



## Agency response

*Questions from the Joint Committee on Ways and Means  
Subcommittee on General Government*



March 26, 2019





## Why don't tax liens show up on credit reports?

During the committee hearing, the department stated that liens recorded in the county record showed on credit reports. We have new information to share regarding credit bureau reports.

As a result of a settlement, credit bureaus have decided to not include tax liens on credit reports or in the calculation of a credit score. This decision affected tax liens of all types across the country.

In 2009, ORS 314.843 authorized the department to report debt and debtor information to credit bureaus. However, despite our statutory authority to report the information, credit bureaus didn't accept tax debt. They provided the following reasons:

1. Credit bureau computer systems would need to be modified to accept tax debt.
2. Information commonly reported is "revolving" credit such as credit card debt, mortgages, and other money lenders typically requiring an application for credit.
3. Credit bureaus report both positive and negative information. This would require the department to report information about taxpayers who file and pay timely.
4. DOR records (docket) warrants in the county lien record introducing significant risk of "double-reporting" the debt; once from the county record, once from direct reporting.

Credit bureaus did include tax debt that had been made a part of public records similar to other civil filings. When the department recorded a lien against a delinquent taxpayer, that information was available for a credit bureau to collect and include in a report about the taxpayer.

The department has discovered that the three major credit reporting agencies (Equifax, Experian, and TransUnion) implemented the National Consumer Assistance Plan in 2015. The plan was a direct result of a settlement with 31 state attorneys general, including Oregon's. Under the settlement, credit reporting agencies agreed to:

- Increase monitoring of data furnishers.
- Require additional information from furnishers of certain types of data.
- Limit direct-to-consumer marketing.
- Provide greater protections for consumers who dispute information on their credit reports.
- Limit certain information that can be added to a credit report.
- Provide additional consumer education.
- Comply with state and federal laws, including the Fair Credit Reporting Act.

While establishing compliance with the specific terms of the settlement, the credit bureaus determined civil filings and tax liens were the least reliable pieces of data and the most difficult to meet the terms of the settlement. As a result, starting in 2017 and concluding in April 2018, all tax liens were removed from their databases and excluded from the calculation to create a credit score.

**Why hasn't the Oregon Employment Department (OED) sent all of their delinquent accounts to the Department of Revenue's Other Agency Accounts (OAA) unit for collections under Senate Bill 1067 requirements?**

SB 1067 (2017) (codified in ORS Chapter 293) directs executive branch agencies to assign their liquidated and delinquent (L&D) accounts to OAA. However, while ORS 293.231(1) requires that accounts be assigned to OAA for collections, not all accounts can be assigned to OAA. There may be federal or state laws or regulations that exempt some accounts from assignment to OAA.

Specifically, some accounts may be exempt from assignment under the provisions in ORS 293.231(7) (a) through (k). Examples of these statutory provisions include exemptions for debt that:

- Is in litigation.
- Is owed by a closed estate.
- Is owed by a debtor who is imprisoned, hospitalized in a state hospital, or receives public or medical assistance.
- Would result in a loss of federal funding if assigned.

Other accounts may be prohibited from assignment under the provisions of ORS 293.231(4), which exempts debt that is prohibited by state or federal law or regulation from assignment or collection. Additionally, ORS 293.233 allows the Oregon Department of Administrative Services to establish other assignment exemptions, which are listed in the Oregon Accounting Manual 35.40.10, section 109 (l) through (t).

The department partnered with OED representatives to compile the information below regarding their L&D debt that hasn't been assigned to OAA. In the *2018 Report on Liquidated and Delinquent Accounts Receivable*, OED reported 46,679 exempt accounts valued at \$148 million and \$0 unassigned, non-exempt accounts. While OED reported accounts exempt under several reasons, more than 90 percent of those accounts were exempted under the reasons shown below.

Oregon Employment Department exemptions (2018 Report on Liquidated and Delinquent Accounts Receivable)		
Reason	Description	Amount
Loss of federal funds or federal program funds [ORS 293.231(7)(i)]	These accounts require OED to declare the debt uncollectible before it may be assigned to a third-party for collections.	\$78.9 million
Litigation, bankruptcy, arbitration and mediation [ORS 293.231(7)(c)]	These accounts are primarily in bankruptcy or there's a court-ordered repayment arrangement in place.	\$32.9 million
Prohibited by law [ORS 293.231(4)]	Generally, these are accounts that can only be collected on by deducting from future unemployment insurance benefits that would otherwise be payable to the debtor (ORS 657.315).	\$14.5 million
DAS-approved exemption to the assignment timeframe provided in ORS 293.231(1)	These are accounts where there has been no payment between 90 days and 1 year.	\$11.5 million

Although some accounts may currently be exempt from assignment to OAA, that doesn't necessarily mean that OAA will never be involved with collection of the debt. For example, accounts exempt under the reason of loss of federal funds or federal program funds (\$78 million) are subject to the federal requirement that OED determine an account to be uncollectible before it can be assigned to a third party for collections. If OED's internal collection unit is unsuccessful in collecting on the debt and deems the account uncollectible, it is then eligible for assignment to OAA for full collections under the SB1067 centralized collections structure. Also, while accounts may be exempt from assignment to OAA, the refund-offset-only program doesn't require assignment of the account. This program applies state refunds that would otherwise be due to the debtor to their state agency debt.

While some OED accounts are exempt or prohibited from assignment to OAA, this doesn't mean no one is attempting to collect on the debt. OED employs internal collections staff who work to collect on delinquent accounts, including through the use of federal offsets (the Treasury Offset Program). Parallel with these internal collection efforts, unless otherwise prohibited by law, OED also takes advantage of state refund offsets through OAA.

For more information on this topic and on total state debt relative to OAA's collection portfolio, see the department's 2019 [Report on Centralization of Statewide Collections](#). The report also explains specifically how the \$7.65 million estimated to be assigned by OED to OAA annually was calculated.