

CHAPTER 13 – PAYROLL TAX

13.03 **Definitions.** As used in this Chapter, unless the context requires otherwise:

- A. “Department” means the Department of Revenue, State of Oregon.
- B. “District” means the Tri-County Metropolitan Transportation District of Oregon, encompassing all of the territory described in TMC Chapter 3.
- C. “Employer” has the meaning prescribed by ORS 267.380.
- D. “Taxpayer” means an employer subject to tax under this Chapter.
- E. “Wages” means remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash. “Wages” includes remuneration for services performed partly within the district. “Wages” does not include remuneration paid:
 - (1) For services performed in the employ of the United States of America and institutions (excluding hospitals) exempt from taxation under Section 501 (c) (3) of the Internal Revenue Code, as amended and in effect on December 31, 1988.
 - (2) For domestic service in a private home if the total amount paid to such employee is less than \$1,000 a year.
 - (3) For casual labor not in the course of the employer’s trade or business.
 - (4) For services performed wholly outside of the district.
 - (5) To an employee whose services to the employer consist solely of seasonal labor in connection with planting, cultivating or harvesting of agricultural crops.
 - (6) To seamen who are exempt from garnishment, attachment or execution under Sections 596, 597, 598, and 601 of Title 46, United States Code.
 - (7) To individuals temporarily employed as emergency fire fighters.
 - (8) If the remuneration is not subject to withholding under ORS Chapter 316.
 - (9) To employees’ trusts exempt from taxation under Section 401 of the Internal Revenue Code, as defined by ORS 316.012.
- F. Notwithstanding any other provision of this Section, “wages” includes:
 - (1) Any amount included in the definition of “wages” under Section 3121 of the Internal Revenue Code, as defined in ORS 316.012, by reason of the provisions of sections

3121(a)(5)(C), 3121(a)(5)(D), 3121(v)(1)(A), 3121(v)(1)(B), 3121(v)(3)(A), or 3121(a)(5)(E) of the Internal Revenue Code; or

- (2) Any amount deferred under a nonqualified deferred compensation plan.

- G. Any amount taken into account as wages by reason of subsection F of this Section and the income attributable thereto shall not afterwards be treated as wages under this Section.

(13.03 amended by Ordinance No. 169, Section 2.1, and Ordinance No. 183, Section 1 affecting tax years commencing January 1, 1992)

13.06 **Tax Imposed.** A tax is hereby imposed on every employer of individuals who perform services within the district.

13.09 **Rate.**

- A. Every employer subject to tax pursuant to this Chapter 13 shall pay an amount equal to the product of (i) the Payroll Tax Rate, as set forth in Section 13.09(B), and (ii) the amount of wages paid by such employer with respect to services performed within the District.
- B. With respect to a tax period, the Payroll Tax Rate shall be the rate set forth opposite such period in the following table:

Tax Period	Rate
All Calendar Quarters in 2016	0.007337
All Calendar Quarters in 2017	0.007437
All Calendar Quarters in 2018	0.007537
All Calendar Quarters in 2019	0.007637
All Calendar Quarters in 2020	0.007737
All Calendar Quarters in 2021	0.007837
All Calendar Quarters in 2022	0.007937
All Calendar Quarters in 2023	0.008037
All Calendar Quarters in 2024	0.008137
Calendar Quarters beginning on or after January 1, 2025	0.008237

- C. The Board directs TriMet to prepare by the September 2020 meeting of the Board an updated (twenty year) forecast of the payroll tax receipts and self-employment tax receipts anticipated with the tax rate schedules set forth in Section 13.09(B) and Section 14.10(A)(2) and the capital and operating cost of implementing the TriMet service plan consistent with state and regional policies, as such plan and policies may be revised from time to time. If the Board determines that the forecasted payroll and self-employment tax receipts in conjunction with other TriMet revenues materially exceed the annual amounts necessary over the forecast period to (a) expand, operate and maintain transit service levels consistent with state and regional policies and (b) maintain sufficient financial reserves, the Board may consider at the September 2020 meeting of the Board whether to defer the payroll tax and self-employment tax rate increase scheduled for

calendar year 2021 set forth in Section 13.09(B) and Section 14.10(A)(2), or any subsequent years, or whether the payroll tax rate and self-employment tax rate increases set forth in Section 13.09(B) and Section 14.10(2) shall proceed without any adjustment.

