

(‘ 90 Code, § 5.30.140, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.214 TRANSPORTING MOTOR VEHICLE FUEL IN BULK.

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of the county with such conveyance, have and possess during the entire time of his hauling or transporting such motor vehicle fuel an

invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any sheriff, deputy sheriff, constable, state police or other officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

(‘ 90 Code, § 5.30.150, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.215 EXPORT FUEL EXEMPTED.

(A) The license fee imposed by §§ 11.201 and 11.202 shall not be imposed on motor vehicle fuel:

(1) Exported from the county by a dealer or subdealer; or

(2) Sold by a dealer or subdealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the county in containers other than the fuel tank of a motor vehicle, but every dealer or subdealer shall be required to report such exports and sales to the division in such detail as may be required.

(B) In support of any exemption from license fees claimed under this section other than in the case of stock transfers or deliveries in his own equipment, every dealer or subdealer must execute and file with the Division an export certificate in such form as shall be prescribed, prepared and furnished by the Division, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the county, and giving such details with reference to such shipment as the Division may require. The Division may demand of any dealer or subdealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Division may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

(C) Any motor vehicle fuel carried from the county in the fuel tank of a motor vehicle shall not be considered as exported from the county, except that a

refund of the fee may be paid on such fuel as provided in § 11.219.

(D) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the county fee has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the county and fail to notify the Division and the dealer or subdealer from whom the motor vehicle fuel was originally purchased of his act.

(E) No dealer, subdealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the county for sale or use so as to avoid any of the fees imposed by this subchapter.

(F) In support of any exemption from fees on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Division. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

(‘ 90 Code, § 5.30.160, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.216 SALES TO ARMED FORCES EXEMPTED.

The license fee imposed by §§ 11.201 and 11.202 shall not be imposed on any motor vehicle fuel sold to the armed forces of the United States for use in ships, aircraft or for export from the county; but every dealer or subdealer shall be required to report such sales to the Division in such detail as may be required. A certificate by an authorized officer of such armed forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

(‘ 90 Code, § 5.30.170, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.217 FUEL IN VEHICLES COMING INTO COUNTY NOT TAXED.

Any person coming into the county in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for his own use only and for the purpose of operating such motor vehicle without securing a license or paying the fee provided in §§ 11.201 and 11.202, or complying with any of the provisions imposed upon dealers by this subchapter, but if the motor vehicle fuel so brought into the county is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person is so importing the fuel into the county and shall be subject to all the provisions in this subchapter applying to dealers.

(' 90 Code, § 5.30.180, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.218 FUEL SOLD OR DELIVERED TO DEALERS OR SUBDEALERS.

(A) A dealer or subdealer selling or delivering motor vehicle fuel to dealers or subdealers is not required to pay a license fee thereon.

(B) The dealer or subdealer in rendering monthly statements to the Division as required by §§ 11.201 and 11.210 shall show separately the number of gallons of motor vehicle fuel sold or delivered to dealers or subdealers.

(' 90 Code, § 5.30.190, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.219 REFUNDS.

(A) Any person who has paid any fees on motor vehicle fuel imposed or directed to be paid under this subchapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of such fee paid by him, except as provided in §§ 11.220 and 11.223, if such person has:

(1) Purchased and used such fuel for the purpose of operating or propelling stationary gas engines, tractors or motorboats if the motorboat is used for commercial purposes at any time during the period for which the refund is claimed;

(2) Purchased and used such fuel for cleaning or dyeing or other commercial use, except when used in motor vehicles operated upon any highway;

(3) Purchased and exported such fuel from the county, in containers other than fuel supply tanks of motor vehicles; or

(4) Purchased and exported such fuel in the fuel supply tank of a motor vehicle and has used such fuel to operate the vehicle upon the highways of another state, if the user has paid to the other state a similar motor vehicle fuel fee or tax on the same fuel, or has paid any other highway use tax the rate for which is increased because such fuel was not purchased in, and the fee or tax thereon paid, to such state.

(B) When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for such equipment or separate tank for such a motor, a refund may be claimed and allowed as provided by subsection (D), except as otherwise provided by this subsection (B), without the necessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equipment. The person claiming the refund may present to the Division a statement of his claim and be allowed a refund as follows:

(1) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other petroleum products by a power takeoff unit on a delivery truck, refund shall be allowed claimant for the fee paid on fuel purchased at the rate of $\frac{3}{4}$ of one gallon for each 1,000 gallons of petroleum products delivered.

(2) For fuel used in operating a power takeoff unit on a cement mixer truck or on a garbage truck, claimant shall be allowed a refund of 25% of the fee paid on all fuel used in such a truck.

(C) When a person purchases and uses motor vehicle fuel in a vehicle equipped with a power takeoff unit, a refund may be claimed for fuel used to operate the power takeoff unit provided the vehicle is equipped with a metering device approved by the Division and designed to operate only while the vehicle is stationary and the parking brake is engaged;

the quantity of fuel measured by the metering device shall be presumed to be the quantity of fuel consumed by the operation of the power takeoff unit.

(D) Before any such refund may be granted, the person claiming such refund must present to the Division a statement accompanied by copies of the original invoices showing such purchases; provided that in lieu of such invoices, refunds submitted under subsection (A)(4) shall be accompanied by information showing source of fuel used and evidence of payment of fee or tax to the state in which the fuel was used. The statement shall be made over the signature of the claimant, and shall state the total amount of such fuel for which is entitled to be reimbursed under subsection (A). The Division, upon the presentation of the statement and invoices, or other required documents, shall cause to be repaid to the claimant from the fees collected on motor vehicle fuel such fees so paid by the claimant.

(Ord. 1280, Amended, 02/20/20; ' 90 Code, § 5.30.200, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.220 LIMITATION ON
APPLICATIONS FOR REFUNDS.**

Applications for refunds made under §§ 11.219 and 11.223 to 11.227 must be filed with the Division before the expiration of 15 months from the date of purchase or invoice, except that unused fuel reported as an ending inventory on any claim may be included in a subsequent claim if presented not later than 15 months from the filing date of the claim which established the inventory. All applications for refunds based upon exportation of motor vehicle fuel from this state in the fuel supply tank of a motor vehicle must be filed with the Division before the expiration of 15 months from the last day of the month in which the fuel was used, or before the expiration of 15 months from the date of an assessment for unpaid fee or tax by the state in which the fuel was used.

(' 90 Code, § 5.30.210, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.221 SELLER TO GIVE INVOICE
FOR EACH PURCHASE MADE
BY PERSON ENTITLED TO
REFUND.**

(A) When motor vehicle fuel is sold to a person who claims to be entitled to a refund of the fee imposed, the seller of the motor vehicle fuel shall make and deliver at the time of the sale separate invoices

for each purchase in such form and containing any information prescribed by the Division.

(B) The invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. Any person who alters any part of any invoice that will tend to give to the claimant an illegal gain, shall have the entire claim invalidated. The seller shall for a period of at least 18 months retain copies of all invoices and make them available to the Division upon request.

(C) The invoices required by this section may be the same as or incorporated in those required under ORS 319.300.

(' 90 Code, § 5.30.220, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.222 CLAIMS FOR REFUNDS;
INVESTIGATION.**

(A) The Division may require any person who makes claim for refund of fee on motor vehicle fuel to furnish a statement, under oath, giving his occupation, description of the machines or equipment in which the motor vehicle fuel was used, the place where used and such other information as the Division may require.

(B) The Division may investigate claims and gather and compile such information in regard to the claims as it considers necessary to safeguard the county and prevent fraudulent practices in connection with fee refunds and evasions. The Division may, in order to establish the validity of any claim, examine the books and records of the claimant for such purposes. The records shall be in such form and contain such information as the Division may require. Failure of the claimant to maintain such records or to accede to the demand for such examination constitutes a waiver of all rights to the refund claimed on account of the transaction questioned.

(' 90 Code, § 5.30.230, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.223 REFUND OF FEE ON FUEL USED IN OPERATION OF VEHICLES OVER CERTAIN ROADS OR PRIVATE PROPERTY.

(A) Except where a refund is authorized by §§ 11.225 or 11.226, upon compliance with subsections (B) or (C) the Division shall refund, in the manner provided in subsections (B) or (C), the fee on motor vehicle fuel that is used in the operation of a motor vehicle:

(1) By any person on any road, thoroughfare or property in private ownership.

(2) By any person on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of any agency named in subsections (A)(2)(a), (b) or (c).

(3) By an agency of the United States or of the state or any county, city or port of the state on any road, thoroughfare or property, other than a state highway, county road or city street.

(4) By any person on any county road for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if:

(a) The use of the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such person to use such road and requiring

such person to pay for or to perform the construction or maintenance of the county road;

(b) The Board, officer or agency that entered into the agreement or granted the permit, by contract with the County Court or Board, has assumed the responsibility for the construction or maintenance of such county road; and

(c) Copies of the agreements or permits required by subsections (A)(4)(a) and (b) are filed with the Division.

(B) Except for a farmer subject to subsection (C), the person or agency, as the case may be, who has paid any fee on such motor vehicle fuels imposed or directed to be paid, as provided by this subchapter, is entitled to claim a refund of the fee so paid on such fuels or for the proportionate part of the fee paid on fuels used in the operation of such vehicles, when part of the operations are over such road, thoroughfares or property. The proportionate part shall be based upon the number of miles traveled by any such vehicle over such roads, thoroughfares or property as compared to the total number of miles traveled by such vehicle. To be eligible to claim such refund the person or agency, as the case may be, shall first establish and maintain a complete record of the operations, miles traveled, gallons of fuel used and other information, in such form and in such detail as the Division may prescribe and require, the source of supply of all fuels purchased or used, and the particular vehicles or equipment in which used. Whenever any such claim is received and approved by the Division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(C) A farmer who has paid any fee on motor vehicle fuels imposed or directed to be paid, as provided by this subchapter, is entitled to claim a refund of the fee paid on such fuels used in farming operations in the operation of any motor vehicle on any road, thoroughfare or property in private ownership. To be eligible to claim such refund a farmer shall maintain in such form and in such detail as the Division may prescribe and require, a record, supported by purchase invoices, of all such motor vehicle fuel purchased (including fuel purchased to operate any motor vehicle on the highway) and, for each and every motor vehicle operated on the highway, a record of all fuel used and of all miles traveled on the highway. Whenever

any such claim is received and approved by the Division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(D) As used in subsections (B) and (C), **FARMER** includes any person who manages or conducts a farm for the production of livestock or crops but does not include a person who manages or conducts a farm for the production of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or of forest trees unless the production of such forest products or forest trees is only incidental to the primary purpose of the farming operation.

