

## CHAPTER 14 – SELF EMPLOYMENT TAX

14.5 **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. “Net Earnings from Self-Employment” has the same meaning as the term “net earnings from self-employment” in Section 1402 of the Internal Revenue Code of 1986 (the “IRC”), as that section was in effect and operative on December 31, 1988. In applying IRC Section 1402 for purposes of this Chapter, the words “gross income,” “deductions” and “distributive share,” and any other words used in IRC Section 1402 to define “net earnings from self-employment,” shall have the same meaning that those words had for purposes of IRC Section 1402 under federal income tax laws in effect and operative as of December 31, 2020, provided, however, that the phrase “deductions allowed by this subtitle which are attributable to such trade or business” shall not include the deduction contained in IRC Section 199 (related to domestic production activities) and shall not include the deduction contained in IRC Section 199A (related to qualified business income). The purpose of these definitions is to incorporate any relevant changes in the Internal Revenue Code of 1986 made and in effect on or before December 31, 2020 except for changes in IRC Section 1402 made after December 31, 1988. For the purposes of this Section, the term “net earnings from self-employment” is not limited in any way by IRC Section 1402(b).

Notwithstanding the foregoing, “net earnings from self-employment” does not include income which would be wages under Section 3121 of the Internal Revenue Code, as amended and in effect on December 31, 1990, but for the provisions of Section 3121(b)(8)(A) of the Internal Revenue Code.

- D. “Taxable Year” means the period corresponding to the Taxpayer’s taxable year for federal income tax purposes.
- E. “Taxpayer” means a natural person subject to tax under this ordinance.

*(14.05 amended by Ordinance Nos. 164, 169, 177, 181, 183, 188, 191, 195, 201, 231, 240, 245, 257, 265, 271, 280, 287, 292, 296, 304, 311, 314, 319, 326, 327, 331, 336, 341, 344, 348, 352, 357, 361; and Ordinance No. 365 affecting individuals' taxable years starting on and after January 1, 2021).*

14.10 **Imposition of Tax.**

A. Tax Imposed.

- (1) A tax is imposed annually on every natural person in an amount equal to the product of (i) the Self-Employment Tax Rate for such year, as set forth in Section 14.10(A)(2), and (ii) the amount of such person’s Net Earnings from Self-Employment during the Taxable Year in excess of \$400 from activities within the District.

- (2) With respect to any Taxable Year, or portion thereof, the Self-Employment Tax Rate shall be the rate set forth opposite such Taxable Year in the following table:

<b>Taxable Year</b>	<b>Rate</b>
2016	0.007337
2017	0.007437
2018	0.007537
2019	0.007637
2020	0.007737
2021	0.007837
2022	0.007937
2023	0.008037
2024	0.008137
2025 and subsequent years	0.008237

- (3) The Board may adjust the self-employment tax rate increases for calendar year 2021, or any subsequent year, shown in Section 14.10(A)(2) in the manner described in Section 13.09(C).
- (4) Years Before 2016. The Self-Employment Tax Rate for 2015 shall remain 0.007237. With respect to Taxable Years, or portions thereof, before 2015, the Self-Employment Tax Rate shall remain the rate established by the Code as in effect in such year.

B. Apportionment. Any Taxpayer having Net Earnings from Self-Employment from an activity both within and without the District shall allocate and apportion such Net Earnings in a manner consistent with that required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675 and the Department's regulations adopted pursuant thereto. Regarding such allocation and apportionment, the Taxpayer shall follow the instructions and forms published by the Department.

Any Taxpayer may elect to apportion Net Earnings from Self-Employment, to the extent that apportionment rather than allocation is appropriate, based upon a single factor. In the case of an activity conducted by a partnership, the partnership may elect to have each of its partners use a single factor for the apportionment of its earnings. The single factor for apportionment shall be a sales factor, computed in a manner consistent with ORS 314.665 and the Department's Regulations adopted pursuant thereto. Regarding such apportionment, the Taxpayer (or the partnership of which the Taxpayer is a member) shall follow the forms and instructions published by the Department. The election by a Taxpayer (or by a partnership of which the Taxpayer is a member) to use a single-factor apportionment shall be made on a form furnished by the Department. An election shall be binding for both the current and all future years, unless revoked with the written consent of the Department.