- D. **Periods Before 2016.** The Payroll Tax Rate for calendar quarters in 2015 shall remain 0.007237. With respect to tax periods before 2015, the Payroll Tax Rate shall remain the rate established by the Code as in effect in such period.

(13.09 amended by Ordinance No. 279, Section 2 effective January 1, 2005; 13.09 also amended pursuant to ORS 267.260 following adoption of Ordinance Nos. 165, 166, 167, 233, 258, 320 and 340)

13.12 **Tax Period; Tax Agent; Powers.** The tax imposed by this Chapter shall be paid quarterly or other than quarterly if directed, to the Department of Revenue, State of Oregon, as agent for the District. The Department is hereby designated the agent of the District for purposes of administering the tax imposed by this Chapter and is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of this tax as it is authorized to exercise pursuant to ORS 305.620 (as amended by Or. Laws 1969); including but not limited to entering closing agreements, waiving of interest and penalties, releasing liens, issuance of subpoenas, and making of refunds.

13.15 **Tax and Reports Due Quarterly.** Every employer quarterly, on or before the last day of April, July, October and January, or other than quarterly if directed by the Department, shall pay over to the Department the amount imposed by this Chapter as an excise tax and determined according to wages paid by him with respect to the employment of individuals during the preceding calendar quarter. Every taxpayer shall, with each payment made by him to the Department, deliver to the Department on a return prescribed by the Department a statement of the total amount of wages paid to his employees during the quarterly or other period upon which the tax is required to be computed, and such other information as the Department requires. Every deficiency shall bear interest at the rate established by ORS 305.220 for each month or fraction of a month computed from the due date of the return to date of payment.

(13.15 amended by Ordinances No. 171, Section 1.2)

13.18 **Date Return Considered Filed or Payment Made.** A return filed before the last day prescribed by law for the filing thereof shall be considered as filed on the last day. An advance payment of any portion of the tax made at the time the return was filed shall be considered as made on the last day prescribed by law for the payment of tax. The last day prescribed by law for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer by the department.

13.21 **Assessment of Deficiency; Penalties and Interest on Deficiencies.**

- A. As soon as practicable after the return is filed, the department shall audit it, if the department deems such audit practicable. If the department discovers from the audit of a return or otherwise that a deficiency exists, it shall compute the tax and give notice to the taxpayer of its proposal to assess the deficiency, plus interest and penalty for fraud or negligence, if any attaches. The notice shall state the reason for each proposed adjustment to the return and a

reference to the ordinance, statute, regulation or department ruling upon which the proposed adjustment is based. Each notice of deficiency and proposed assessment shall be certified by the auditor who audited the return that he has audited the return and that the proposed adjustments to the return are made in good faith and not for the purpose of extending the period of assessment.

- B. Within 30 days from the date of mailing of notice of proposed assessment, the taxpayer shall pay the proposed deficiency with interest computed to the date of payment and any penalty proposed, or within that time shall advise the department in writing wherein its determination of deficiency is erroneous. If requested by the taxpayer in his written objection to the proposed deficiency, the taxpayer shall have an opportunity to confer with the department or its delegate as to the proposed assessment at any time prior to the date such assessment is made.
- C. If neither payment nor written objection is received by the department within 30 days after notice of proposed assessment has been mailed, the department shall assess the deficiency, plus interest and fraud or negligence penalty, if any, and shall give notice of the amount so assessed.
- D. Every deficiency shall bear interest at the rate established by ORS 305.220 for each month or fraction of a month computed from the due date of the return to date of payment.
- E. The penalty for negligent failure to pay tax when due shall be five percent of the amount of tax and shall be in addition to any interest required by subsection D of this section. If the return was falsely prepared and filed with the intent to evade the tax, a penalty equal to 100 percent of the deficiency shall be assessed and collected and shall be in addition to any interest required by subsection D of this section.
- F. All payments received must be credited first to penalty, then to interest accrued, and then to tax due.
- G. Mailing of notice to the taxpayer at his last known address shall constitute the giving of notice of proposed assessment as prescribed in subsection "A" of this section or of notice of assessment as prescribed in subsection "C" of this section. The provisions of this Chapter with respect to revision and appeal shall apply to the assessed deficiency, penalties and interest.
- H. Additional assessments and deficiency assessments with respect to any tax return shall be made pursuant to this section, and not otherwise, within the time limits prescribed by TMC 13.24, including but not limited to the assertion of additional tax arising from:
 - (1) The failure to report properly all wages which are the measure of the tax;
 - (2) The deduction of wages not permitted by law;
 - (3) Mathematical errors in the return or the amount of tax shown due in the records of the department;
 - (4) Improper credits or offsets against the tax claimed in the return.