(Ord. 1280, Amended, 02/20/20; ‘ 90 Code, § 5.30.240, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.224 REFUNDS TO PURCHASERS OF FUEL FOR AIRCRAFT.

Whenever any statement and invoices are presented to the Division showing that motor vehicle fuel has been purchased and used in operating aircraft engines and upon which the fee on motor vehicle fuel has been paid, the Division shall refund the fee paid. (‘ 90 Code, § 5.30.250, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.225 REFUNDS TO COUNTIES AND ROAD ASSESSMENT DISTRICTS.

Any county or road assessment district formed under ORS 371.405 to 371.535, which buys and uses any motor vehicle fuel for the purpose of operating or propelling road maintainers, graders, tractors, trucks and other equipment used in the construction and maintenance of public highways and which has paid any fee on motor vehicle fuel imposed or directed to be paid under this subchapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by the county or road assessment district as provided by §§ 11.219 through 11.224 of this subchapter if such machinery is used exclusively for the maintenance and construction of such public highways.

(‘ 90 Code, § 5.30.260, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.226 REFUNDS TO STATE, COUNTIES, AND CITIES.

(A) The state, counties and any city, by its proper officer or officers, may secure from the county a refund of any and all fees imposed and collected by the county on any motor vehicle fuel purchased and used by the state, counties, or such city.

(B) The Division may establish rules necessary to safeguard the county in the matter of the fee refunds authorized in this section. Noncompliance with any of such rules by the state or any incorporated city or town claiming refund under this section is grounds for refusal by the Division to allow such claims.

(C) The procedure for refund of fees provided by §§ 11.219 through 11.224 of this subchapter shall apply insofar as applicable to claims for the refunds authorized by this section.

(‘ 90 Code, § 5.30.270, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.227 REFUND OF FEE ON FUEL USED IN TRANSPORTATION OF RURAL MAIL.

(A) All fees collected by the county on the sale, use or distribution of any motor vehicle fuel used exclusively in the transportation of rural free delivery mail or special delivery mail of the United States shall be refunded to the person paying the fee if the person is engaged solely and exclusively in the transportation of rural free delivery mail or special delivery mail of the United States.

(B) Any person engaged solely and exclusively in transportation of rural free delivery or special delivery mail of the United States, who buys any motor vehicle fuel and uses it exclusively in the transportation of rural free delivery mail or special delivery mail of the United States, and who has paid any fee on motor vehicle fuel, either directly by the collection of the fee by the vendor from the consumer or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by him upon presenting to the Division a statement accompanied by the original invoice showing the purchase. The statement shall be made over the signature of the claimant and shall state the total amount of fuel so

purchased and used by the consumer for the transportation of rural free delivery mail or special delivery mail of the United States. The Division, upon the presentation of the statement and the voucher, shall cause to be repaid to the consumer, from the fees collected on motor vehicle fuels, the fees so paid by the consumer on motor vehicle fuels so used.

(* 90 Code, § 5.30.280, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.228 EXAMINATIONS AND INVESTIGATIONS; CORRECTION OF REPORTS.

The Division may make any examination of the accounts, records, stocks, facilities and equipment of dealers, subdealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this county, and such other investigations as it considers necessary in carrying out the provisions of this subchapter. If the examinations or investigations disclose that any reports of dealers, subdealers or other persons filed with the Division pursuant to the requirements of this subchapter, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the fee accruing, the Division may make such changes in subsequent reports and payments of such dealers, subdealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

(* 90 Code, § 5.30.290, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.229 LIMITATION ON CREDIT FOR OR REFUND OF OVERPAYMENT AND ON ASSESSMENT OF ADDITIONAL FEE.

(A) Except as otherwise provided in this subchapter, any credit for erroneous overpayment of fee made by a dealer or subdealer taken on a subsequent return or any claim for refund of fee erroneously overpaid filed by a dealer or subdealer must be taken or filed within three years after the date on which the overpayment was made to the county.

(B) Except in the case of a fraudulent report or neglect to make a report, every notice of additional fee proposed to be assessed under this subchapter shall be served on dealers and subdealers within three

years from the date upon which such additional fees become due.

(* 90 Code, § 5.30.300, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.230 EXAMINING BOOKS AND ACCOUNTS OF CARRIER OF MOTOR VEHICLE FUEL.

The Division may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the county for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of fees in enforcing the provisions of this subchapter.

(* 90 Code, § 5.30.310, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.231 RECORDS TO BE KEPT BY DEALERS.

Every dealer or subdealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the Division of all purchases, receipts, sales and distribution of motor fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the Division or its designees.

(* 90 Code, § 5.30.320, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.232 RECORDS TO BE KEPT THREE YEARS.

Every dealer and subdealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the county by such dealer or subdealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Division. In the event such records are not kept within the state, the dealer or subdealer shall reimburse the Division for all travel, lodging and related expenses incurred by the Division in examining such records. The amount of such expenses shall be an additional fee imposed under this subchapter.

(* 90 Code, § 5.30.330, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.233 USE OF FEE.

(A) Except as provided by subsection (B) the fees collected under this subchapter, after deducting the costs of administration and collection, shall be used by the county solely for the purposes prescribed by the state constitution for the use of taxes upon motor vehicle fuel; but may be shared by agreement with a city or cities situated in whole or in part within its boundaries for those purposes.

(B) (1) On or before August 15 of each year, the Director of the Department of County Management shall determine as accurately as possible the amount of the motor vehicle fuel tax imposed under §§ 11.201 through 11.218 of this subchapter during the preceding fiscal year with respect to fuel purchased and used to operate or propel motorboats. The amount determined shall be reduced by the amount of any refunds for motorboats used for commercial purposes actually paid during the preceding year on account of § 11.219(A)(1) of this subchapter.

(2) The amount of the estimate made under subsection (B)(1) as reduced by refunds shall be transferred to Metro on or before September 30 of each year to be used solely for the acquisition, development, administration, operation, and maintenance of any Metro-owned or operated facility which was transferred by the county to Metro.

(3) The county is authorized to enter onto an agreement with the Department of Transportation of the state to administer, collect and deposit all revenue due under this subchapter. The Department of Transportation may be reimbursed for its administrative costs from the funds collected pursuant to this subchapter.

(Ord. 1280, Amended, 02/20/20; Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; Ord. 956, Amended, 01/18/2001; '90 Code, § 5.30.340, 07/01/1998; Ord. 862, passed, 07/11/1996; Ord. 588, passed, 08/04/1988; Ord. 273, passed, 05/14/1981; Ord. 123, passed, 04/15/1976)

VEHICLE REGISTRATION FEE

§ 11.250- AUTHORITY.

This ordinance is adopted pursuant to the authority granted by Oregon Laws Chapter 803 (2009), Oregon Laws Chapter 750 (2017), Oregon Laws Chapter 24 (2018), and House Bill 2112 (2019). (Ord. 1277, Amended, 12/05/2019; Ord. 1259, Amended, 07/12/2018; Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff. 9/1/2010)

§ 11.251 PURPOSE.

The purpose of this ordinance is to provide funds for performing capital maintenance on, planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland or the approaches to the bridge. (Ord. 1277, Amended, 12/05/2019; Ord. 1259, Amended, 07/12/2018; Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff. 9/1/2010)

§ 11.252 DEFINITIONS.

(A) "Bridge" means the bridges and parts thereof.

(B) "Vehicle" shall have the meaning given in ORS 801.590.

(C) "Registration" or "register" shall have the meaning given in ORS 801.410. (Ord. 1259, Amended, 07/12/2018; Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff. 9/1/2010)

§ 11.253 FEE IMPOSED; EXEMPTIONS.

(A) Subject to the exceptions in subsection (B), a vehicle registration fee is imposed on every vehicle registered with the State of Oregon Department of Transportation where the address on the application for registration or the renewal of registration is in Multnomah County.

(B) The following vehicles are exempt from the vehicle registration fee:

- (1) Snowmobiles and Class I all-terrain vehicles;
- (2) Fixed load vehicles;

(3) Vehicles registered under ORS 805.100 to disabled veterans;

(4) Vehicles registered as antique vehicles under ORS 805.010;

(5) Vehicles registered as vehicles of special interest under ORS 805.020;

(6) Government-owned or operated vehicles registered under ORS 805.040 or 805.045;

(7) School buses or school activity vehicles registered under ORS 805.050;

(8) Law enforcement undercover vehicles registered under ORS 805.060;

(9) Vehicles registered on a proportional basis for interstate operation;

(10) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (10) or (11);

(11) Vehicles registered as farm vehicles under the provisions of ORS 805.300;

(12) Travel trailers, campers and motor homes.

(13) Vehicles registered to an employment address as provided in ORS 802.250 when the eligible public employee or household member's residence address is not within the county of the employment address.

(14) Vehicles registered under ORS 803.420 to former prisoners of war. (Ord. 1259, Amended, 07/12/2018; Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff. 9/1/2010)

§ 11.254 AMOUNT OF THE FEE.

With the exception of a trailer issued permanent registration as described in ORS 803.415(1)(c), at the time a vehicle is first registered or at the time of registration renewal, the applicant shall pay a county vehicle registration fee of \$56.00 for each year of the

registration period, unless otherwise specified by law. At the time a trailer issued permanent registration is first issued, the applicant shall pay a county vehicle registration fee of \$10.00. This fee is in addition to other fees required to be paid to the State of Oregon under ORS 803.420 and ORS 803.422. The fee shall be collected by the Oregon Department of Transportation on behalf of Multnomah County.
(Ord. 1277, Amended, 12/05/2019; Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff. 9/1/2010)

§ 11.255 AGREEMENT WITH THE OREGON DEPARTMENT OF TRANSPORTATION.

Pursuant to ORS 801.041, the County shall enter into an intergovernmental agreement with the Oregon Department of Transportation for collection of the fees.
(Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff.. 9/1/2010)

§ 11.256 USE OF PROCEEDS.

The net proceeds of the fees collected under this subchapter shall be used exclusively to pay the cost of performing capital maintenance on, planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland or the approaches to the bridge, and for payment of debt service and costs related to bonds or other obligations for such purpose.
(Ord. 1277, Amended, 12/05/2019; Ord. 1259, Amended, 07/12/2018; Ord. 1184, Amended, 06/23/2011; Ord. 1151, Amended, 09/01/2010, Ord. 1148, Added, 10/22/2009, eff. 9/1/2010)

MOTOR VEHICLE RENTAL TAX**§ 11.300- DEFINITIONS.**

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

COMMERCIAL ESTABLISHMENT. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee, including a vehicle sharing program, as defined in ORS 742.585.

DIRECTOR. The Chief Finance Officer of the county.

DOING BUSINESS IN THE COUNTY. Any of the following conduct by a commercial establishment whose business address is within or outside the county:

- (1) Delivery of a rented vehicle to a location within the county for use by a person within the county; or
- (2) Presenting for execution within the county by any person a car rental agreement.

