



PERMANENT ADMINISTRATIVE ORDER

REV 21-2020
CHAPTER 150
DEPARTMENT OF REVENUE

FILED

11/17/2020 3:47 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Authority to not impose or waive an NSF penalty in circumstances related to COVID-19.

EFFECTIVE DATE: 11/17/2020

AGENCY APPROVED DATE: 11/17/2020

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AMEND: 150-305-0160

NOTICE FILED DATE: 09/25/2020

RULE SUMMARY: Amending the rule to provide financial relief to debtors due to financial hardship related to COVID-19. Adoption of the amendment would suspend the department's obligation to assess a penalty for dishonored checks (NSF penalty) beginning March 8, 2020 until 90 days after the end of the state of emergency related to COVID-19.

CHANGES TO RULE:

150-305-0160

Penalty for Dishonored Checks ¶¶

(1) A penalty on dishonored checks will be assessed in the amount of \$25.00 or three times the amount of the check, whichever is greater, but not to exceed \$500.00. This is in addition to all other penalties provided by statute.¶¶

(2) ~~This~~ Other than as provided in sections (5) and (6) of this rule, the penalty will be imposed on a dishonored check if a prior dishonored check has been tendered by any individual, firm, corporation, company, association, copartnership, estate, trust, trustee, receiver syndicate or any group or combination acting as a unit to the Department of Revenue within the immediately preceding two years. Checks tendered in the same envelope will be considered a single occurrence for the purpose of determining if a prior dishonored check has been received.¶¶

(3) This penalty will be assessed on all types of dishonored checks to the department including, but not limited to:¶¶

(a) Advance deposits on withholding accounts.¶¶

(b) Estimated tax payments for personal income and corporate excise tax.¶¶

(c) Payments to the department for transfer to other agencies or governmental units.¶¶

(4) For the purposes of this rule, "check" includes checks, drafts, orders and electronic funds transfers.¶¶

(5) ~~The department may waive all of the~~ Under authority granted in ORS 305.229, the department will not impose the penalty described in section (1) of this rule for a period of time beginning March 8, 2020 and extending until 90 days after the Governor of the State of Oregon declares an end to the state of emergency existing in the state of Oregon related to COVID-19.¶¶

(6) Under authority granted in ORS 305.229, the department will not impose the penalty described in section (1)

of this rule on a second dishonored check if the first dishonored check was received by the department during the period of time set forth in section 5 of this rule.[¶]

(7) The department may waive the entire penalty if a reasonable basis exists. "Reasonable basis" means any situation in which circumstances beyond the taxpayer's reasonable ability to control resulted in the refusal to honor the check. In determining reasonable basis for waiving the penalty the department will examine all facts and circumstances. Examples of reasonable basis for waiver include, but are not limited to:[¶]

(a) The bank returns the check to the payee in error.[¶]

(b) The taxpayer issues a stop payment order for presumably lost or stolen checks that are later located and processed.[¶]

(c) The check was dishonored during the period set forth in section 5 of this rule.

Statutory/Other Authority: ORS 305.100

Statutes/Other Implemented: ORS 305.228