(13.21(D) and (E) amended by Ordinance No. 171, Sections 1.3 and 1.4)

13.24 Time Limit for Assessment of Deficiency.

- A. At any time within three years after the return was filed, the department may give notice of proposed assessment as prescribed in TMC 13.21.
- B. The limitation to the giving of notice of proposed assessment of a deficiency provided in this section shall not apply to a deficiency resulting from false or fraudulent returns, or in cases where no return has been filed.
- C. The tax deficiency must be assessed and notice of tax assessment mailed to the taxpayer within one year from the date of the notice of proposed assessment unless an extension of time is agreed upon. If, prior to the expiration of any period of time prescribed in this section for giving of notice of proposed assessment or of assessment, the department and the taxpayer consent in writing to the deficiency being proposed or assessed after the expiration of such prescribed period, such deficiency may be proposed or assessed at any time prior to the expiration of the period agreed upon.

13.27 Penalty Assessed for Failure to File Return or to Pay Tax When Due; Interest.

- A. If a taxpayer (1) fails to file a return within the time required by this Chapter or (2) fails to pay a tax imposed by this Chapter at the time the tax becomes due, there shall be added to the amount of tax required to be shown as tax on the return a delinquency penalty of five percent of the amount of such tax.
- B. If the failure to file a return continues for a period in excess of three months after the due date:
 - (1) There shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of such tax; and
 - (2) Thereafter the Department may send a notice and demand to the person to file a return within 30 days of the mailing of the notice. If after such notice and demand no return is filed within the 30 days, the Department shall determine the wages paid by the taxpayer for services rendered within the District according to the best of its information and belief, assess the tax accordingly with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the Department and give written notice of the determination and assessment to the person required to make the filing.
- C. A penalty equal to 100 percent of any deficiency determined by the Department shall be assessed and collected if:
 - (1) There is a failure to file a return with intent to evade the tax; or
 - (2) A return was falsely prepared and filed with intent to evade the tax.

- D. Interest shall be collected on the unpaid tax at the rate established under ORS 305.220 for each month or fraction of a month, computed from the time the tax became due, during which the tax remains unpaid.
- E. Each penalty imposed under this section is in addition to any other penalty imposed under this section. However, the total amount of penalty imposed under this section and section 21 with respect to any deficiency shall not exceed 100 percent of the deficiency.
- F. For purposes of subsections A and B of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax that is paid on or before the date prescribed for payment of the tax and by the amount of any credit against tax which may be properly claimed upon the return.
- G. A taxpayer shall be deemed to have been notified under this section when the Department shall have mailed a written notice to the last known address of the taxpayer.

(13.27 amended by Ordinance No. 171, Section 1.5)