EXCISE TAX FUND INTERGOVERNMENTAL AGREEMENT. The intergovernmental agreement dated April 1, 2000, entered into by and between Multnomah County and Metro for the purpose of supporting specified facilities and programs including the Oregon Convention Center, the Portland's Centers for the Arts, and the Regional Arts and Cultural Council.

EXEMPTION AREA. Multnomah, Washington, and Clackamas Counties.

MOTOR VEHICLE. Without limitation, automobiles, trucks having a manufacturer's gross vehicle weight not exceeding 24,000 pounds, motor homes, motorcycles, pickup campers and any motorized passenger vehicles designed to carry fewer than ten persons, which are capable of being used on the highways of the state.

OCC COMPLETION BONDS. Means those certain revenue bonds issued to expand and complete the Oregon Convention Center (OCC), as described

in the Excise Tax Fund Intergovernmental Agreement.

PAY AND SECURE DEBT SERVICE. The payment of principal of, interest on, and redemption premium, if any, of certain bonds described in the Visitor Facilities Intergovernmental Agreement.

RENTAL FEE. The gross fee and charges, whatever the basis of their calculation, paid to a commercial establishment by any person for the rental of a motor vehicle. The rental fee includes, without limitation, the base rate charged for the motor vehicle, the cost of all options and rented accessories, and any additional equipment and services included in the gross rental fee charge. Rental fee does not include the cost of fuel purchased from the commercial establishment for the motor vehicle if the fuel is subject to the fee set forth in § 11.201.

RENTAL or RENTING. Obtaining in the county the use of a motor vehicle from a commercial establishment in the county for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity.

VISITOR FACILITIES INTERGOVERNMENTAL AGREEMENT. The Second Amended and Restated Visitor Facilities Intergovernmental Agreement entered into by and between Multnomah County, the City of Portland, and Metro for the purpose of supporting regional visitor facilities, visitor industry development, and programs and facilities that contribute to the vibrancy, livability, and desirability of the Portland-Multnomah County area, including but not limited to mental health and drug addiction treatment, crisis assessment and treatment, the homeless youth continuum of care, shelter services, and public safety.

(Ord. 1280, Amended, 02/20/20; Ord. 1206, Amended 12/19/2013; Ord. 1132, Amended, 05/14/2009; Ord. 957, Amended, 01/25/2001; Ord. 942, Amended, 02/17/2000; Ord. 934, Amended, 07/29/1999; '90 Code, § 5.40.010, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 627, passed, 08/17/1989; Ord. 519, passed, 06/19/1986; Ord. 417, passed, 05/01/1984; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

§ 11.301 IMPOSITION OF TAX.

(A) A tax is imposed on every person renting a motor vehicle from a commercial establishment doing business in the county, if the rental is for a period of 30 days or less. A rental must have a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 days or less.

(B) The base rate of the tax imposed by subsection (A) is equal to 14.5% of the rental fee charged by the commercial establishment for the rental.

(C) The surcharge of the tax imposed by subsection (A) is equal to 2.5% of the rental fee charged by the commercial establishment for the rental. This surcharge shall remain in force as long as the OCC Completion Bonds are outstanding, as described in the Visitor Facilities Intergovernmental Agreement.

(D) If, with respect to any rental fee, the tax imposed under this section does not equal an amount calculable to a whole cent, the commercial establishment must charge a tax equal to the next highest whole cent. However, the amount remitted to the Director by the commercial establishment for each quarter must equal 17% of the total rental fees collected by the commercial establishment during the quarter.

Penalty, see § 11.399

(Ord. 1280, Amended, 02/20/20; Ord. 1206, Amended, 12/19/2013; Ord. 1132, Amended, 05/14/2009; Ord. 942, Amended, 02/17/2000; ‘90 Code, § 5.40.050, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

§ 11.302 COLLECTION OF TAX; REMITTANCE RECORDS; TAX AS DEBT.

(A) The commercial establishment must collect the tax imposed by § 11.301 at the time it collects a rental fee.

(B) On or before the last business day of January, April, July, and October of each year, each commercial establishment must remit to the Director all taxes collected during the preceding calendar quarter. The remittance must be accompanied by a report showing:

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(1) The amount of the rental fees collected by the commercial establishment during the preceding quarter;

(2) The amount, if any, of those rental fees that is attributable to and identified on the records or billings of the commercial establishment for gasoline sales;

(3) Such further information as the Director may prescribe;

(C) The report and all such additional information as required from the commercial establishment accompanying remittance of the collected tax is exempt from public disclosure and remains confidential in the possession of the Director.

(D) All commercial establishments must maintain accurate records of rental fees assessed and of taxes collected, and such records are subject to review, inspection and audit within the county by the Director or the director’s designee at all reasonable times.

(E) The commercial establishment that rents a vehicle in the county is responsible for remittance of the tax, based on the total rental fee, wherever collected, as well as maintenance of the appropriate records of the fees.

(F) The tax imposed by § 11.301 is a debt owed by the commercial establishment to the county until remitted under this section.

Penalty, see § 11.399

(Ord. 942, Amended, 02/17/2000; ‘90 Code, § 5.40.075, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 592, passed, 09/29/1988; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

§ 11.303 TAX EVASION OR DEFICIENCY DETERMINATION.

(A) If the Director determines that the report required in § 11.302(B) has not been filed or is incorrect, the Director may compute and determine the amount required to be paid upon the basis of the facts contained in any report or reports, or upon the basis of any available information. One or more deficiency or evasion determinations may be made of the amount due for one or more than one period. The

amount so determined is due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies will be applied under § 11.399.

(B) In making a determination, the Director may offset any overpayments previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. Interest on underpayments will accrue at the rate of one percent per month pro rata from the date the tax became delinquent until the date paid.

(C) The Director will give written determination notice to the commercial establishment, served personally or by certified mail. If mail service is employed, service is deemed made upon mailing.

(D) Except where fraud or intent to evade this subchapter exists, every deficiency determination must be made and notice given within three years after the last day of the month following the close of the quarterly reporting period for which the amount is proposed to be determined, or within three years after the report reflecting an underpayment is filed, whichever period expires later.

Penalty, see § 11.399

(Ord. 942, Amended, 02/17/2000; ' 90 Code, § 5.40.080, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 592, passed, 09/29/1988; Ord. 407, passed, 12/11/1983)

§ 11.304 USE OF TAXES.

(A) The 14.5% base taxes collected under this subchapter are general fund revenues of the county, except that the portion of taxes attributable to gasoline sales are subject to the limitations on use prescribed by the constitution and laws of the state.

(B) All 2.5% surcharge taxes collected under this subchapter will be used to pay and secure debt service for so long as required under the Visitor Facilities Intergovernmental Agreement.

(Ord. 1280, Amended, 02/20/20; Ord. 1206, Amended, 12/19/2013; Ord. 1132, Amended, 05/14/2009; Ord. 957, Amended, 01/25/2001; Ord. 942, Amended, 02/17/2000; ' 90 Code, § 5.40.100, 07/01/1998; Ord. 122, passed, 04/15/1976)

§ 11.305 EXEMPTIONS.

The tax imposed by § 11.301 is not applicable to:

(A) A rental fee that state or federal law exempts from the tax.

(B) A rental fee for a motor vehicle used for official governmental business by an employee of the federal government.

(C) A motor vehicle rented by a resident of the exemption area to temporarily replace a vehicle being repaired or serviced.

(Ord. 1280, Amended, 02/20/20; Ord. 942, Amended, 02/17/2000; Ord. 934, Amended, 07/29/1999; ' 90 Code, § 5.40.125, 07/01/1998; Ord. 627, passed, 08/17/1989; Ord. 592, passed, 09/29/1988; Ord. 122, passed, 04/15/1976)

§ 11.306 LICENSE REQUIRED.

Every commercial establishment shall be required to obtain from the Director a one-time only, non-transferable, non-renewable license for its operation in the county. A license shall be required for each site within the county. The Director shall collect a fee in an amount set by Board resolution for each license issued.

Penalty, see § 11.399

(' 90 Code, § 5.40.150, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 592, passed, 09/29/1988; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

§ 11.307 DIRECTOR'S RULES.

The Director is authorized to establish rules and procedures for the implementation and enforcement of this subchapter.

(' 90 Code, § 5.40.175, 07/01/1998; Ord. 122, passed, 04/15/1976)

§ 11.399 PENALTY.

(A) In addition to any other penalties prescribed by law, any commercial establishment which fails to collect and remit all taxes collected by it or otherwise fails to comply with this subchapter shall be subject to a penalty equal to 50% of any deficiency in the taxes remitted by it, or to such lesser penalty as the director may assess.

(B) The penalty imposed by subsection (A) shall be a debt owed by the commercial establishment to the county.

(C) Any person who willfully violates any provision of this subchapter shall be subject to a civil penalty of not more than \$500.

(Ord. 1280, Amended, 02/20/20; ' 90 Code, § 5.40.900, 07/01/1998; Ord. 122, passed, 04/15/1976)

TRANSIENT LODGINGS TAX**§ 11.400- DEFINITIONS.**

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

ACCRUAL ACCOUNTING. An accounting method where the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.

CASH ACCOUNTING. An accounting method where the operator does not enter the rent due from a transient on the records until rent is paid.

CPI. The annual average percent change in the Portland Salem OR-WA CPI-U as issued by the U.S. Department of Labor, Bureau of Labor Statistics for the most recent 12-month calendar year period, or a comparable measure of price change if this index is not available.

EXCISE TAX FUND INTERGOVERNMENTAL AGREEMENT. The intergovernmental agreement dated April 1, 2000, entered into by and between Multnomah County and Metro for the purpose of supporting specified facilities and programs including the Oregon Convention Center, the Portland's 5 Centers for the Arts, and the Regional Arts and Cultural Council.

HOTEL. Any structure, or any portion of any structure that is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also includes space in mobile home or trailer parks, or similar structure or space if occupancy is for less than a 30-day period.

OCCUPANCY. The use or possession, or the right to use or possess for lodging or sleeping purposes any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

OPERATOR. Operator means either one of the following: (a) TRANSIENT LODGING INTERMEDIARY. A person other than a transient

lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging. Or, (b) TRANSIENT LODGING PROVIDER. A person that furnishes transient lodging.

PAY AND SECURE DEBT SERVICE. The payment of principal of, interest on, and redemption premium, if any, of certain bonds described in the Visitor Facilities Intergovernmental Agreement.

RENT. The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

Rent does not include the sale or purchase of any goods, services or commodities other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks.

