

Enrolled
Senate Bill 176

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CHAPTER

AN ACT

Relating to reorganized business entities; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 305.

SECTION 2. (1) As used in this section, "reorganized business entity":

(a) Means a business entity that, while operating substantially the same business as another entity that incurred a liability for taxes, interest or penalties administered by the Department of Revenue, has been converted to a different form of business entity from that of the entity that incurred the liability or has changed ownership from that of the entity that incurred the liability; and

(b) Does not include a business entity that is converted to a different form or that has changed ownership solely because of a transfer of assets or because of a transfer of an interest of an investor who has no right to manage the business entity, including, but not limited to, the interest of:

(A) A person that is solely a minority shareholder in a corporation;

(B) A member of a manager-managed limited liability company; or

(C) A limited partner of a limited partnership that does not participate in the control of the business of the limited partnership.

(2) The department may transfer the liability for taxes, interest or penalties that are administered and collected by the department from the business entity that incurred the liability to a reorganized business entity and may assess those amounts against the reorganized business entity.

(3) Factors the department may consider when determining if a business entity is a reorganized business entity include, but are not limited to, whether the business entity:

(a) Operates from the same physical location as did the taxpayer owing the debt.

(b) Provides the same services or manufactures the same products as did the taxpayer owing the debt.

(c) Has one or more of the same:

(A) Corporate directors or officers as did the taxpayer owing the debt.

(B) Owners or holders of a direct or indirect interest in the business entity as did the taxpayer owing the debt.

(4) Following the determination to transfer a liability to a reorganized business entity under subsections (2) and (3) of this section and notwithstanding ORS 314.835, 314.840 or

314.991, the department shall send a notice of liability to the reorganized business entity stating the amount owed by the reorganized business entity.

(5) Within 30 days from the date of notice of liability given under subsection (4) of this section, the reorganized business entity shall:

(a) Pay the liability stated in the notice and any other penalty or interest related to that liability; or

(b) Advise the department in writing of objections to the notice of liability and, if desired, request a conference. A conference requested under this paragraph shall be governed by those provisions of ORS 305.265 that govern a conference requested from a notice of deficiency under ORS 305.265. Notwithstanding ORS 314.835, 314.840 or 314.991, the department may disclose any information to the reorganized business entity that the department would be authorized to disclose to the business entity that incurred the liability.

(6) After a determination of the issues raised in written objections made under subsection (5) of this section or after a conference, if a conference was requested, the department shall mail the reorganized business entity a letter affirming, canceling or adjusting the notice of liability. If the entity remains liable for an outstanding amount under this section, the letter shall be considered a notice of assessment and, within 90 days from the date the letter is mailed, the entity shall:

(a) Pay the amount set forth in the notice of assessment; or

(b) Appeal to the Oregon Tax Court in the manner provided for an appeal from a notice of assessment.

(7) If neither payment nor written objections to the notice of liability sent under subsection (4) of this section is received by the department within 30 days after the date of the notice of liability, the notice of liability becomes final. The reorganized business entity may appeal the notice to the tax court within 90 days after the date the notice became final, in the manner provided for an appeal from a notice of assessment.

SECTION 3. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by Senate February 26, 2007

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Secretary of Senate

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President of Senate

Passed by House June 1, 2007

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Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State