

ANALYSIS

Item 79: Department of Revenue Certificates of Tax Compliance

Analyst: Alex Perkins

Request: Appropriate \$640,238 General Fund, increase Other Funds expenditure limitation by \$194,329, and establish seven permanent full-time positions (4.39 FTE) to provide certificates of tax compliance.

Analysis: A certificate of tax compliance acts as an official acknowledgement by the Department of Revenue (DOR) that a taxpayer is in compliance with all state and local tax or fee programs administered by the Department. This has proven to be an effective tool in encouraging voluntary compliance. The Department relies on a voluntary tax compliance model. While 98% of tax compliance is done with voluntarily submission of owed taxes through income tax withholding, quarterly estimated tax payments, and payments submitted with tax returns, DOR expends much of its efforts on the remaining 2% through auditing, collection, and other enforcement actions for receiving the tax revenue. With a growing list of state entities requiring a certificate of compliance to obtain or renew licenses, the Department has seen year to year requests for certificates of compliance increase by more than 300%. The primary drivers of this growth are recent administrative rule changes from the Oregon Liquor and Cannabis Commission (OLCC) and Department of Public Safety Standards and Training (DPSST).

In June 2023, OLCC started mandating tax compliance certificates for new applications and renewals of marijuana retailer licenses. This requirement has significantly increased the workload, with expectations now set for 1,700 requests, over double the initially planned 800. A similar increase occurred when, in November 2023, DPSST began requiring certificates of tax compliance for licensing private security firms, projecting between 900 and 1,600 licensees to need annual tax compliance certificates. Additionally, the Department intends to implement a rule to require tax compliance certificates for tobacco retail licensees. This change would affect approximately 2,600 businesses under the Oregon tobacco retail license.

If local tobacco retail licensing agencies also adopt this requirement, it would involve an additional 1,400 retailers. To address this workload increase and the expectation for an increase of state agencies requiring certificates of tax compliance, the Department is requesting \$640,238 General Fund and \$194,329 Other Funds to support the addition of seven permanent full-time positions (4.39 FTE). The positions include six Public Service Representative 4 positions and one Information Systems Specialist 4 position.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend appropriating \$640,238 General Fund, increasing Other Funds expenditure limitation by \$194,329, and authorizing the establishment of seven permanent full-time positions (4.39 FTE) in a budget reconciliation bill during the 2024 legislative session for the Department of Revenue to support increased demand for certificates of tax compliance.

Request: Appropriate \$640,238 General Fund, increase Other Funds expenditure limitation by \$194,329, and establish seven permanent full-time positions (4.39 FTE) for the Department of Revenue (DOR) to keep up with the increased workload in issuing certificates of tax compliance.

Recommendation: Approve the request during the 2024 Legislative Session.

Discussion: DOR is requesting \$640,238 General Fund, \$194,329 Other Funds expenditure limitation, and seven permanent full-time positions (4.39 FTE) to keep up with increased workload related to issuing certificates of tax compliance (CTCs). CTCs are an official acknowledgement by DOR that a taxpayer is in compliance with all programs administered by the Department. Taxpayers must fill out a form to request a CTC; people can submit the form through the Revenue Online website. Prior to recent and anticipated changes, CTCs were required by licensees or contractors of the Oregon Department of Human Services (ODHS), Oregon Lottery, Bureau of Labor and Industries (BOLI), or Department of Consumer and Business Services (DCBS) at a rate of approximately 1,900 requests per year.

	Prior	Expected
DCBS, BOLI, Lottery, ODHS and others	1,900	1,900
DPSST (HB 2527 (2021))	-	Up to 1,600
OLCC	-	1,700
Tobacco Retail Licensure	-	Up to 4,000
Total	1,900	Up to 9,200

Recent and planned changes to state law and policy will result in a significant increase in the number of requests for CTCs, as follows:

- **The Department of Public Safety Standards and Training (DPSST)** was given responsibility for regulating private security entities through House Bill 2527 (2021). Section 3 (2)(C) of the bill requires DOR to issue licensees CTCs. The cost issuing the certificates was not addressed through the fiscal impact process. Licensing for private security entities will begin January 1, 2024, and DOR anticipates issuing up to 1,600 per year to meet this requirement.
- **The Oregon Liquor and Cannabis Commission (OLCC)** began requiring marijuana licensees to provide a CTC during licensing and renewals due to noncompliance in the industry. DOR anticipates an additional 1,700 CTCs per year to meet this requirement.
- **DOR and the Oregon Health Authority (OHA)** jointly regulate tobacco retailers as required by Senate Bill 587 (2021), except in areas where local governments have equivalent regulation. Although a formal CTC is not required as DOR already possesses the information it needs to assess tax compliance, DOR is adding tax

compliance checks to the licensing process for tobacco retailers. DOR anticipates up to an additional 4,000 tax compliance checks as a result.

All told, DOR projects it could end up performing an additional 7,300 tax compliance checks per year going forward. Compliance checks are a largely manual process that involve looking up a taxpayer's account status as well as the status of the businesses' owners. If a compliance check reveals a compliance problem with a taxpayer there is additional customer service work to help the taxpayer understand their obligations and how to regain compliance. This work is currently handled in the Business Tax section by four positions who dedicate 15-20 percent of their FTE to this work, and in the Personal Tax and Compliance Division by two positions who spend most of their time doing this work as well as other staff who are cross-trained. DOR's request is for two teams of three Public Service Representatives each in the Business Tax and the Personal Tax and Compliance Divisions, as well as an Information Systems Specialist 4 position in the Information Technology Services Division to support the teams and their additional workload.

