PERSONAL INCOME TAX
ADMINISTRATIVE RULES **AR 7.06-1000 through 1155**
Income Tax Administration

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GENERAL

7.06 – 1000 Purpose
The purpose of these rules is to implement Chapter 7.06 (Personal Income Taxes) and to ensure that Metro's income tax rules and examples are consistent and transparent.

Effective: August 8, 2021

7.06 – 1005 Legal Authority
These administrative rules are issued under the authority of Metro Code Chapter 7.05 and Chapter 7.06. These rules are in addition to all other requirements and provisions in Metro Code Chapter 7.05 and 7.06.

Effective: August 8, 2021

7.06 – 1010 State Law References
Any term used in these rules has the same meaning as when used in a comparable context in the laws of Oregon relating to state income taxes, unless a different meaning is clearly required or the term is specifically defined in these rules. Any reference in these rules to the laws of Oregon refers to the laws of Oregon as they are amended and in effect, and as applicable to the tax year of the taxfiler.

When the Metro Code and applicable administrative rules do not address a specific situation, taxfilers should use as guidance the Oregon Administrative Rules relating to state income taxes.

Effective: August 8, 2021

WITHHOLDING

7.06 – 1015 Withholding by Employers
1. Metro Code Section 7.06.120(a) describes each employer's obligation to collect and remit the Metro personal income tax from the wages its employees earn that are subject to the Metro personal income tax.
2. Definitions for purposes of Sections 7.06.120 and 7.06.130:
    a. Employer and Employee. The terms "employer" and "employee" have the same definitions as they do for purposes of wage withholding under ORS Chapter 316. Additionally, if the relationship of employer and employee actually exists, a different description of the relationship by the parties is immaterial; thus, it is of no consequence that the employee may be designated as a partner or independent contractor, contrary to fact. The Administrator will use the criteria set forth in ORS Chapter 316 and regulations thereunder to evaluate whether an employer and employee relationship exists.
    b. Wages. The term "wages" has the same definition as it does for purposes of wage withholding under ORS Chapter 316. In general, this includes remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash.
    c. District employer. For purposes of these rules, "district employer" is an employer that:
        i) pays wages to employees for services performed within the District; and
        ii) has a physical location within the District.

Example:
Sunshine, Inc. is based in San Diego, CA, and has no physical location in the District. They employ an individual who works remotely from their home in the Metro District. Sunshine, Inc. is not a District employer.

3. For periods beginning on or after January 1, 2022, all District employers are required to:
   a. withhold the Metro personal income tax from wages for services performed by any employee within the District if that employee earns $200,000 or more during a calendar year, and
   b. offer withholding to all employees who work in the District.
4. An employer who is not a District employer is not required to withhold District tax or offer to withhold District tax from the wages of an employee. However, the employer may register and withhold as a convenience to the employee.
5. All wages paid to nonresidents (persons domiciled outside the District) for services performed in the District are subject to withholding. If the nonresident earns wages both in and outside of the District, such an employee who has a permanent arrangement to telecommute part of each week, only that part of the wages earned in the District is subject to withholding.

   Example:
   Korra lives outside the District but works for an employer within the District. Korra's regular schedule is: Mondays and Fridays work from home, Tuesday, Wednesday and Thursday work at the office. Korra's annual compensation is $250,000, but since only 3/5 of that is earned while performing work in the District, Korra's District source compensation is $150,000. The employer is not required to withhold because the District sourced compensation is below $200,000.
6. If the employer, in violation of the provisions of Section 7.06.120 and these regulations, fails to deduct and withhold the tax, the employer nevertheless is liable to remit to the Administrator the amount which should have been withheld. The employer is relieved of the liability if and when the employer can show by proper evidence and proof satisfactory to the Administrator that the employee's income tax against which such sum would have been credited has been paid without reduction through failure to withhold. The waiver does not operate to relieve the employer from liability for penalties, additions, or interest. The moneys withheld by employers from the wages of employees must be remitted promptly on the due date and no extension of time for remittance is provided by statute or can be granted by the Administrator. The funds involved are held by the employer in trust for the District, and any use of the funds by the employer is an illegal conversion. The employer may not regard the funds as being in the same category as their own personal income tax indebtedness.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1020 Basis of Amount Withheld
An employer must determine an employee's wages subject to withholding using the same criteria as the Oregon personal income tax wage base for all employees who are subject to the personal income tax at Chapter 7.06. Subject wages may only include the value of fringe benefits received to the extent that the fringe benefits are taxable for Oregon personal income tax purposes.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1025 Calculation of Withholding

1. The Administrator will publish formulas to compute the amount to be withheld from regular wage payments. Employers may not modify the published formulas.
2. If the employer makes a supplemental wage payment and the employee has Metro tax withholding calculated under the Administrator published formulas, the employer must withhold at a flat rate of 1%. If the employer makes a supplemental wage payment and the employee is not subject to Metro tax withholding, has opted out, or has opted in at an employee designated withholding amount, the employer is not required to withhold. Supplemental wage payments include bonuses, premiums, awards, gifts and other payments made to an employee, on the condition of their employment.