If a single rate is charged by the operator for a package plan to include both food and rent, the tax imposed by this subchapter shall be based on the charge for rent when not part of a package plan.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The Chief Financial Officer of the County.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel will not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual occupying space in a hotel will be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, is not considered transient.

VISITOR FACILITIES INTERGOVERNMENTAL AGREEMENT. The Second Amended and Restated Visitor Facilities Intergovernmental Agreement entered into by and between Multnomah County, the City of Portland, and Metro for the purpose of supporting regional visitor facilities, visitor industry development, and programs and facilities that contribute to the vibrancy, livability, and desirability of the Portland-Multnomah County area, including but not limited to mental health and drug addiction treatment, crisis assessment and treatment, the homeless youth continuum of care, shelter services, and public safety.
(Ord. 1280, Amended, 02/20/20; Ord. 1230, Amended, 3/10/16; Ord. 1206, Amended, 12/19/13; Ord. 957, Amended, 01/25/2001; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.010, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.401 TAX IMPOSED.

(A) A tax is imposed on each transient for the privilege of occupancy in any hotel in the county.

(1) The tax constitutes a debt owed by the transient to the county that is extinguished only by payment by the operator to the county. The transient shall pay the tax to the operator at the time the rent is paid.

(2) The operator will record the tax when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, the transient will pay a proportionate share of the tax to the operator with each installment.

(B) Each transient shall pay a tax of 11.5% of the rent charged by the operator, with this tax comprised of the following base rate and surcharges:

(1) The base rate of the tax imposed by subsection (A) is equal to 5%.

(2) A first surcharge rate of the tax imposed by subsection (A) is equal to 1%.

(3) A second surcharge of the tax imposed by subsection (A) is equal to 3%. This surcharge shall remain in force as long as required under the Visitor Facilities and Excise Tax Fund Intergovernmental Agreements.

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(4) A third surcharge of the tax imposed by subsection (A) is equal to 2.5%. This surcharge shall remain in force as long as required under the Visitor Facilities and Excise Tax Fund Intergovernmental Agreements.

(Ord. 1280, Amended, 02/20/20; Ord. 1206, Amended, 12/19/2013; Ord. 957, Amended, 01/25/2001; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.050, 07/01/1998; Ord. 845, passed, 03/14/1996; Ord. 870, passed, 01/09/1996; Ord. 811, passed, 02/26/1995; Ord. 790, passed, 06/16/1994; Ord. 569, passed, 01/28/1988; Ord. 501, passed, 02/20/1986; Ord. 488, passed, 12/19/1985; Ord. 56, passed, 06/29/1972)

§ 11.402 USE OF PROCEEDS.

(A) After deductions for refunds or credits, including interest thereon, authorized by this subchapter, the proceeds collected under § 11.401(A) will be used for related administrative costs and as set forth below:

(1) The base taxes collected under § 11.401(B)(1) and the surcharge taxes collected under § 11.401(B)(2) are general fund revenues of the county;

(2) The surcharge taxes collected under § 11.401(B)(3) will be used, for so long as required under the Visitor Facilities and Excise Tax Fund Intergovernmental Agreements: (a) to support regional visitor facilities, visitor industry development, and programs and facilities that contribute to the vibrancy, livability, and desirability of the region; (b) to pay for program and administrative costs allowed under the Visitor Facilities and Excise Tax Fund Intergovernmental Agreements; and (c) to pay and secure debt service; and

(3) The surcharge taxes collected under § 11.401(B)(4) will be used, for so long as required under the Visitor Facilities and Excise Tax Fund Intergovernmental Agreements: (a) to support regional visitor facilities, visitor industry development, and programs and facilities that contribute to the vibrancy, livability, and desirability of the region, including but not limited to mental health and drug addiction treatment, crisis assessment and treatment, the homeless youth continuum of care, shelter services, and public safety; (b) to pay for program and administrative costs allowed under the Visitor Facilities and Excise Tax Fund Intergovernmental Agreements; and (c) to pay and secure debt service.

(Ord. 1280, Amended, 02/20/20; Ord. 1230, Amended, 3/10/2016; Ord. 1206, Added, 12/19/2013)

§ 11.403 COLLECTION OF TAX BY OPERATOR.

(A) Every operator renting rooms or space for lodging or sleeping purposes in this county, the occupancy of which is not exempted under the terms of this subchapter, must collect a tax from the occupant.

(B) Each operator must collect the tax imposed by this subchapter at the same time the rent is collected from each transient. The amount of tax must be separately stated upon the operator’s records and any receipt rendered by the operator. No operator of a hotel will advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except as provided by this subchapter.

(C) The tax collected or accrued by the operator constitutes a debt owing by the operator to the County, payable as specified in § 11.407 of this subchapter.

(D) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator will not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectable taxes.

(E) For rent collected on portions of a dollar, fractions of a penny of tax will not be remitted.

Penalty, see § 11.499
(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.075, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.404 TAX ADMINISTRATOR’S DUTIES.

The Tax Administrator shall adopt Administrative Rules for the purpose of carrying out the provisions of this subchapter.

Penalty, see § 11.499
(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.100, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.405 EXEMPTIONS.

No tax imposed by this subchapter will be collected from:

(A) Any occupant for more than 30 successive calendar days;

(B) Any person who pays for lodging on a monthly basis, irrespective of the number of days in any month;

(C) Any occupant whose rent is of a value less than \$2 per day;

(D) Any person who rents a private home, vacation cabin or similar facility from any owner who rents the facility incidentally to the owner’s own use of it;

(E) Any federal government employee renting a room for official governmental business;

(F) Any persons renting and occupying a space in a recreational vehicle park or campground;

(G) Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance; or

(H) Any person in a hospital room, medical or mental health facility, convalescent home, home for aged people, or a government owned and operated public institution.

(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.125, 07/01/1998; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.406 REGISTRATION OF OPERATOR; CERTIFICATION OF AUTHORITY.

(A) Every person engaging or about to engage in business as an operator of a hotel in the county must register with the tax administrator on a form provided by the administrator. Operators starting businesses must register within 15 calendar days after commencing business.

(B) The privilege of registration after the date of imposition of the transient lodgings tax will not relieve any person from the obligation of payment or collection of tax regardless of registration.

(C) The tax administrator will, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, with a duplicate for each additional place of business of each registrant.

(D) Certificates are not assignable or transferable and must be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer.

(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.150, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.407 DUE DATE; RETURNS AND PAYMENTS.

(A) All taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. If the last day falls on a holiday or weekend, amounts are delinquent on the first business day that follows.

(B) On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter’s tax collections must be filed with the tax administrator. The return must be filed by every operator liable for payment of tax in such form as the tax administrator prescribes by Administrative Rule.

(C) For good cause, the tax administrator may extend for up to one month the time for making any return or payment of tax. No further extension will be granted.

(D) An operator to whom an extension is granted must pay interest at the rate of 1.25% per month on the amount of tax due without proration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, the interest will become part of the tax for computation of penalties described in § 11.420.

Penalty, see § 11.499

(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.175, 07/01/1998; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.408 TAX DEFICIENCY DETERMINATION.

(A) The tax administrator may compute and determine the amount required to be paid upon the facts contained in the return, or other information. One or more deficiency determinations may be made of the amount due for one, or more than one period. Once deficiency determination is made, the amount of the deficiency is due and payable ten days after service of deficiency notice. Penalties on deficiencies will be applied under § 11.420.

(B) In making a determination, the tax administrator may offset overpayments for previous periods, against any underpayment for subsequent periods, or against penalties and interest on the underpayments. The interest on underpayments will be computed under § 11.420.

Penalty, see § 11.499

(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ‘ 90 Code, § 5.50.200, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.409 FRAUD; REFUSAL TO COLLECT; EVASION.

(A) If any operator fails or refuses to collect the tax or to make within the time provided in this subchapter any report and remittance of the tax required by this subchapter, or makes a fraudulent return or otherwise willfully attempts to evade this subchapter, the tax administrator will obtain facts and information for an estimate of the tax due. The tax administrator will determine and assess against the operator the tax, interest and penalties provided by this subchapter. The tax administrator will give a notice as provided in § 11.408 of the amount assessed. Any determination becomes due and payable immediately upon receipt of notice and becomes final within ten days after the tax administrator has given notice. The operator may petition for redemption and refund if the petition is filed before the determination becomes final.

(B) Except as provided in this section, every deficiency determination shall be made and notice mailed within three years after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent

return with the intent to evade this subchapter, a failure to file a required return or willful refusal to collect and remit the tax, a deficiency determination may be made or a proceeding for the collection of such deficiency may be commenced at any time.

Penalty, see § 11.499

(Ord. 1188, Amended, 11/17/2011; Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.225, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.411 REDETERMINATIONS.

(A) Any operator or person against whom a determination is made under §§ 11.408 through 11.409 or any operator or person directly interested may petition for a redetermination within the time required in §§ 11.408 through 11.409. If a petition for redetermination is not filed within that time, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination is filed within the allowable period, the tax administrator will reconsider the determination, and, if the petition requests, grant an oral hearing and give ten days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

(C) The tax administrator may decrease or increase the amount of the determination based upon information obtained in the hearing. If an increase is determined the increase will be payable with the following quarter's payment.

(D) The order or decision of the tax administrator upon a petition for redetermination becomes final ten days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the tax administrator within the ten days after service of notice.

(E) No petition for redetermination or other appeal shall be accepted and no petition or appeal is effective for any purpose unless the operator has first complied with the payment provisions hereof and has paid in full the amount determined to be due by the decision appealed from.

Penalty, see § 11.499

(Ord. 1206, Amended, 12/19/2013; Ord. 1188, Amended, 11/17/2011; Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.275, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 56, passed, 06/29/1972)

§ 11.412 SECURITY FOR COLLECTION OF TAX.

(A) The tax administrator may require any operator to deposit security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security will be fixed by the tax administrator but will not be greater than twice the operator's estimated average quarterly liability for the period, determined as the tax administrator considers proper, or \$5,000, whichever is less. The amount of the security may be increased or decreased by the tax administrator subject to the limitations of this subsection.

(B) At any time within three years after any tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the county to collect the amount delinquent together with penalties and interest.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.300, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.413 RECORDS MAINTAINED BY OPERATOR; ADMINISTRATOR EXAMINATION.

(A) Every operator must keep guest records of room sales and accounting books and records of the room sales. The operator must retain all records for a period of three years and six months after they are created.

(B) The tax administrator may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax. The tax administrator may investigate the business of the operator in order to verify the accuracy of any return made, or if the operator makes no return, to ascertain and determine the amount required to be paid.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.325, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.414 CONFIDENTIAL CHARACTER OF INFORMATION; DISCLOSURE PROHIBITED.