C. Effective Date. This Section shall apply to individuals' taxable years starting on or after January 1, 2002.

*(14.10 amended by Ordinance No. 279, Section 3 effective January 1, 2005; 14.10 also amended pursuant to ORS 267.260 following adoption of Ordinance Nos. 165, 166, 167, 233, 258, 320 and 340)*

14.15 **Department the Tax Agent of District.** The tax imposed by this Ordinance shall be paid to the Department, as agent for the District. The Department is hereby designated the agent of the District for purposes of administering the tax imposed by this Section. The Department may exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of this tax as the Department is authorized to exercise pursuant to ORS 305.620 (as amended from time to time), including but not limited to entering closing agreements and waiving interest and penalties.

14.20 **Tax and Return Due Dates.**

A. **General.** Every Taxpayer annually, on or before the 15<sup>th</sup> day of the fourth month after the end of the Taxpayer's Taxable Year, shall pay over to the Department the amount imposed by this Ordinance. Every Taxpayer shall with each payment made to the Department, deliver to the Department on a return prescribed by the Department a statement of the total amount of Net Earnings from Self-Employment during the Taxable Year and such other information as the Department requires.

B. **Optional Rule for Partnerships.**

- (1) A partnership is not a Taxpayer under this Chapter. However, a partnership may choose to pay the taxes due under this Chapter from its partners with respect to the partnership's earnings. If a partnership so chooses, the partnership shall pay the taxes due and shall file a return and all information prescribed by the Department. In such a case, individual partners need not file any returns under this Chapter, unless they have Net Earnings from Self-Employment from sources other than such partnership. Any partner who files a personal return shall not be entitled to exclude from tax \$400 of Net Earnings from Self-Employment (as otherwise specified in TMC 14.10A) to the extent that such amount is excluded by a partnership. Any partner who is a member of more than one partnership shall ensure that no more than \$400 of Net Earnings from Self-Employment in the aggregate for any Taxable Year is excluded on account of such partner.
- (2) If a partnership chooses to pay the taxes due from its partners, the partnership must file a return and pay the taxes due on or before the 15<sup>th</sup> day of the fourth month following the end of the calendar year. The partnership's return and payment shall be based upon the Net Earnings from Self-Employment of the individual partners from the partnership for their Taxable Years ending with or within the calendar year immediately after which the return is due.

Example 1: If a partnership has a taxable year ending December 31, 1983, and its partners use calendar Taxable Years, the partnership must pay on or before April 16, 1984, the amount due from the partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending December 31, 1983.

Example 2: Assume the same facts as in Example 1, except that one partner uses a Taxable Year ending on September 30, 1983. The partnership must pay on or before April 16, 1984 (a) the amount due from the calendar-year partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending December 31, 1983 and (b) the amount due from the fiscal-year partner with respect to his or her Net Earnings from Self-Employment from the partnership for its taxable year ending December 31, 1982.

Example 3: If a partnership has a taxable year ending August 31, 1983, and its partners use calendar Taxable Years, the partnership must pay on or before April 16, 1984 the amount due from the partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending August 31, 1983.

Example 4: Assume the same facts as in Example 3, except that one partner uses a Taxable Year ending on June 30, 1983. The partnership must pay on or before April 16, 1984 (a) the amount due from the calendar-year partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending August 31, 1983 and (b) the amount due from the fiscal-year partner with respect to his or her Net Earnings from Self-Employment from the partnership for its taxable year ending August 31, 1982.

- (3) In no event shall the filing of a return by a partnership under this Section 14.20B reduce the tax due from a Taxpayer under this Section.

14.25 **Procedural Matters.** The provisions of ORS Chapters 305 and 314 (as amended from time to time), as to the audit and examination of reports and returns, determination of deficiencies, interest, penalties, assessments, claims for refund, conferences, appeals to the Director of the Department and appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of taxes, penalties and interest under this Section, except where the context requires otherwise. A Taxpayer may utilize the procedure respecting appeals to the small claims division of the Oregon Tax Court as provided in ORS 305.515 to 305.555.