Legal Reference: Increase the General Fund appropriation established by chapter 361, section 1(3), Oregon Laws 2023, for the Department of Revenue, Personal Tax and Compliance Division, by \$339,936 for the 2023-25 biennium.

Increase the General Fund appropriation established by chapter 361, section 1(4), Oregon Laws 2023, for the Department of Revenue, Business Division, by \$191,871 for the 2023-25 biennium.

Increase the General Fund appropriation established by chapter 361, section 1(6), Oregon Laws 2023, for the Department of Revenue, Information Technology Services Division, by \$108,431 for the 2023-25 biennium.

Increase Other Funds expenditure limitation established by chapter 361, section 2(3), Oregon Laws 2023, for the Department of Revenue, Personal Tax and Compliance Division, by \$6,938 for the 2023-25 biennium.

Increase Other Funds expenditure limitation established by chapter 361, section 2(4), Oregon Laws 2023, for the Department of Revenue, Business Division, by \$155,002 for the 2023-25 biennium.

Increase Other Funds expenditure limitation established by chapter 361, section 2(7), Oregon Laws 2023, for the Department of Revenue, Information Technology Services Division, by \$32,389 for the 2023-25 biennium.



Oregon

Tina Kotek, Governor

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December 4, 2023

Senator Elizabeth Steiner, Co-Chair
Representative Tawna Sanchez, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairs:

Nature of the Request

The Department of Revenue (DOR) is requesting budget and position authority to provide certificates of tax compliance. Specifically, the department requests a \$640,238 General Fund appropriation, an increase of \$194,329 Other Funds expenditure limitation, and the establishment of seven permanent, full-time (4.39 FTE) positions for the 2023-2025 biennium in order to provide certificates of tax compliance.

Agency Action

The department provides certificates of tax compliance on request to Oregon taxpayers. We have seen an increase from 1900 requests per year to 9200 requests per year. This increase is due to several factors.

First, in June 2023 the OLCC began requiring tax compliance certificates in order to apply for establishment and renewal of marijuana retailer licenses. This workload is more than double compared to the estimate due to the complicated structure of marijuana businesses. We planned for 800 requests are now expecting 1700 requests.

Second, in November 2023 the Department of Public Safety Standards and Training (DPSST) began requiring tax compliance certificates when licensing private security firms. DPSST has indicated that they expect between 900 and 1,600 licensees who will be required to provide a tax compliance certificate annually.

Lastly, DOR also plans to require tax compliance certificates by rule for tobacco retail licensees, with about 2,600 businesses subject to the Oregon tobacco retail license. If locally administered tobacco retail licensing agencies require a tax compliance certificate, that would add another 1,400 retailers.

The tax compliance certificate process is an effective approach to work with taxpayers to resolve outstanding tax issues. The additional resources will allow the agency to maintain current service levels which is important to our partner agencies and licensees who depend on the compliance certificate to acquire or maintain their license.

The department is requesting three Public Service Representative 4 positions and related Services and Supplies with a start date of April 1, 2024, for the Personal Tax and Compliance Division, three Public Service Representative 4 positions and related Services and Supplies with a start date of April 1, 2024, for the Business Division, and one Information Systems Specialist 4 position and related Services and Supplies with start date of April 1, 2024, for the Information Technology Services Division.

Action Requested

The department requests that the Legislature appropriate \$640,238 General Fund, increase its Other Funds expenditure limitation by \$194,329, and approve the establishment of seven permanent, full-time (4.39 FTE) positions within the Personal Tax and Compliance Division, the Business Division and the IT Division starting April 1, 2024, to provide certificates of tax compliance.

Legislation Affected

Allocation of \$339,936 to supplement the appropriation established by chapter 361, Section 1 (3) Oregon Laws 2023 (enrolled HB 5034) made to the Department of Revenue, Personal Tax and Compliance Division, for the 2023–25 biennium. Increase the Other Funds expenditure limitation established by chapter 361, section 2 (3) Oregon Laws 2023 (enrolled HB 5034) for the Department of Revenue, Personal Tax and Compliance Division, by \$6,938 for the 2023-25 biennium.

Allocation of \$191,871 to supplement the appropriation established by chapter 361, Section 1 (4) Oregon Laws 2023 (enrolled HB 5034) made to the Department of Revenue, Business Division, for the 2023–25 biennium. Increase the Other Funds expenditure limitation established by chapter 361, section 2 (4) Oregon Laws 2023 (enrolled HB 5034) for the Department of Revenue, Business Division, by \$155,002 for the 2023-25 biennium.

Allocation of \$108,431 to supplement the appropriation established by chapter 361, Section 1 (6) Oregon Laws 2023 (enrolled HB 5034) made to the Department of Revenue, Information Technology Services Division, for the 2023–25 biennium. Increase the Other Funds expenditure limitation established by chapter 361, section 2 (7) Oregon Laws 2023 (enrolled HB 5034) for the Department of Revenue, Information Technology Services Division, by \$32,389 for the 2023-25 biennium.

Sincerely,



Betsy Imholt
Director