Example:
An employer pays a $10,000 bonus to two of its employees, Juan and Herrita. Juan earns an annual salary of $250,000 and has opted out of Metro personal income tax withholding. Herrita earns an annual salary of $250,000 and the employer calculates withholding using formulas published by the Administrator. The employer is required to withhold from Herrita's bonus, but not from Juan's. The employer would not change the withholding amount on the regular salary payment to Herrita, and would withhold $100 ($10,000 * 1%) on the supplemental payment.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1030 Metro Opt Form

1. The Metro personal income tax allows an exemption of $125,000 for single filers and $200,000 for joint filers. Due to the exemption and unique situations of individual taxfilers, employees may opt in or opt out of payroll withholding, based on their tax situation.
2. The Metro Opt form allows an employee:
    a. Subject to mandatory withholding to opt out of withholding by certifying to the employer that the employee has no District withholding requirement or that the employee will utilize another method to make payments; or
    b. Not subject to mandatory withholding to elect withholding at an employee designated amount; or
    c. Subject to mandatory withholding to elect a different amount of withholding as determined by the employee.
3. An employer must follow the employee's opt form election until the employee submits a new Opt form or withdraws the Opt form election in writing.
4. An employer must provide all Metro Opt forms to the Administrator as requested by the Administrator.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1035 Withholding: Payments and Quarterly Reports

An employer required to withhold or withholding for employees who have opted in must register with the Administrator. The Administrator will assign an account number for use in its administration of the personal income tax withholding tax laws. Employers must use the account number on all reports and payments filed with the Administrator. A registered employer must submit a report for each quarterly

reporting period, even though the employer may not have had any payroll during that period. An employer is required to file reports until the employer notifies the Administrator that it no longer has employees subject to personal income tax withholding and the employer has filed a final annual reconciliation return.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120 and 7.06.130

7.06 – 1040 Withholding: Payment and Quarterly Report Due Dates
An employer who reports and remits personal income taxes withheld from employee wages under these rules must do so at the same time and for the same period as the employer is required to report and remit payroll tax to the state of Oregon.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120 and 7.06.130

7.06 – 1045 Withholding: Annual Reporting by Employer

1. An employer required to withhold or who is withholding for employees who have opted in must include the following information on the W-2:
    a. Total District wages reported as Local wages;
    b. District tax withheld during the calendar year reported as Local income tax;
    c. The Locality name as "Metro"; and
2. The employer must use a federal W-2, or whichever form the employer uses for Oregon personal income tax purposes.
3. The due date for filing the W-2 form for District purposes is the same as the federal due date.
4. The information in the W-2 must be filed electronically with the Administrator for all employees in which Metro tax was withheld and for all employees with $200,000 or more in District wages. If an employer cannot file electronically, the employer may request permission of the Administrator to use an alternate filing method.
5. Employer Annual Reconciliation Return.
    a. An employer required to withhold or withholding for employees who have opted in must file a summary of total compensation paid and District personal income tax withheld for each employee. Each reconciliation return must include a reconciliation of income tax remitted to the Administrator by the employer for the calendar year to the total of income tax withheld from employees' pay for the calendar year.
    b. An employer is required to file correct W-2s by the same due date as the Annual Reconciliation Return. If an employer files an amended Annual Reconciliation Return, the employer must at the same time file corrected W-2s resulting in that amended Annual Reconciliation Return. The amended Annual Reconciliation must explain all changes resulting in the amended return.
    c. An employer must electronically file the reconciliation returns for income tax withholding with the Administrator. If an employer cannot file electronically, it may request permission of the Administrator to use an alternate filing method.

d. If there is a difference between the amount paid to the Administrator by the employer and the amount withheld by the employer from the employees' pay, the employer must explain the difference on the return.

e. The due date for each reconciliation return is January 31. If the due date falls on a weekend or a holiday, the return is due the next business day. If the employer ceases doing business, each reconciliation return is due within 30 days of termination of business.

Effective: May 29, 2024 (as amended; originally adopted August 8, 2021)
Statutory/Other Authority: Metro Code 7.06.130

7.06 – 1050 Withholding Payments: Cash Basis
All withholding is on a cash basis and must be reported on a cash basis.