It is unlawful for the tax administrator or any person having an administrative or clerical duty under this subchapter to make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate or pay a transient occupancy tax, or the amount or source of income, profits, losses, expenditures or to permit any statement, application, or other private record to be seen or examined by any person. Nothing in this section will prevent:

(A) The disclosure to, or the examination of records and equipment to another county official, employee or agent for collection of taxes for the purpose of administering or enforcing this subchapter, including the collection of taxes.

(B) The disclosure, after the filing of a written request to that effect, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties. The District Attorney must approve each disclosure and the tax administrator may refuse to make any disclosure when the public interest would suffer.

(C) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

(D) The disclosure of general statistics regarding taxes collected or business activity.

Penalty, see § 11.499
(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.350, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.415 APPEAL.

(A) Any person, operator or transient may appeal any decision of the tax administrator by filing a notice of appeal with the tax administrator within ten days of the service of the notice of the decision given by the tax administrator. Service shall be considered complete within three days of the date the notice of decision is placed in the US Mail. The amount payable referenced on the notice of decision given by the

tax administrator must be paid in full before appeal can be filed.

(B) All appeals will be heard by the Business License Appeals Board or Hearings Officer of the City of Portland as determined by City of Portland Code. The tax administrator will transmit the notice of appeal, together with the file of the appealed matter to the Business License Appeals Board within ten business days of receipt of the notice of appeal. The tax administrator will provide the appellant with a copy of the transmittal to the Business License Appeals Board which will include a description of the appeal process and the rights of the appellant in the appeal process.

(C) The decision by the Business License Appeal Board or Hearings Officer shall be the final administrative remedy of the appellant.

(Ord. 1206, Amended, 12/19/2013; Ord. 1188, Amended, 11/17/2011; Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.475, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.416 REFUNDS BY COUNTY TO OPERATOR.

When any tax, penalty or interest is erroneously paid, it may be refunded. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment. The claim must be made on forms provided by the tax administrator. If the tax administrator approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due from the operator and the balance may be refunded to the operator.

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.500, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.417 REFUNDS BY COUNTY TO TRANSIENT.

When the tax required by this subchapter is collected by the operator and deposited with the tax administrator and is later determined erroneously paid, it may be refunded by the tax administrator to the transient. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment.

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.525, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.418 REFUNDS BY OPERATOR TO TENANT.

When the tax required by this subchapter is collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator must refund to the tenant the tax collected. The operator must account for the collection and refund to the tax administrator. If the operator remits the tax before refund or credit to the tenant, the operator is entitled to a corresponding refund under § 11.416.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.550, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.419 CREDIT AGAINST CITY TAX.

(A) Any person subject to the payment or collection of the base tax and the surcharge under §§ 11.401(B)(1)-(2) is entitled to a credit against the payment of the tax in the amount due any city within the county for a transient lodgings tax for the same occupancy.

(B) No person subject to the surcharge taxes imposed by §§ 11.401(B)(3)-(4) is entitled to a credit against the payment of those taxes. These surcharges are due and payable in accordance with this subchapter regardless of the amount due any city within the county for a transient lodging tax for the same occupancy made taxable under this subchapter.

(Ord. 1280, Amended, 02/20/20; Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.575, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.420 DELINQUENCY AND INTEREST.

(A) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this subchapter prior to delinquency must pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(B) Any operator who has not been granted an extension of time for remittance of tax due and who fails to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent must pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) If the tax administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade, a penalty of 25% of the amount of the tax will be added to the penalties stated in subsections (A) and (B).

(D) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this subchapter must pay interest at the rate of 1.0% per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date the remittance first became delinquent until paid. Interest shall be compounded monthly.

(E) Every penalty imposed and interest under this section is merged with and becomes part of the tax required to be paid.

(F) Any operator who fails to remit the tax levied within the time required by this subchapter must pay the penalties. However, the operator may petition the tax administrator for waiver and refund of the penalty or any portion thereof and the tax administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

Penalty, see § 11.499

(Ord. 1206, Amended, 12/19/2013; Ord. 1188, Amended, 11/17/2011; Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.900, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.499 PENALTY.

(A) A violation of this subchapter includes but is not limited to:

(1) Failure to register a hotel as required by § 11.406;

(2) Failure to file a Transient Lodging Tax payment and report, including any penalties and interest, within 60 days of the due date specified in § 11.407(A);

(3) Failure to furnish a Return as required by § 11.407(B);

(4) Filing a false or fraudulent report or return with intent to defeat or evade the determination or any amount due under this subchapter;

(5) Failure to collect a tax or failure to maintain a separate account for the transient lodging tax collected as required by § 11.403.

(B) Any operator or other person who commits a violation of this subchapter commits an offense that is a violation of this subchapter punishable by fine in an amount to be fixed by the Administrator, not exceeding \$500 for each separate offense.

(Ord. 1206, Amended, 12/19/2013; Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.990, 07/01/1998; Ord. 56, passed, 06/29/1972)

PRESCHOOL FOR ALL PROGRAM INCOME TAX

§ 11.500- TITLE.

The rules contained in this subchapter are to administer the Multnomah County Personal Income Tax, hereinafter referred to as the Preschool For All Personal Income Tax or the Personal Income Tax Law. This subchapter may be known and cited as the Preschool For All Personal Income Tax Code. (Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.502 EFFECTIVE DATE.

The Preschool for All Personal Income Tax shall be effective for tax years beginning on or after January 1, 2021. (Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.504 CONFORMITY TO STATE INCOME TAX LAW.

Multnomah County and the Preschool For All Personal Income Tax generally follows the state of Oregon laws and regulations relating to personal income tax. The Preschool For All Personal Income Tax will be construed in conformity with such laws and regulations imposing taxes on or measured by net income as those laws existed for that particular tax year.

(A) Should a question arise under the Preschool For All Personal Income Tax on which this subchapter is silent, the Administrator may look to the laws of the state of Oregon for guidance in resolving the question, provided that the determination under State law does not conflict with any provision of this subchapter or the state law is otherwise inapplicable.

(B) The Administrator has the authority by written policy to connect to or disconnect from any legislative enactment regarding income taxation or the definition of income. (Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.506 ADOPTION OF OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULES BY REFERENCE.

The Administrator or the Board may adopt Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) by reference. To the extent necessary, references in an ORS or an OAR to the state of Oregon or its agencies will be deemed substituted references for Multnomah County and its agents. (Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.508 ADMINISTRATIVE AUTHORITY.

(A) The Administrator may adopt procedures, forms, guides, administrative rules and written policies for administering the provisions of the Preschool For All Personal Income Tax.

(B) The Administrator may contract with public or private agencies, subject to state of Oregon and County procurement laws and rules, to implement the Preschool For All Personal Income Tax Law.

(C) The Administrator is authorized to request documents, information, books, papers or other records from a Taxfiler or their legal representative to effectively administer the Preschool For All Personal Income Tax. Additionally, the Administrator is authorized to make settlement agreements, as consistent with law and deemed appropriate, to effectively administer the Preschool For All Personal Income Tax. (Ord. 1314, Amended, 4/13/23, Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.510 DEFINITIONS.

For the purpose of this subchapter, the terms used in this subchapter shall be defined as provided in this subchapter, unless context requires a different meaning.

ADMINISTRATOR. The Multnomah County Chief Financial Officer or designee, including a third-party under contract with the County. Any designee of the Administrator shall act as the agent of the Administrator to enforce the Preschool For All Personal Income Tax and tax rules as contained in this subchapter.

BOARD. The Multnomah County Board of County Commissioners.

COMMITTEE. The Preschool For All Program Advisory Committee.

EXTENSION DATE. The latest date on which a Taxfiler must file their Preschool For All Personal Income Tax return, as extended by the Administrator beyond the Payment Date.

NONRESIDENT. An individual who is not a Resident within the Multnomah County jurisdictional boundary.

NOTICE. Means a written document sent via United State Postal Service mail by the Administrator or District to the last known address of a Taxfiler, as provided to the Administrator or District in the latest registration form or tax return on file with the Administrator. Alternatively, notice may be delivered in person, by facsimile, email, or other means with Taxfiler consent.

PAYMENT DATE. The date in a given tax year on which a Taxfiler must (a) pay Preschool For All Personal Income Tax liability owed, and (b) file the associated tax return. Generally April 15 each year, the Payment Date is the date on which the Oregon personal income tax return must be filed, or the closest following business day.

PRESCHOOL FOR ALL PROGRAM or PROGRAM. The Multnomah County Preschool For All Program(s) provides tuition-free preschool for children that meet the criteria of the program(s).

PRESCHOOL FOR ALL PERSONAL INCOME TAX ADMINISTRATIVE CODE. The written administrative rules promulgated by the Administrator and related to matters within the scope of this subchapter to administer implementation of and compliance with the Preschool For All Personal Income Tax.

RESIDENT. A Taxfiler within Multnomah County for any portion of the taxable year. ORS 316.027 and OAR 150-316-0025 are hereby adopted and shall control when residency questions arise.

TAXABLE INCOME. Taxable income under Oregon State law before any credits or exemptions. (S-1 2023)

TAXFILER. Any natural person or married couple filing a joint return whose income in whole or in part is subject to the Preschool For All Personal Income Tax.

TAX YEAR. The taxable year a Taxfiler uses for federal and state income tax purposes. (Ord. 1314, Amended, 4/13/23; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.512 PERSONAL INCOME TAX IMPOSED.

(A) A tax of 1.5% is imposed on the entire Oregon taxable income over \$200,000 for joint filers and \$125,000 for single filers on every Resident subject to tax under ORS Chapter 316, and upon that taxable income derived from sources within Multnomah County over \$200,000 if filing jointly and \$125,000 if filing singly of every Nonresident that is subject to tax under ORS Chapter 316. On January 1, 2026, the tax imposed will be increased by 0.8%.

(B) An additional tax of 1.5% is imposed on the entire Oregon taxable income over \$400,000 if filing jointly and \$250,000 if filing singly on every Resident subject to tax under ORS Chapter 316, and upon the taxable income derived from sources within Multnomah County over \$400,000 if filing jointly and \$250,000 if filing singly of every Nonresident that is subject to tax under ORS Chapter 316.

(C) Taxfiler filing status must follow the filing status of the Taxfiler's Oregon income tax return.

(1) Taxfilers using Oregon filing statuses married filing jointly, head of household, and qualifying widow(er) with dependent child must file a joint County return.

(2) Taxfilers using Oregon filing statuses single and married filing separately must file a single County return.

(D) As allowed by the Multnomah County Home Rule Charter, the Board may adjust the income tax rate to fully fund the Preschool For All Program. A technical team will be convened by the Chair's Office and will report to the Board before January 1, 2026, with a recommendation regarding the increase in

subsection (A) and the future revenue requirements to ensure the Program is fully funded.
(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.514 PROGRAM ADMINISTRATION; USE OF REVENUES.