- 13.30 **Books and Records.** Every employer shall maintain records adequate to determine the total wages by which the excise tax imposed by this Chapter is measured. The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the wages paid by any taxpayer, may examine or cause to be examined by an agent or representative designated by it for the purpose, any books, papers, records, or memoranda bearing upon the matter required to be included in the return, and may require the attendance of the taxpayer or officer or agent or any other person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to such persons. The department shall have authority, by order or subpoena to be served with the same force and effect and in the same manner that a subpoena is served in a civil action in the circuit court, to require the production at any time and place it may designate of any books, papers, accounts or other information necessary to the carrying out of the provisions of this ordinance and the laws under which it is enacted.
- 13.33 **Requiring Return or Supplementary Return.** If the department is of the opinion that a taxpayer has failed to file a return, or to include in a return filed, either intentionally or through error, all wages paid, it may require from the taxpayer a return or supplementary return, under oath, in such form as it shall prescribe, of all the wages which the taxpayer paid during the quarter for which the return is made, whether or not paid with respect to services performed within the district. If from a supplementary return, or otherwise, the department finds that any wages by which the tax is measured have been omitted from the original return, it may require the wages so omitted to be disclosed under oath of the taxpayer, and to be added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provisions of law, whether or not the department required a return or a supplementary return under this section.

13.36 Tax as Debt; Termination of Taxable Period and Immediate Assessment of Tax.

- A. Every tax imposed upon employers measured by wages paid to employees, and all increases, interest and penalties thereon shall become, from the time such liability is incurred, a personal debt, due the district, from the person or persons liable therefor.
- B. If the department finds that a taxpayer designs quickly to depart from the state or to remove his property therefrom, or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax for any past quarter or the tax quarter then current unless such proceedings be brought without delay, the department shall declare the current taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer. Simultaneously, the department, on the basis of the best information available to it, shall assess a tax for such terminated period and for the preceding tax quarter (if no return has been filed therefor, whether or not the time otherwise allowed by law for filing such return and paying the tax has expired), and shall assess additional tax for any quarters open to assessment under the provisions of the applicable law. The department shall give notice to the taxpayer of all taxes so assessed. Such taxes shall thereupon become immediately due and payable as soon as the notice and findings are issued to the taxpayer or mailed to his last known address. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the findings of the department, made as provided in this section, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design, and the certificate of the department of the mailing or issuing of the notice and findings specified in this section is presumptive evidence that the notice and findings were mailed or issued.

13.39 Waiver, Reduction, Cancellation or Compromise of Tax, Penalties and Interest.

- A. The department may, in its discretion, upon good and sufficient cause, according to and consistent with its rules and regulations, upon making a record of its reason therefore, waive, reduce or compromise any tax balance of \$10 or less or any part or all of the penalties and interest provided for in this Chapter.
- B. The department may cancel any tax or portion thereof assessed against a taxpayer, including any penalty and interest, which has not been collected if the department determines that the tax is uncollectible or the administration and collection costs involved would not warrant collection of the amount due. Each such cancellation shall be evidenced by a written record in the files of the department, a copy of which shall be sent to the district. Upon canceling the tax, the department shall also cause to be canceled or released any lien which it may have for the tax so canceled.

13.42 Warrant for Collection of Taxes.

- A. If any tax imposed upon employers measured by wages paid to employees or any portion of such tax is not paid within 30 days after it becomes due (or within five days, in the case of the termination of the tax quarter by the Department under the provisions of TMC 13.36) and no provision is made to secure the payment thereof by bond, deposit or otherwise, pursuant to regulations promulgated by the Department, the Department, pursuant to ORS 267.385 (4), shall

issue a warrant under its hand and official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the taxpayer found within his county, for the payment of the amount of the tax; with the added penalties, interest, and the sheriff's cost of executing the warrant, and to return such warrant to the Department and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant.

- B. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in property of the taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of such clerk. The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be added to and collected as part of the warrant liability.
- C. In the discretion of the department a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect excise taxes, and in the execution thereof the agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.
- D. If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax, and shall balance his assessment record by transferring the unpaid deficiency to his delinquent record.

13.45 Liability of Transferee of Property of Taxpayer for Taxes Imposed on Taxpayer.

- A. When a taxpayer ceases to exist or is no longer subject to the jurisdiction of this district (although subject to the courts of a state having comity with the State of Oregon), being indebted for excise taxes levied upon employers, the transferee of the money or property of the taxpayer shall be liable for any such tax or deficiency in tax, including penalties and interest, imposed by law on the taxpayer and accruing or accrued upon the date of transfer, to the extent of the amount of money or value of the property received by the transferee. Property received by the transferee shall be valued at the fair market value of said property at the time of transfer to the initial transferee by the taxpayer. However, no heir, legatee, devisee or distributee of an estate of a deceased person shall be liable as a transferee of the decedent or of the decedent's estate (1) after the Department of Revenue's certificate of release with respect to such decedent's estate has been filed with the clerk of the probate court, or (2) where no release has been filed but 90 days have elapsed following a request to the department by the decedent's representative for such release, unless within that time the probate court, upon application by the department, finds reasonable grounds for extending the period and allows the department additional time in which to issue a release.