Example:
If services are performed in January but not compensated until April, withholding on the wages for those services is reported on the report for the quarter ending June 30.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1055 Personal Liability of Responsible Officers, Members or Employees for Taxes Withheld

1. A person may be held personally liable for unremitted income tax withholding, if that person is considered an "employer," as that term is defined for purposes of ORS Chapter 316. The person must have been in a position to pay or direct the payment of the income tax withholding at the time the duty arose to withhold or pay the taxes. Additionally, the person must have been aware, or been in a position that should have been aware, that the income tax withholding was not paid to the Administrator. An employer cannot avoid personal liability by delegating its responsibilities to another.
2. The Administrator will look to ORS Chapter 316 when determining whether an individual has sufficient indicia of control such that it is reasonable to hold the individual personally liable for failure to remit income tax withholding.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1060 Credit for Tax Withheld; Employee's Rights

1. If the tax has actually been withheld at the source and reported to the Administrator, a credit or refund of an overpayment of tax must be made to the recipient of the income even though the tax has not been paid to the Administrator by the employer. When the employer has neither reported nor paid the tax required to be withheld from an employee's wages but the employee submits evidence proving to the satisfaction of the Administrator that the employer actually did withhold such a tax, the Administrator will allow the employee credit or refund for the amount so proved. Ordinarily, minimum satisfactory evidence will consist of a statement from the employer showing the amount of tax withheld and an affidavit of the employee as to the facts upon which the claim for credit or refund is based.
2. Recourse against an employer in regard to taxes on wages withheld and reported, but not paid to the Administrator, is exclusively that of the District. An employee's rights as to any such tax withheld, reported and unpaid are those of a tax credit or refund.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

7.06 – 1065 Treatment of Payroll Based Program Overpayments

1. If an employer has overpaid income tax withholding due for a quarter and files an original or amended quarterly tax return, the Administrator will apply the overpayment toward the employer's liability for the next quarter, unless the employer submits a written request for a refund to the Administrator.

2. If the Administrator records show that the employer is no longer in business, and all returns have been filed, the overpayment will be refunded to the employer's last known address on file.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.120

ESTIMATED TAX

7.06 – 1070 Estimated Tax Requirements

1. Beginning January 1, 2022, every taxfiler expecting to have a Metro personal income tax liability of $1,000 or greater must estimate and pay the taxfiler's tax liability for the current tax year as follows:
    a. Quarterly estimated payments;
    b. Employer provided withholding from taxfiler's wages; or
    c. Both.
2. Generally, estimated tax payments will not be refunded prior to the taxfiler's filing of the tax return for the year for which the estimated tax payments were made. When taxfilers establish to the satisfaction of the Administrator that the facts warrant a refund, a refund of estimated taxes can be made prior to the filing of the tax return.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.05.180

7.06 – 1075 Estimated Tax Payments

1. Definitions for purposes of Sections 7.05.180 and 7.05.190:
    a. Required annual payment means the total amount of required installment payments and employer withholding for the tax year.
    b. Required installment payments are quarterly estimated tax payments in equal amounts.
2. The required annual payment is the lesser of:
    a. Ninety percent of the tax shown on the return for the taxable year (or, if no return is filed, ninety percent of the tax for such year); or
    b. One hundred percent of the tax shown on the prior year's return, if qualified. This is sometimes referred to as 'safe harbor.' To use the prior year's tax to determine the required annual payment, the prior year's return must be filed before the current year's return, and the prior tax year must consist of 12 months; or
    c. If there is no prior year tax filing requirement, the required annual payment amount is $0.

Example 1:
Amani's taxable income on the 2022 return was $300,000 and the District tax liability after credits was $1,750. Amani's 2023 District tax liability after credits is $2,000. Ninety percent of the 2023 tax after credits is $1,800. Amani's required annual payment for 2023 estimated tax is 100 percent of the 2022 tax liability of $1,750. The required installment payments are $437.50 ($1,750 x 25 percent) on each quarterly installment due date.

Example 2:
Gopal's taxable income in 2022 was $120,000. This amount is below the exemption amount of $125,000 for single filers, and Gopal did not owe District tax in 2022. In 2023 Gopal's taxable income was $250,000. Gopal is required to file a return and pay tax of $1,250 in 2023, however, Gopal is not required to make estimated payments as there was no prior year tax filing requirement. In 2024 Gopal's taxable income was $175,000. Gopal is required to file a return and pay tax of $500, however, Gopal is not required to make estimated payments as the tax liability is less than $1,000.

3. A part-year resident may use the prior year tax, even though that tax year may be based on less than 12 months.
4. Use the amounts from the original return to determine the payments unless an amended return was filed. If an amended return was filed, before or after the due date of the original return, it must be used to determine the required annual payment.

   Example:
   Aliyah's original tax return showed a tax liability after all credits of $1,400. In July, the return was amended and the tax liability after credits was $1,200. Aliyah bases the required annual payment on the $1,200 tax shown on the amended return.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.05.180

7.06 – 1080 Estimated Tax Due Dates

1. Required installment payments of estimated tax are due:
   a. First installment payment due on or before the fifteenth day of the fourth month of the tax year;
   b. Second installment payment due on or before the fifteenth day of the sixth month of the tax year;
   c. Third installment payment due on or before the fifteenth day of the ninth month of the tax year; and
   d. Fourth installment payment due on or before the fifteenth day of the first month of the subsequent tax year.
2. If the due date is on a weekend or a holiday, the return is due the next business day.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.05.190

7.06 – 1085 Tax Used to Compute Underpayment of Estimated Tax

Any interest due for underpaying estimated taxes is computed using the total tax liability shown on the return. If the return is adjusted in initial processing, the recomputed tax must be used for determining any underpayment interest. Any changes in tax due to an amended return or audit will result in the recalculation of interest.