(A) The net revenues collected under the Preschool For All Personal Income Tax will be paid to the County and tracked in a separate fund, for distribution by the Board for Preschool For All Program services, such as:

(1) Administration by the Department of County Human Services. The Department will oversee Preschool For All Program operations, ensure quality, provide operational support and oversight, and adopt administrative rules to implement the Program.

(2) Programming for all children aged three or four years old by September 1 of the enrolling year with a parent or legal guardian residing in Multnomah County are eligible to enroll in the Preschool For All Program. Equitable access will be provided to people of color and other historically marginalized communities.

(3) Providing up to six hours per day of high-quality, tuition-free, developmentally appropriate, early learning experiences reflecting best practices in a mixed-delivery model.

(4) Offering options for the Preschool For All Program will include:

(a) Half-day, full-day, year-round, and school-year schedules;

(b) Culturally relevant, multigenerational learning programs as part of the mixed delivery system; and

(c) Up to four additional hours of before or aftercare per day for families with incomes under the Self-Sufficiency Standard for Multnomah County.

(5) Requiring that Preschool For All Program teachers be paid on par with kindergarten teachers, and assistants will be paid a minimum of \$19.91 in 2022, with cost of living adjustments (COLA) based on the County's Local 88 union-

negotiated COLA rate or to bring wage to 135% of Portland's minimum wage, whichever is greater.

(6) Establishing a compensation matrix that adjusts wages based on Preschool For All Program teachers or assistant credentialing, education, certification, licensure, ORO Steps, special skills (such as language), and experience, and by 2035 reflects a Program assistant teacher minimum wage not less than 75% of Program teacher minimum wage.

(7) Establishing credentialing requirements for providers, including licensure and certification that builds over time, allowing for workforce development strategies and supports to be in place before credentialing requirements rise.

(8) Multnomah County shall remain neutral with respect to representation and collective bargaining on matters concerning labor relations for any family childcare provider participating or applying to participate in the Preschool For All Program, as authorized by ORS 329A.430.

(B) Independent performance audits will be conducted on the use of funds generated by the Preschool For All Personal Income Tax.
(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.516 PRESCHOOL FOR ALL PROGRAM ADVISORY COMMITTEE.

(A) The Committee is created to review Preschool For All Program expenditures, provide Program oversight, review data, advise evaluation efforts, and make policy recommendations to the County.

(B) The Board Chair, with the approval of the Board, will appoint a minimum of 12, and a maximum of 15, Committee members that represent the County's diverse communities and geographies.

(C) Each Committee member is appointed for a two-year term. An appointment may be rescinded by Board vote. No member can serve more than two consecutive terms within any five year period.
(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.518 TAX EXEMPTIONS.

A Taxfiler or income whom the County is prohibited from taxing under federal or state of Oregon law is exempt from payment of the tax set forth in this subchapter. However, the Administrator may require the filings of tax returns or other relevant documentary verification of any exemption claimed under this section by any person(s) whom Multnomah County is prohibited from taxing under federal or state of Oregon tax law.

The Administrator may refer to relevant provisions of ORS Chapter 316 to establish the exemptions to the Preschool For All Personal Income Tax, which shall be set forth in the Preschool For All Personal Income Tax Administrative Code.

(Ord. 1300, Amended, 8/26/21, Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.520 INDIVIDUALS REQUIRED TO FILE A TAX RETURN.

(A) A Resident is required to file a Preschool For All Personal Income Tax return if they are required to file an Oregon income tax return for the tax year and report Oregon taxable income of over: (a) \$200,000 for Taxfilers using the Oregon filing status married filing jointly, head of household, or qualifying widow(er); or (b) \$125,000 for Taxfilers using the Oregon filing status single or married filing separately.

(B) A Nonresident is required to file a Preschool For All Personal Income Tax return if they are required to file an Oregon income tax return for the Tax Year and have Taxable Income derived from or sourced to Multnomah County of over: (a) \$200,000 for Taxfilers using the Oregon filing status married filing jointly, head of household, or qualifying widow(er); or (b) \$125,000 for Taxfilers using the Oregon filing status single or married filing separately.

(C) Nothing contained in this section shall preclude the Administrator from requiring any individual to file a return when, in the judgment of the Administrator, a return should be filed.

(D) The Administrator will release the form(s) that Taxfilers must file. The Administrator may accept substitute forms (such as created by tax software) provided the forms include identical (S-1 2024)

information in comparable format as provided on the Preschool For All Personal Income Tax return form.

(E) A copy of the Taxfiler's Oregon tax return is required to be filed with the Preschool For All Personal Income Tax return. If the personal income tax payments have been withheld from wages, a copy of Form W-2 is required to be filed with the Preschool For All Personal Income Tax return unless otherwise notified by the Administrator. The Administrator is authorized to require a Taxfiler to submit additional information with the Taxfiler's return if, in the Administrator's sole discretion, such information is necessary to effectively administer the tax imposed under this subchapter.

(F) Authority to require filing of returns by Electronic Means.

(1) As used in this section:

(a) **ELECTRONIC MEANS** includes computer-generated electronic or magnetic media, Internet-based applications or similar computer-based methods or applications.

(b) **PAID TAX PREPARER** means a person who prepares a Tax Return for another or advises or assists in the preparation of a Tax Return for another, or who employs or authorizes another to do the same, for valuable consideration.

(c) **TAX RETURN** means a return filed under the Preschool for All Personal Income Tax law.

(2) The Administrator may by rule require a Paid Tax Preparer to file Tax Returns by Electronic Means if the Paid Tax Preparer is required to file federal tax returns by electronic means.

(3) The Administrator may by rule establish exceptions to the electronic filing requirements of this section.

(Ord. 1321, Amended, 1/18/24; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.522 TAXFILER IDENTIFICATION NUMBER.

(A) A Taxfiler must provide information on tax records as required on forms established by the Administrator. This includes tax returns, refund claims, applications, registrations, records, requests

for information, reports, and other items of a similar nature filed with the Administrator as required by the item being filed.

(B) The Administrator uses Taxfiler identification numbers to administer the Preschool For All Personal Income Tax and ensure compliance with applicable laws. Taxfiler identification numbers allow the Administrator to issue tax refunds, allocate or apply tax payments, and complete other administrative matters of a similar nature. The Administrator may require a Taxfiler to provide a copy of the Taxfiler's Social Security card or other documentations of their Social Security number (SSN) or Taxpayer Identification number (TIN).

(C) A SSN or TIN used by the Administrator as a Taxfiler identification number is confidential information. Disclosure of a SSN or TIN that results in a breach of confidentiality will result in penalties pursuant to Preschool for All Personal Income Tax Administrative Code.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.524 DEDUCTION FOR PASS-THROUGH INCOME.

(A) A Taxfiler is allowed a deduction from Taxable Income for pass-through income subject to tax under Multnomah County Code Chapter 12, Business Income Tax. Pass-through income comes from a business whose net income is taxed on the owners', members', or partners' personal tax return. This includes income earned by sole proprietors, partnerships, and S-corporations, and other legal entities.

(B) The deduction amount allowed in subsection (A) is the individual owners' or partners' distributive share of income apportionable to the County on the pass-through entity's business income tax return, as calculated and reported to the owner or partner by the business. The Administrator will provide guidance in calculating this amount including adjustments related to the owner's compensation deduction. If the County business income tax return has not been filed for the relevant Tax Year, then no deduction is allowed.

(C) If the Taxable Income per the County business income tax return is zero or a net operating loss, the Taxfiler is not allowed a deduction under

subsection (A). The amount of the deduction cannot exceed the amount determined under subsection (B).

(D) A Taxfiler is allowed a deduction for a pass-through net operating loss from a business subject to tax under Multnomah County Code Chapter 12, Business Income Tax.

(E) The deduction amount allowed in subsection (D) is limited to the current year's pass-through net operating loss including in Oregon Taxable Income for a Resident or Multnomah County-sourced income for a Nonresident. This net operating loss can only be used in the current Tax Year and cannot be carried to any other year to be used as a deduction. Any carryover deduction of this net operating loss included in federal or Oregon Taxable Income in another Tax Year must be added back to the extent it is included in federal or Oregon Taxable Income.

(F) No deduction is allowed under Subsection (D) for net operating losses or net operating loss deductions from a business subject to tax under Multnomah County Code Chapter 12, Business Income Tax originating in Tax Years beginning prior to January 1, 2021.

(G) A Taxfiler is allowed a deduction for a pass-through net operating loss or net operating loss deductions from businesses not subject to tax under Multnomah County Code Chapter 12, Business Income Tax.

(H) The deduction amount allowed in subsection (G) is limited to the pass-through net operating loss or net operating loss deduction included in Oregon Taxable Income for a Resident or Multnomah County-sourced income for a Nonresident.

(I) Passive activity losses that are not from a pass-through entity will be treated similarly to Oregon for personal income tax purposes to the extent they are included in Oregon Taxable Income or, for a Nonresident, included in County-sourced income.

(Ord. 1321, Amended, 1/18/24; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.526 PRORATION OF INCOME FOR PART-YEAR RESIDENTS.

If a Taxfiler is a part-year Resident for the given Tax Year, the Taxfiler's Taxable Income includes:

(A) For the portion of the year in which the Taxfiler resided in Multnomah County, the Taxfiler's Taxable Income sourced to Oregon;

(B) For the portion of the year in which the Taxfiler was a Nonresident, the Taxfiler's Taxable Income sourced to Multnomah County.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.528 CREDIT FOR PERSONAL INCOME TAXES PAID BY RESIDENTS TO ANOTHER STATE JURISDICTION.

(A) A Resident that pays personal income taxes based on or measured by net income to another state jurisdiction shall be allowed a credit against tax otherwise owed under this subchapter for the amount of income tax imposed on the Taxfiler for the Tax Year by that other state jurisdiction on income derived from sources therein and that is also subject to the Preschool For All Personal Income Tax.

(B) The credit provided under this section shall not exceed the less of the proportion of the tax paid on the mutually taxed income that is otherwise due under this subchapter, or the tax that would be due under this subchapter on that income if it were derived from sources within Multnomah County.

(C) No credit shall be allowed under this section for income taxes paid to a state that allows a Nonresident a credit against the income taxes imposed by that state for taxes paid or payable to the state of residence.

(D) The Administrator will establish by written policy the criteria and procedures for obtaining the credit, such as furnishing the County with proof of tax payment to another state jurisdiction, and examples when this credit is allowed. The Administrator may refer to ORS 316.082 to establish these policies.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.530 PAYMENT DATE; EXTENSIONS.