- B. The amount for which a transferee of the property of a taxpayer is liable in respect of any such tax or deficiency in tax, including penalties and interest, whether shown on the return of the taxpayer or determined as a deficiency in the tax, shall be assessed against such transferee and collected and paid in the same manner and subject to the same provisions and limitations as would apply to the taxpayer had he or it continued subject to the jurisdiction of this district, except as provided in this section.
- C. As used in this section, the term “transferee” means one not a bona fide purchaser for value and includes an heir, legatee, devisee, distributee of an estate of a deceased person, the shareholder of a dissolved corporation, the assignee or donee of an insolvent person, the successor or a corporation which is a party to a corporate reorganization, and persons acting on behalf of such transferees in a fiduciary capacity.
- D. The period of limitation for assessment of any such liability of a transferee shall be as follows:
 - (1) In the case of the liability of an initial transferee of the property of the taxpayer, within one year after the expiration of the period of limitation for assessment against the taxpayer;
 - (2) In the case of the liability of a transferee of a transferee of the property of the taxpayer, within one year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three years after the expiration of the period of limitation for assessment against the taxpayer;
 - (3) If, before the expiration of the period of limitation for the assessment of the liability of the transferee, as set forth in paragraph (1) or (2) of this subsection, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, then the period of limitation for assessment of the liability of the transferee shall expire one year after final judgment has been rendered in the court proceedings;
 - (4) If, before the expiration of the time prescribed in paragraph (1), (2) or (3) of this subsection for the assessment of the liability, both the Department of Revenue and the transferee have consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period of extension agreed upon. The period so agreed upon may be further extended by subsequent agreements in writing made before the expiration of the period of extension previously agreed upon.
- E. For the purposes of this section, if the taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period which would be in effect had death or termination of existence not occurred.
- F. In the absence of notice to the Department of Revenue of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax or deficiency in tax, including penalties and interest thereon, imposed by this Chapter, if mailed to the person subject to the liability at his last-known address, shall be sufficient for the purposes of this

section even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

13.48 **Refunds.**

- A. If the amount of the tax found due as computed is less than the amount theretofore paid, the excess shall be refunded by the Department with interest at the rate or rates, and shall be computed in the manner, established by ORS 305.220 from the time the tax was paid to the time the refund is made. No refund shall be allowed or made after three years from the time the return was filed, or two years from the time the tax or a portion thereof was paid, whichever period expires the later, unless before the expiration of such period a claim for refund is filed by the taxpayer in compliance with the manner prescribed by the Department. The amount of the refund, exclusive of interest thereon, shall not exceed the portion of the tax paid during such period preceding the filing of the claim, or, if no claim is filed, then during which a claim might have been filed. When there has been an overpayment of any tax imposed, the amount of the overpayment and the interest thereon shall be credited against any tax, penalty or interest then due from the taxpayer, and only the balance shall be refunded.
- B. Notwithstanding any provision to the contrary in subsection "A" of this section, if, prior to the expiration of the period prescribed in subsection "A" of this section, the department and the taxpayer consent in writing to the refund of tax after the expiration of the period prescribed, the refund shall be made at any time prior to the expiration of the period agreed upon and no refund shall be made or allowed after the expiration of the period agreed upon unless a claim for refund is filed by the taxpayer before the expiration of the period agreed upon in compliance with the manner prescribed by the department. The department shall have the power to consent to such refund only where the taxpayer has consented to assessment of additional tax, if such be determined upon audit, after the expiration of the applicable three-year period prescribed.