Example:
Mary files a Metro income tax return on a calendar year basis. Mary filed a return for tax year 2022 on February 15, 2023, showing a tax liability of $1,700. On June 10, 2023, Mary filed an amended return for tax year 2022 showing a tax liability of $1,450. The return for the taxable year for purposes of computing any interest on underpayment of estimated tax is the amended return filed on June 10, 2023.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.05.270

RESIDENCY AND DOMICILE; CHANGE IN STATUS

7.06 – 1090 Definitions for Residency
For purposes of Metro Code Chapter 7.05 and 7.06:

1. A "Resident" is (1) an individual whose domicile is within the District for the entire taxable year unless the individual maintains no permanent place of abode in the District, does maintain a permanent place of abode outside of the District, and spends on aggregate not more than 30 days per tax year in the District; or, (2) an individual who is not domiciled in the District but maintains a permanent place of abode in the District and spends in the aggregate more than 200 days or any part of a day of the tax year in the District unless the individual proves that the individual is in the District for only a temporary or transitory purpose.

   Resident does not include: an individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year; the spouse of a qualified individual under Section 911(d)(1) of the Internal Revenue Code, if the spouse is not a resident of the District; a resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under Section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States; a member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3), other than annual training duty or inactive-duty training, if the member's residency as reflected in the payroll records of the Defense Finance and Accounting Service is outside the District.. An individual must be an Oregon resident for taxable purposes to be a District resident.

2. A "nonresident" is an individual who is not a resident of the District. A nonresident may or may not be an Oregon resident for taxable purposes.

3. A "part-year resident" is an individual who changes status during a tax year from resident to nonresident or from nonresident to resident.

4. "Domicile" means the place an individual considers to be the individual's true, fixed, permanent home. Domicile is the place a person intends to return to after an absence. A person can only have one domicile at a given time. It continues as the domicile until the person demonstrates an intent to abandon it, to acquire a new domicile, and actually resides in the new domicile. Factors that contribute to determining domicile include family, business activities and social connections.

   Example:

Shane maintains a home in the District and works in the District. Shane purchased a winter home in Palm Springs, California and each year thereafter spent about three or four months in Palm Springs and six or seven months of each year in the District. Shane continued to maintain the home and social, club and business connections in the District, but established bank accounts in California. The months not spent in California or the District Shane spent traveling in other states or countries. Shane is domiciled in District and is taxed as a resident of the District because there was not demonstrated intent to abandon the domicile in the District nor has Shane shown an intent to make California Shane's permanent home.

5. "Permanent place of abode" means a dwelling place permanently maintained by the taxfiler, whether or not owned by the taxfiler, and generally includes a dwelling place owned or leased by the taxfiler's spouse. To constitute a permanent place of abode, the taxfiler must maintain a fixed place of abode over a sufficient period of time to create a well-settled physical connection with a given locality. It is distinguishable from "domicile" in that an individual may have several residences (or abodes), but only one domicile, at any given time.

    a. Rented or leased premises. A person is deemed to have a permanent place of abode even in rented premises, which he or she is free to leave at will, but from which the person has no present intent or desire to change. Factors that contribute to permanence include the amount of time spent in the locality, the nature of the place of abode, activities in the locality and the taxfiler's intentions with regard to the length and nature of the stay.

    b. Other residential property. Generally, residential property, such as a house, condominium, or apartment, is not considered a permanent place of abode if the individual never uses the property as a dwelling. For example, if the taxfiler acquires residential property for investment or rental purposes, as the result of an estate settlement, or as part of a settlement in a divorce proceeding, and the property is never used by the taxfiler or the taxfiler's family, the property is not considered a permanent place of abode for the taxfiler. For purposes of this rule, family includes the taxfiler, the taxfiler's spouse, and lineal ascendants and descendants of the taxfiler. If the property is used during the tax year by the taxfiler, even if for just a day, and also used by the taxfiler's family for a sufficient period of time to create a well-settled physical connection, then it is generally deemed to be a permanent place of abode for the taxfiler. However, use of the residential property by a family member will generally not be attributed to the taxfiler if the residential property is rented to the relative for fair rental value in an arm's-length transaction or if the taxfiler never uses the property as a dwelling during the tax year at issue.

    c. Vacation home. A camp or cottage that is suitable for and used only for vacations is not a permanent place of abode. A dwelling that does not contain facilities ordinarily found in a dwelling, such as facilities for cooking and bathing, is generally not considered a permanent place of abode. A second home that contains all the amenities found in a primary residence does not constitute a camp or cottage even if it is located in a vacation area. Therefore, a second home that contains cooking and bathing facilities and is suitable for year-round living may constitute a permanent place of abode even though used primarily for vacations or on weekends.

    d. Temporary stay. A place of abode, whether in the District or elsewhere, is not deemed permanent if it is maintained only during a temporary stay of short duration for the accomplishment of a particular purpose.