(A) Tax returns must be on forms provided or approved by the Administrator. All tax returns must be filed together with payment of the specified tax by the Payment Date. If the Payment Date falls on a weekend or Federal or State holiday, the Payment Date is the first business day following the weekend or holiday. The due date for employers filing tax returns with the Administrator must conform to the due date under relevant Oregon tax law.

(B) The Administrator may, for good cause, grant to a Taxfiler an Extension Date for filing their Preschool For All Personal Income Tax return if the Taxfiler has filed an extension on their state of Oregon and federal personal income tax returns. The Extension Date may not be more than six-months after the Payment Date. The Extension Date does not extend the Payment Date for Preschool For All Personal Income Taxes owed. Payments made after payment date may be subject to interest and penalties as provided in this subchapter.

(C) The tax return must contain a written declaration, verified by the Taxfiler, to the effect that the statements made therein are true.

(D) 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.

(E) The Administrator is authorized to temporarily change the Payment Date if needed to ensure the effective administration of the tax.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.532 OVERPAYMENTS OF PERSONAL INCOME TAX.

The Administrator may apply overpayments in the following manner:

(A) Overpayments may first be applied against any outstanding balances due from prior Tax Years (with the net overpayment, if any, to be refunded).

(B) If the Administrator determines that returns for prior County Tax Years are due but have not yet

been filed, overpayments may be transferred to those prior year(s) yet to be filed.

(C) If the Administrator determines that no outstanding balances are due and no prior returns are outstanding, all overpayments may be refunded or credited to the upcoming Tax Year.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.534 WITHHOLDING TAX ON WAGES.

(A) During Tax Year 2021, withholding will be voluntary. However, in that first Tax Year, an employer must offer in writing to its employees to withhold the County Preschool For All Personal Income Tax from their wages as soon as the employer's payroll system(s) can be configured to capture and remit the taxes withheld.

(B) Beginning with January 1, 2022, and each year thereafter, withholding is mandatory for all employees that work in Multnomah County and earn \$200,000 or more during the calendar year. This applies to Resident and Nonresident employees.

(C) An employee earning below the \$200,000 income threshold in subsection (B) may choose to "opt in" to withholding with the employer, based on their tax situation. An employee who meets the mandatory withholding criteria in subsection (B) may choose to "opt out" of withholding by the employer based on their tax situation. The Administrator will provide guidance to employers on the information required to be filed with the employer by the Taxfiler (employee) to "opt in" or "opt out" of withholding. Once provided, the employer will honor the withholding election of the employee until notified by the employee of a change.

(D) An employer must provide all "opt out" information to the Administrator on an annual basis in such form as the Administrator prescribes or upon a withholding audit by the Administrator.

(E) An employer who withholds Preschool For All Personal Income Tax from employees' wages must remit the withheld amounts to the Administrator within the time that the employer is required to remit taxes withheld to the state of Oregon for any period, unless otherwise provided in the Preschool For All Personal Income Tax Administrative Code.

Withheld amounts remitted to the Administrator must be accounted for as part of the collections under this section. No employee has any right of action against an employer in respect of any money deducted from wages and remitted in compliance or intended compliance with this section.

(F) If an employer withholds amounts due under this subchapter from an employee's wages, the employer must remit that withheld tax on the due date as set forth in subsection (E). This subchapter provides no extension of time to file or remit, nor can the Administrator grant such an extension. The employer holds the funds involved in trust for the County, and any use of the funds by the employer is an illegal conversion.

(1) If an employer fails to remit to the Administrator amounts that have been withheld under this section, any responsible officer, partner, or member of the employer is personally responsible for the amounts that were withheld but not remitted. This subsection specifically adopts the criteria set forth in OAR 150-316-0243(2) and (3) to determine whether an individual is an "employer." A responsible officer, partner, or member are included in the definition of "employer."

(2) The Administrator is authorized to collect from the employer, including any individuals who are included in the definition of employer, pursuant to subsection (a) above, or any combination thereof, up to 100% of the tax that was withheld but not remitted to the Administrator, in addition to any penalties and/or interest assessed and not waived.

(G) If the Preschool For All Personal Income Tax has been withheld by an employer and remitted and reported to the Administrator, a credit or refund will be made to those employees from whose wages the tax was withheld even though the employer has not paid the tax to the Administrator. When an employer has neither reported nor paid the tax required to be withheld from an employee's wages but the employee submits evidence proving to the satisfaction of the Administrator that the employer actually did withhold the tax, the Administrator will allow the employee a credit or refund for the amount so proved. Ordinarily, minimum satisfactory evidence will consist of a pay statement from the employer showing the amount of tax withheld and an

affidavit of the employee as to the facts upon which the claim for credit or refund is based.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.536 WITHHOLDING RECONCILIATION BY EMPLOYER FOR PAYMENT OF WITHHELD TAXES.

(A) On or before the last day of January following any calendar year in which payroll withholdings have been made, the employer must file with the Administrator a reconciliation of taxes withheld and taxes remitted.

(B) The Administrator will determine by administrative rule, written policy, or published guidelines the required format and information necessary to comply with subsection (A).

(Ord. 1321, Amended, 1/18/24; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.538 INTEREST.

(A) Interest will be collected on any unpaid tax at the rate of 10% simple interest per year, computed from the original due date of the tax to the 15th day of the month following the date of payment. If the Administrator determines that the interest rate provided is at least 1% more or less than the effective interest rate on January 1st charged by the State of Oregon Department of Revenue, the Administrator may adjust the interest rate by administrative policy to align with the state of Oregon Department of Revenue. The Administrator may not adjust the interest rate more than once in a calendar year. The adjusted rate applies to unpaid tax outstanding on or after the effective date of the adjusted interest rate.

(B) Interest at the rate established in subsection (A) shall be payable on any overpayments of Preschool for All Personal Income Taxes. Such interest shall be computed beginning four months after the later of:

(1) The Payment Date or Extension Date, as applicable;

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

(3) The date the tax was paid.

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(C) The Administrator may waive or reduce interest for good cause if specifically provided for by written policy. The Administrator may look to ORS 305.145 and OAR 150-305-0062 for guidance in the waiver of interest. The Administrator must consult with the Multnomah County Chief Financial Officer before adopting a written policy that waives or reduces interest amounts.

(Ord. 1314, Amended, 4/13/23; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.540 PENALTIES.

(A) When an employer fails to remit in whole or in part any Preschool For All Personal Income Tax withheld at the time required, the Administrator will assess a late payment penalty. The late payment penalty is:

(1) 5% of the balance of the unpaid tax if the failure to remit is for a period less than or equal to four months;

(2) An additional 20% of the balance of the unpaid tax if the failure to remit is for a period greater than four months; and

(3) An additional penalty of 100% of the balance of the unpaid tax of all years if the failure to remit is for three or more consecutive years. The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the employer that there was reasonable cause for the failure to remit the withheld taxes or any portion of the withheld taxes and that the employer acted in good faith.

(B) When an employer fails to file a correct W-2 that, along with any other W-2 that must be filed, supports amounts reported on the annual withholding reconciliation return, or amended annual withholding reconciliation return, as required by code, administrative rule, written policy, or form instructions by the date specified, the Administrator will assess a penalty of \$50 for each missing or incomplete W-2.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the employer that there was reasonable cause for the failure to remit the withheld taxes or any portion

of the withheld taxes and that the employer acted in good faith.

(C) When a Taxfiler fails to file a return or fails to file an extension by the date on which the filing is due, and/or fails to pay a tax by the date on which the return or payment is due, the Administrator will assess a late penalty. Unpaid tax is the Taxfiler's tax liability reduced by any payment of tax on or before the due date and any credit against tax that may be claimed on the return. The late payment penalty is:

(1) 5% of the balance of the tax due or paid after the Payment Date, as applicable, if the failure to remit is for a period less than four months;

(2) An additional penalty of 100% of the balance of the tax due or paid after the Payment Date, as applicable, of all Tax Years if the failure to remit is for three or more consecutive Tax Years.

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 late filing or payment.

(D) A penalty will be assessed on Taxfilers for underpayment of taxes due. The penalty will be assessed if the Taxfiler:

(1) Fails to pay at least 90% of the total tax liability by the Payment Date, as applicable; or

(2) Fails to pay at least 100% of the prior year's tax liability by the Payment Date, as applicable.

The penalty under subsection (C) is 5% of the tax underpayment, but not less than \$5.

(E) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this subchapter:

(1) Failure to file any tax return within 60 days of the Administrator's original Notice to file;

(2) Failure to pay any tax due within 60 days of the Administrator's original Notice for payment;

(3) Failure to provide documents or information as required by this subchapter within 60

days of the Administrator's original Notice to provide documents or information;

(4) Failure to fully complete any form required under the Preschool For All Personal Income Tax Code.

(F) The Administrator may impose a \$500 civil penalty if the Administrator determines that the Taxfiler has taken a frivolous position in preparing the Taxfiler's tax return. This penalty is in addition to any taxes due and penalty and interest assessments authorized in this subchapter.

(G) Additional civil penalties may be imposed for other violations of the Preschool For All Personal Income Tax Law by administrative rule.

(Ord. 1321, Amended, 1/18/24; Ord. 1314, Amended, 4/13/23; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.542 DEFICIENCIES AND REFUNDS.

(A) The Administrator may assess deficiencies and grant refunds any time within the periods set forth for deficiencies or refunds under ORS Chapter 314. The Administrator may by agreement with the Taxfiler extend the time periods.

(B) When no tax return has been filed, there is no time limit for a notice of deficiency or the assessment of taxes, penalty, and interest due.

(C) Notwithstanding subsections (A) and (B), the Administrator is not required to accept any tax return for any tax period from a Taxfiler if:

(1) The Administrator obtains a money judgment against the Taxfiler for failure to pay an unpaid account balance due;

(2) The Administrator or its legal representative has lawfully served the Taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure;

(3) The tax return is for a taxable year that is the subject of the general money judgment; and

(4) The Administrator gave written notice stating that the Taxfiler had an outstanding balance due at least 30 days before the Administrator (or its legal representative) filed a lawsuit for those particular Tax Years.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

**§ 11.544 PROTESTS AND APPEALS;
PENALTY WAIVER.**

(A) A Taxfiler may protest any determination by the Administrator. The Administrator must receive written notice of the protest within 30 days after the Administrator mailed or delivered the initial Notice of determination to the Taxfiler. Failure to file such a written notice within the time permitted is deemed a waiver of any objections, and the Administrator will dismiss the appeal. The protest must state the name and address of the Taxfiler and an explanation of the general grounds for the protest. The Administrator must respond within 180 days after the protest is filed with a final determination. The Administrator'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 Administrator's response may be extended by the Administrator for good cause. Requests for extensions of time must be received before the original 30 day protest deadline expires. The Administrator will give Notice to the Taxfiler if the Administrator's deadline is extended.