(13.48 (a) amended by Ordinance No. 171, Section 1.8)

13.51 **Appeal to Department.**

- A. A taxpayer may appeal to the department for the refund or revision, or both, of any excise tax within the time stated below:
 - (1) In the case of an appeal for a refund of taxes shown on the return filed by the taxpayer, within three years from the time the return was filed, or two years from the time the tax, or a part or installment thereof, was paid, whichever period expires the later.
 - (2) In the case of an appeal from additional taxes assessed, taxes assessed where no return was filed, or a refund denial issued by the Department, within six months from the date of notice of assessment. Assessments shall be final after the expiration of the period specified in this paragraph and payment of the tax shall not give the taxpayer any extension of the period within which an appeal may be taken.
- B. The appeal shall be by way of written petition which shall state the grounds upon which the taxpayer contends that the assessment is erroneous. The department shall grant a hearing upon

the appeal and shall examine the determination of the amount of tax due, including penalty and interest thereon, and shall redetermine such amount if it is necessary upon the law and the facts to do so. The department shall notify the taxpayer of its determination of the amount of tax due, with penalty and interest, either as originally assessed or as redetermined, and shall refund to the taxpayer the amount, if any, paid in excess of the tax found to be due, with interest thereon as provided in this Chapter. Where there has been an overpayment of any tax, the amount of such overpayment and the interest thereon shall be credited against any tax, or penalty or interest then due from the taxpayer, and only the balance shall be refunded. If the taxpayer has failed prior to the time of the appeal, without good cause, to file any return required by law, within the time prescribed by law or has filed a fraudulent return, or, having filed an incorrect return, has failed, after notice, to file a proper return, the department shall not reduce or refund so much of the amount of the tax involved in the hearing as it may be found that the taxpayer owes for any other year or years.

- 13.54 **Appeals from Department.** An appeal from the order of the Department upon the application made by the taxpayer for refund or revision of any tax, as provided for in this Chapter, may be taken by the taxpayer to the Oregon Tax Court. Any such appeal must be made within 60 days after the order of the Department is sent to the taxpayer. If the Department fails to notify a person properly appealing to the Department within 12 calendar months following the month in which the appeal is filed of its determination of the appeal, the person may treat the appeal as denied and bring suit in the Oregon Tax Court. All suits brought in the Oregon Tax Court shall be conducted in accordance with the procedures set forth in ORS 305.415 through 305.447, 305.475, 305.490 through 305.510 and 305.620

(13.54 amended by Ordinance No. 171, Section 1.9)

13.57 **When Appeal Stays Collection Proceedings.**

- A. An appeal to the Department from an assessment of taxes or additional taxes shall not stay proceedings to collect any unpaid tax if the Department believes that collection of the tax will be jeopardized by delay.
- B. In any appeal from an order of the Department involving a deficiency of taxes imposed by this Chapter, the tax assessed, and all penalties and interest due, shall be paid to the Department on or before the filing of a complaint with the Oregon Tax Court. The complaint shall be filed as a claim for refund. Penalty and interest due for this purpose are the amounts stated in the order of the Department from which the appeal is taken. If no order has been issued by the Department, the amount of penalty and interest due is the amount stated in the notice of assessment issued by the Department. Upon a showing of undue hardship by the plaintiff, the Oregon Tax Court may stay all or any part of the payment of tax, penalty and interest required under this section.

13.58 State Entities.

- A. Those employers described at ORS 267.380(1)(a)(C) shall pay a percentage of the amount of employer payroll tax defined at TMC 13.09 in accordance with the following schedule for each fiscal year commencing July 1, 1990:

Fiscal Year	Percentage
1990-91	20
1991-92	40
1992-93	60
1993-94	80
1994 and thereafter	100

- B. TMC 13.58(A) does not apply to those employers described at ORS 267.380(1)(a)(C) which made, and which continue to make, payments under ORS 291.405 and 291.407 equivalent to the rate in effect on January 1, 1989.

(13.58 added by Ordinance No. 169)

13.61 Interest Rates and Penalty. All deficiencies and delinquencies assessed and refunds made after December 31, 1989 shall bear interest at the rates established by this Chapter. The penalty provisions of this Chapter shall apply to all penalties assessed after December 31, 1989.

(13.61 added by Ordinance No. 171, Section 2)