        Example 1:

John is a long-haul truck driver for a District company. John's work requires travel throughout the United States. John is domiciled in the District but does not maintain a permanent place of abode in the District. John spends less than 31 days in the District during the year. John's only residence is in John's truck, which has a sleeper unit, closet and refrigerator. Except for two weeks of vacation each year, John stays in any given locale only temporarily and only for the purpose of delivering or picking up a load. Because John does not maintain a permanent place of abode elsewhere, John is taxable as a resident of the District.

Example 2:
Paul and Cathy had lived and worked in the District for 40 years. On January 1, they retired, sold their personal residence, and began traveling throughout the United States. They have not established a new domicile outside of the District nor do they intend to give up their District domicile. Because Paul and Cathy do not maintain a fixed place of abode over a sufficient period of time to create a well-settled physical connection with a given locality, they are considered not to have a permanent place of abode elsewhere. Thus, Paul and Cathy are taxed as District residents.

Example 3:
James is domiciled in Oregon. After retiring, James sold the District home James lived in and purchased a recreational vehicle (RV). James rents space year-round at an RV park in Arizona for 7 to 9 months each year. James spends the remainder of the year traveling in the United States, including the District, but does not remain in any particular locality more than thirty days. James is considered to have a permanent place of abode in Arizona, as the stay at the Arizona RV park constitutes the maintenance of a fixed place of abode over a sufficient period of time to create a well-settled physical connection with that locality. James is taxed as a nonresident as long as James does not establish a permanent place of abode in the District and spends less than 31 days in the District.

e. Military personnel. For purposes of this rule, an individual serving in the military is considered to have a permanent place of abode elsewhere during the time the individual resides outside of the District.

2. The phrase "temporary or transitory" means that a person's stay in the District is not permanent and is not expected to last indefinitely. Generally, an individual who is domiciled elsewhere and who is simply passing through the District on the way to another state or country, is here for a brief rest or vacation, or to complete a particular transaction that requires presence in the District only for a short period, is treated as being in the District for temporary or transitory purposes, and is not considered a resident by virtue of physical presence here. Whether a person's stay is temporary or transitory depends to a large extent upon the facts and circumstances of each particular case.

Example 1:
Brad and Karen are domiciled in Minnesota. They maintain their family home there. Each October they come to the District and stay through April, spending more than 200 days here during the year. Originally they rented an apartment or house for the duration of their stay. Three years ago they purchased a house in the District. The house is either rented or put in the charge of a caretaker from May to October. Brad has retired from active control of a Minnesota business but still keeps office space and nominal authority in it. Brad and Karen belong to clubs in Minnesota, but none in the District. Brad and Karen have no business interest in the District. Brad and Karen are not taxed as District residents because their presence here is temporary or transitory.

Example 2:
Juan is domiciled in Illinois. Following graduation from high school, Juan moved to the District to attend college. Juan works in the District during the summer and returns to Illinois to visit family several times each year. Juan is taxed as a nonresident as Juan's stay in the District is for a temporary or transitory purpose.

a. Temporary employment in the District. An individual domiciled outside the District may be assigned to work in the District for a fixed and limited period, after which the person is to return to the permanent location. If the person takes an apartment or other housing in the District during this period, the individual is not deemed a resident, even though the individual spends more than 200 days of the taxable year in the District, because the person's stay in the District is temporary or transitory. The individual will be taxable as a nonresident on income from District sources.

   Example:
   Ibram, a computer consultant, is domiciled in New York where Ibram owns a home and keeps most personal belongings. Ibram votes in New York, maintains bank accounts there and returns to home whenever possible. Ibram accepts a position in the District with a large corporation with the expectation that the work will take one and one-half years. Ibram spends virtually the entire time in the District, living in a house built by the employer, where Ibram's family visits in the summer. Ibram intends to return to New York when the job is completed. During this period Ibram will be taxed as a nonresident, even though Ibram is in the state more than 200 days during the year, because Ibram is in the state for a temporary or transitory purpose.

b. Indefinite employment in the District. If a work assignment in the District is not for a fixed and limited period, the person is not considered to be present in the District for a temporary or transitory purpose. If a permanent place of abode is maintained in the District, and the person is in this state for more than 200 days during the tax year, then the person is taxed as a resident of Oregon.

   Example 1:
   Fran is domiciled in California. In January, Fran accepts a transfer to Fran's employer's Portland, Oregon office and rents an apartment there. The length of Fran's assignment is indefinite, although Fran believes there may be a transfer back to California within three years. Fran's spouse and children remain at the California residence and Fran returns there on weekends and holidays. Fran is taxable as a resident of the District because Fran maintains a permanent place of abode in the District, spends more than 200 days here, and the presence is not temporary or transitory.

   Example 2:
   Li is domiciled in Idaho and works as a sales person for a manufacturing company. Li spends the workweek traveling in a motor home in the District meeting with existing and potential customers. Li returns to the Idaho home when it is convenient, but may be in the District for 2 or 3 months at a time. Li's assignment is indefinite and thus presence in the District is not for a temporary or transitory purpose. However, Li does not maintain a permanent place of abode in the District, as Li does not remain in any place for a sufficient period of time to create a well-settled physical connection with a given locality. Li is taxed as a nonresident.