(B) A Taxfiler may appeal any final determination by the Administrator to the appeals board. The Administrator must receive written notice of the appeal within 30 days after the Administrator mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appellant and include a copy of the final determination.

(C) Within 90 days after the Administrator mails or delivers the final determination to the appellant, the appellant must file with the appeals board a written statement containing:

(1) The reasons the Administrator's determination is incorrect; and

(2) What the correct determination should be.

Failure to file this a written statement within the time permitted is a waiver of any objections, and the appeal will be dismissed.

(D) Within 150 days after the Administrator mails or delivers the final determination to the appellant, the Administrator will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response must be mailed to the address provided by the appellant within ten days after the Administrator files it with the appeals board.

(E) The Administrator must provide the appellant with Notice of the hearing date and location at least 14 days before the hearing. The appellant and the Administrator may present relevant testimony, evidence, and oral argument at the hearing. The appeals board may request additional written comment and documents as the appeals board deems appropriate.

(F) Decisions of the appeals board must be in writing, state the basis and legal authority for the decision and be signed by the appeals board chair.

(G) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.

(H) The filing of an appeal with the appeals board temporarily suspends the obligation to pay any tax owed under the Preschool For All Personal Income Tax Law that is the subject of the appeal pending a final decision by the appeals board.

(I) Penalty waiver or reduction requests are not subject to the protest/appeal process or timeline outlined in this subsection. The Taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce or waive penalties within 60 days from the date the written request is received. As provided in this subchapter and the Preschool For All Personal Income Tax Administrative Code, the Administrator may waive or reduce penalties in certain situations. If the Taxfiler has requested that penalties be waived and the Administrator denies the Taxfiler's request for this discretionary waiver of penalties, the Taxfiler may request a conference with the Administrator

within 30 days of the date of the Administrator's Notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the appeals board.

(Ord. 1314, Amended, 4/13/23; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.546 PAYMENT OF ESTIMATED TAX.

(A) Every Taxfiler expecting to have a tax liability of \$1,000 or greater must estimate and pay the Taxfiler's tax liability for the current Tax Year as follows:

(1) Quarterly payments as provided in § 11.548; or

(2) Employer provided withholding from Taxfiler's wages as provided in § 11.534.

(B) If a Taxfiler is required to remit estimated tax payments, the amounts remitted must total either the lesser of 90% of the Taxfiler's current year tax liability or 100% of the Taxfiler's reported prior year tax liability.

(C) The Administrator will not impose underpayment interest for failure to make quarterly estimated payments for Tax Year 2021 (Tax Year beginning on or after January 1, 2021) and tax year 2022 (tax year beginning on or after January 1, 2022). For Tax Years beginning on or after January 1, 2023, the Administrator will impose penalties and interest as provided in this subchapter.

(Ord. 1314, Amended, 4/13/23; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.548 SCHEDULE FOR PAYMENT OF ESTIMATED TAXES.

(A) A Taxfiler required to make payments of estimated tax must make the payments in installments as follows:

(1) One quarter or more of the estimated tax on or before the 15th day of the fourth month of the Tax Year;

(2) One quarter or more of the estimated tax on or before the 15th day of the sixth month of the Tax Year;

(3) One quarter or more of the estimated tax on or before the 15th day of the ninth month of the Tax Year; and

(4) The balance of the estimated tax must be paid on or before the 15th day of the first month of the subsequent Tax Year.

(B) Any payment of the estimated tax received by the Administrator for which the Taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated tax due for any prior quarter of the Tax Year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.550 FINAL TAX RETURN(S) OF DECEASED TAXFILERS.

The Administrator may grant a fiduciary's request or enter into settlement agreements as described in § 11.508 with respect to the estates of Taxfiler descendants, where such agreements are consistent with ORS 316.387 and corresponding OARs.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.552 CONFIDENTIALITY.

(A) Unless otherwise provided by law, no Multnomah County elected official, employee, or agent, nor any person who has acquired information pursuant to the Preschool For All Personal Income Tax Law, may divulge, release, or make known in any manner any financial information, Social Security number or any other elements of a tax return or tax account, including fact of filing and collection activity submitted or disclosed to Multnomah County or the Administrator under the provisions of this subchapter and any applicable administrative rule, unless otherwise provided in this subchapter.

(B) Nothing in this section prohibits:

(1) The disclosure of general statistics in a form that would prevent the identification of financial information, SSN, or TIN regarding an individual Taxfiler;

(2) The filing of any legal action by or on behalf of the Administrator or Multnomah County to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or

(3) The assignment to an outside collection agency of any unpaid account receivable provided that the Administrator notifies the Taxfiler of the unpaid balance at least 60 days before the assignment of the claim.

(C) Any person that violates this section may be subject to civil penalties as established by administrative rule.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

**§ 11.554 PERSONS TO WHOME
INFORMATION MAY BE
FURNISHED.**

(A) The Administrator, or the County's Chief Financial Officer if the administration of the Preschool For All Personal Income Tax Code has been contracted to a third-party, may disclose information and give access to information to an authorized representative of the US Internal Revenue Service, Department of Revenue, state of Oregon, or to any local government of the State imposing taxes upon or measured by gross receipts or net income, for the following purposes:

- (1) To inspect the tax return of any Taxfiler;
- (2) To obtain an abstract or copy of the tax return;
- (3) To obtain information concerning any item contained in any return;
- (4) To obtain information of any financial audit of the tax returns of any Taxfiler; or
- (5) To maintain compliance with State or Federal law (such as providing Social Security numbers to the Internal Revenue Service with 1099G filings for refunds issued).

Disclosure and access will be granted only if the laws, regulations, or practices of the other jurisdiction maintain the confidentiality of this information at least to the extent provided by Preschool For All Personal Income Tax Law, as applicable.

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(B) Upon request of a Taxfiler, or authorized representative, the Administrator will provide to the Taxfiler or authorized representative copies of any tax return information filed by the Taxfiler in the Administrator's possession.

(C) If a court of competent jurisdiction issues a court order requiring the disclosure of a Taxfiler's tax return information, the Administrator will comply with the terms of that court order after providing Notice to the Taxfiler at the Taxfiler's last known address.

(D) The Administrator may also disclose and give access to information to:

(1) The Multnomah County Attorney, the Attorney's assistants and employees, or other legal representatives of the County, to the extent disclosure or access is necessary for the performance of the duties of advising or representing the County.

(2) The Administrator's attorney, the attorney's assistants and employees, or other legal representatives of the Administrator, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.

(3) Other County employees and agents, to the extent disclosure or access is necessary for such employees or agents to perform their duties, including under contracts or agreements between Multnomah County and the Administrator.

(4) The Administrator's employees, agents and officials, to the extent the Administrator deems disclosure or access necessary for such employees, agents, or officials to:

(a) Aid in any legal collection effort on unpaid accounts;

(b) Perform their duties under contracts or agreements between the Administrator and Multnomah County or between the Administrator and any other department, bureau, agency, or subdivision of the Administrator relating to the administration of the Preschool for All Personal Income Tax Law; or

(c) Aid in determining whether a Preschool For All Personal Income Tax Law account is in compliance with all City of Portland, County, State and Federal laws or policies.

(E) All employees and agents specified above, prior to the performance of duties involving access to financial information submitted to Multnomah County or the Administrator under the terms of the Preschool For All Personal Income Tax Law, must be advised in writing of the confidentiality provisions of the law and the penalties for violation of the law.

(F) No person described in subsection (A) above may receive access to financial information under this section unless that person:

(1) Is advised in writing of the penalties relating to the violation of confidentiality provisions of the Preschool For All Personal Income Tax; and

(2) Executes a certificate in a form prescribed by the Chief Financial Officer or Administrator, stating these provisions of law have been reviewed and that person is aware of the penalties for violating confidentiality rules. The Chief Financial Officer's or Administrator's signature on the certificate, required by this subsection, constitutes consent to disclosure to the persons executing the certificate.

(G) Any person that violates this section may be subject to civil penalties as set forth in the Preschool For All Personal Income Tax Administrative Code. (Ord. 1314, Amended, 4/13/23; Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.556 TAXFILER REPRESENTATION.

Third-parties, such as attorneys or certified public accountants, may represent Taxfilers before the Administrator. The Administrator may establish procedures in the Preschool For All Personal Income Tax Administrative Code for Taxfilers to authorize a third-party to represent the Taxfiler, which may include a written authorization submitted to the Administrator. The Administrator is not required to recognize a third-party who claims to represent a Taxfiler if that third-party does not comply with the established procedures.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.558 SUBPOENA POWERS.

(A) The Administrator may subpoena and examine witnesses, administer oaths, and require the production of any books, papers, records, documents and tangible things in whatever format or however stored that are in the possession, custody, or control of any person, company, or corporation, whenever necessary for the prosecution of any inquiries deemed necessary or proper.

(B) After issuance, the subpoena shall be served in the manner of service as prescribed by State law for delivery of a summons by civil process in a court of competent jurisdiction. A return of service shall be delivered to the authority who issued the subpoena within ten days after its delivery to the person for service, with proof of service of the subpoena or that the person cannot be found.

(C) It is unlawful for any person so subpoenaed and served to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter under investigation or to allow the records to be examined, unless the person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objection or raised that specific defense in seeking the order to quash.

(D) If any person fails to comply with any subpoena of the Administrator or refuses to testify when the Administrator requires that person to testify, the Administrator may apply to a court of competent jurisdiction for an order to the person to produce the books and papers or attend and testify, or otherwise comply with the demand of the Administrator.

(1) A witness shall not be required to answer any question or to act in violation of the witness's rights under the constitutions of the state of Oregon or of the United States.

(E) The Administrator's application to the court may seek an order requiring the person against whom the subpoena is directed to comply with the Administrator's request or demand within ten days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order will be served upon the person to whom it is directed in the manner required by the state of Oregon or other applicable jurisdiction for service of process, which is required to confer jurisdiction upon the court.

(F) Upon petition of the person subpoenaed, the court will make an order determining if the evidence sought by the subpoena is relevant to the pending proceeding and, if requested by the person subpoenaed, an order as required in the interests of justice to protect the confidentiality of the information subpoenaed. Upon failure of the subpoenaed person to show cause for noncompliance, the court will make an order requiring the person to comply with the demand of the Administrator within such time as the court directs.

(G) Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, that may exist.

(H) The Administrator will designate the employees who have the power to administer oaths under this section.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)

§ 11.560 SEVERABILITY.

If a court of competent jurisdiction finds that any part, section or provision of this subchapter is unconstitutional, illegal or invalid, that finding affects only that part, subsection or provision of the subchapter and the remaining parts, sections or provisions remain in full force and effect.

(Ord. 1293, Amended, 1/28/21; Ord. 1288, Added 1/1/21)