3. A nonresident includes a person who is a foreign nonresident as defined under Oregon's administrative rules.

Effective: August 8, 2021

Statutory/Other Authority: Metro Code 7.05.020

7.06 – 1095 Taxable Income of a Resident

The taxable income of a resident of the District is Oregon Taxable Income per the Oregon personal income tax return.

Example:
Sam and Scott live in Tigard, inside the District, and use filing status married filing jointly. Sam owns an S-corporation that does business in Salem, outside the District, and Scott commutes to a job in Washington State. Regardless of where their income is sourced, their Metro taxable income is the same as Oregon Taxable Income because they are residents of the District.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1100 Taxable Income of Nonresidents and Part-year Residents

1. For nonresidents Metro taxable income is the taxfiler's income from District sources after adjustments, Oregon modifications attributable to District sources, and prorated deductions.
2. For part-year residents Metro taxable income is:
    a. For the portion of the year the taxfiler is a resident see 7.06 – 1095 Taxable Income of a Resident, plus
    b. For the portion of the year the taxfiler is a nonresident see section (1) above.

    Example:
    Bennett lived in the District from January 1 – June 30, 2021, and worked for a company in Washington State. On July 1, 2021 Bennett permanently left the District and moved domicile to Washington. Bennett must file a Metro part-year resident return for 2021, and Metro taxable income would include earnings from January 1 – June 30, 2021 while a resident of the District.

    In the example above, if Bennett instead worked for a company in the District, and commuted to the District after the move, then Metro taxable income would include all District employment earnings for the year.
3. In computing taxable income, nonresident and part-year resident taxfilers are allowed a proportionate share of all deductions, with required modifications. This includes the accrued federal tax deduction and itemized deductions or the optional standard deduction. The fraction to be used in making the proration of deductions is provided in 7.06 – 1105 Proration of Deductions for Nonresidents and Part-year Residents.
4. For purposes of these rules a part-year District resident includes in District source income the sum of:
    a. All guaranteed payments and taxable cash distributions from a partnership or S corporation received while the partner or shareholder was an District resident, plus
    b. Payments or distributions received from an entity that has business activity in the District while the taxfiler was not a District resident. The payments or distributions are subject to the allocation and apportionment provisions of Metro Code Chapter 7.07 Business Income Tax.

    Example:

Joe was a California resident all of 2021 and a partner in a California partnership. The partnership has no business activity in the District. Joe moved to the District March 1, 2022. Joe receives $1,000 each month as a guaranteed payment. The payments received through February 2022 are not District source income because they were received prior to the date Joe became a District resident from an entity with no business activity in the District.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040 and 7.06.100

7.06 – 1105 Proration of Deductions for Nonresidents and Part-year Residents

1. Nonresidents and part-year residents will prorate deductions by a fraction.
    a. The numerator of the fraction is the taxfiler's federal adjusted gross income from District sources, with the Oregon modifications attributable to the District.
    b. The denominator of the fraction is the taxfiler's federal adjusted gross income from all sources, with the Oregon modifications to that income, which relate to adjusted gross income, less Oregon Public Employees Retirement System and Federal Employees Retirement System income included in federal adjusted gross income.
2. For taxfilers filing an Oregon nonresident or part-year resident return, the denominator will be the denominator used to calculate the Oregon percentage for Oregon personal income tax filing purposes less Oregon Public Employees Retirement System and Federal Employees Retirement System income included in federal adjusted gross income. For taxfilers filing an Oregon resident return, the denominator will be the taxfiler's federal adjusted gross income from all sources, with the Oregon modifications to that income which relate to adjusted gross income, less Oregon Public Employees Retirement System and Federal Employees Retirement System income included in federal adjusted gross income.

    Example 1:
    Jude and Reese are married and live in Camas, WA. Jude earns $250,000 in the District and Reese earns $250,000 in Camas. They file a joint Oregon nonresident return. They will file a joint Metro nonresident return, and report $250,000 in income from the District, and $500,000 in total income. Jude and Reese have Oregon itemized deductions of $20,000. These deductions will be prorated by 50% ($250,000 / $500,000) to $10,000. Metro taxable income will be $240,000 ($250,000 - $10,000). The first $200,000 of taxable income is exempt on a Metro joint return, therefore Jude and Reese will owe $400 in tax ($40,000 * 1%).

    Example 2:
    Shelby and Crystal are married and live and work within the District. On October 1, 2021, they permanently move to southern Oregon, outside the District. They file a joint Oregon resident return. They will file a joint Metro part-year resident return. Shelby and Crystal are co-owners of an S-corporation, which has less than $5 million in gross receipts and is not subject to the Metro Business Income Tax. In the first nine months of the year Shelby and Crystal earned $300,000 in net income from their company. After they moved their business picked up and they earned $200,000 in the last three months of the year. Shelby and Crystal will report $300,000 in income from the District, and $500,000 in total income. They have Oregon itemized deductions of $50,000. These deductions will be prorated by 60% ($300,000 / $500,000) to $30,000. Metro taxable income will be $270,000 ($300,000 - $30,000). The first $200,000 of taxable income is exempt on a Metro joint return, therefore Shelby and Crystal will owe $700 in tax ($70,000 * 1%).

3. Under no circumstances may the percentage exceed 100 percent.
4. If the taxfiler has positive modified District income and negative or zero modified federal adjusted gross income, the allowable percentage is 100 percent. If the taxfiler's modified federal adjusted gross income from District sources and modified federal adjusted gross income are both losses, the allowable percentage will be computed as follows:
    a. If the District loss is smaller than the federal loss, 100 percent.
    b. If the District loss is greater than the federal loss, divide the federal loss by the District loss.

        Example 1:
        A taxfiler has modified federal adjusted gross income from District sources of ($100) and modified federal adjusted gross income of ($1,000). Since the District loss is less than the federal loss, the percentage is 100 percent.

        Example 2:
        A taxfiler has federal adjusted gross income from District sources of ($1,000) and federal adjusted gross income of ($100). The percentage is 10 percent.
5. If the taxfiler has negative or zero modified District income and positive modified federal adjusted gross income, the allowable percentage is zero.
6. Nonresident and part-year resident taxfilers must prorate deductions and modifications not relating to adjusted gross income using the fraction provided in this rule. This includes, but is not limited to, the following deductions and modifications:
    a. The greater of:
        i. Net Oregon itemized; or
        ii. The standard deduction.
    b. Federal tax liability.
    c. Additional federal tax paid from a prior year.
    d. Gambling losses (itemized).
    e. Federal income tax refunds from amended or audited returns.
7. Nonresident and part-year resident taxfilers do not prorate the following deductions and modifications not relating to adjusted gross income.
    a. Art object donation deduction.
    b. Fiduciary adjustment.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040 and 7.06.100

7.06 – 1110 Gross Income of Nonresidents: Personal Services

1. Personal service.
    a. Except as provided in section (2) of this rule, the gross income of a nonresident (who is not engaged in the conduct of the nonresident's own trade or business, but receives compensation for services as an employee) includes compensation for personal services only to the extent that the services were performed in this District.

b. Compensation for personal services performed by a nonresident employee wholly outside the District and in no way connected with the management or conduct of a business in the District is excluded from gross income. This compensation is excluded even if payment is made from a point within the District or the employer is a resident individual, partnership, or corporation.

c. Compensation for personal services performed by a nonresident wholly within the District is included in gross income although payment is received at a point outside the District or from a nonresident individual, partnership, or corporation.

2. Allocation of personal services.

a. When compensation is received for personal services that are performed partly within and partly without the District, that part of the income allocable to the District is included in gross income. In general, income is allocable to the District to the extent the employee is physically present in the District at the time the service is performed. Physical presence is determined by the actual physical location of the employee performing the services and not by the location of the employer or the location where compensation is paid. Employees who work in the District and at an alternate work site located outside of the District may allocate their compensation under the provisions of this rule.

Example 1:
Dick, a nonresident, works as a medical transcriptionist for a Portland, Oregon employer. During the year, Dick works about 80 percent of the time from home in Washington. Dick spends the remainder of work time in the Portland office. Only the time Dick spends at the Portland office is considered time worked in the District.

i. The gross income from commissions earned by a nonresident for services performed or sales made, (whose compensation is a specified commission on each sale made or services performed), includes the specific commissions earned on sales made or services performed in the District. Allowable deductions must be computed on the same basis.

ii. If nonresident employees work within and without the District, the portion of total compensation for personal services allocable to the District is the total number of actual working days employed within the District divided by the total number of working days both within and without the District.

iii. If nonresident employees work part of a day in the District and part of a day outside the District, the portion of total compensation for personal services allocable to the District is the number of hours worked in the District divided by the total number of hours worked within and without the District.

Example 2:
Latasha is a nonresident of the District. Latasha works for ACE Cell Tower, Inc and is paid to work 40 hours each week. Latasha travels in and out of the District for work, and some days works both in the District and outside the District. Latasha earned $280,000 in 2022. Latasha's employer requires a detailed log of travel. At the end of 2022 Latasha had worked a total of 1,850 hours and the contemporaneously prepared travel log and showed that 962 of those hours were worked in the District. Latasha's compensation taxable to the District is computed as follows:

(Hours worked in the District / Total hours worked) x Total compensation = District compensation

0.520 (962 hours divided by 1,850 hours) x $280,000 = $145,600

Latasha's compensation subject to District personal income tax is $145,600.

iv. If an employee is paid on a mileage basis, the gross income from sources within the District includes that portion of the total compensation for personal services which the number of miles traveled in the District bears to the total number of miles traveled within and without the District.

v. If an employee is paid on some other basis, the total compensation for personal services must be apportioned between the District and outside the District in such a manner as to allocate to the District that portion of the total compensation which is reasonably attributable to personal services performed in this the District.

b. The gross income of all other nonresident employees, including corporate officers, includes that portion of the total compensation for services which the total number of actual working days employed within the District bears to the total number of actual working days employed both within and without the District during the taxable period.

Example 1:
Jan is a nonresident of the District. Jan works for A Corp. and manages offices in the District and Washington. A Corp. pays Jan a salary of $300,000 for the management of both offices. Jan worked a total of 220 days and worked in the District 132 days. Jan's compensation subject to District tax is computed as follows:

(Days worked in the District / Total days worked) x Total compensation = District compensation.

0.600 (132 days divided by 220 days) x $300,000 = $180,000

Jan's compensation subject to District personal income tax is $180,000.

An exception to this general rule occurs when the compensation is received for performance of services that, by their nature, have an objective or an effect that takes place within the District. In the case of corporate officers and executives who spend only a portion of their time within the District, but whose compensation paid by a corporation operating in the District is exclusively for managerial services performed by these officers and executives, the entire amount of compensation so earned is taxable without apportionment.

Example 2:
Cade is a nonresident of the District. Cade works for Best Engineering and manages its only office, which is located in the District. Best Engineering pays Cade a salary exclusively for managerial services in the total amount of $258,000. Even though Cade may perform some administrative duties from home, the compensation received is for managing the District office. The entire $258,000 is taxable to the District.

c. Total compensation for personal services includes sick leave pay, holiday pay, and vacation pay. Sick leave days, holidays, and vacation days are not considered actual working days either in or out of the District and are to be excluded from the calculation of the portion of total compensation for personal services taxable to the District.

Example:
Joan is a nonresident of the District. Joan actually worked a total of 220 days during the year and was paid for 40 non-working days (holidays, sick days and vacation days). Of that, 110 days were

worked in the District. Joan's compensation (including compensation for holidays, sick leave and vacations) was $260,000. Joan's compensation subject to District tax is computed as follows:

(Days worked in the District / Total days worked) x Total compensation = District compensation

0.500 (110 days divided by 220 days) x $260,000 = $130,000

Joan's compensation subject to District personal income tax is $130,000.

d. Payment in forms other than money. Total compensation for personal services includes amounts paid in a form other than money. To the extent the payments are recognized as compensation income for Oregon income tax purposes under ORS Chapter 316, the payments will be recognized as compensation income for District tax purposes and must be apportioned as provided above. Examples include but are not limited to, non-statutory stock options, taxable fringe benefits such as personal use of a business asset, and employer-paid membership fees.

e. Unemployment compensation. Total compensation includes unemployment compensation benefits to the extent the benefits pertain to the individual's employment in the District. If unemployment compensation benefits are received by a nonresident for employment in the District and in one or more other jurisdictions, the unemployment compensation benefits must be apportioned to the District using any method that reasonably reflects the services performed in the District.

f. Severance pay. Compensation includes severance pay to the extent the pay is attributable to services performed in the District. For purposes of this rule, "severance pay" means compensation payable on voluntary termination or involuntary termination of employment based on length of service, a percentage of final salary, a contract between the employer and the employee, a lump sum payment based on accumulated paid leave, or some other method but does not include "retirement income" as defined under Oregon law.

If severance pay is received for employment within and without the District, the severance pay is allocated to the District using any method that reasonably reflects the services performed in the District. For lump sum payments based on accumulated leave, leave allocated to the District will be calculated using a first-in-first-out (FIFO) method, unless documentation establishes that another method of allocation more reasonably reflects the services performed in the District. Severance pay and other similar distributions are taxable to the District even though a taxfiler received it in a tax year when the taxfiler did not work in the District if the severance pay is based on District employment.

Example 1:
JT, a nonresident, worked for Plumbing Inc. for twenty years: eight years outside the District and twelve years in the District. After 20 years, Plumbing Inc. reorganized and eliminated JT's position. Because of JT's loyalty to the company and twenty years of service, the company gave JT a lump-sum payment of $36,000. This lump-sum was based on 3 percent of the final annual salary ($60,000 x 3% = $1,800) multiplied by the number of years of service (20). The lump-sum payment was made because of prior services, thus it is allocable to the District to the extent the services were performed in the District. JT will include $36,000 in federal taxable income and $21,600 in District taxable income, computed as follows:

(Years worked in the District for company / Total years worked for company) x Total compensation = District compensation

0.600 (12 years divided by 20 years) x $36,000 = $21,600

Example 2:
Shawn, a nonresident, worked in the District for XYZ Foods, Inc. for six years before resigning from the company. XYZ Foods, Inc. and Shawn entered into a termination agreement that provided $25,000 for Shawn to release a specific claim against the company for wrongful termination or other potential claims. The termination agreement also provided $10,000 to require that Shawn not work for any other food chain within a 100 mile radius of XYZ Foods, Inc. for a period of 36 months. No employment agreement, benefit plan, or any facts or circumstances indicate that Shawn is entitled to a payment for services performed prior to resigning from the company. The payment that Shawn receives pursuant to the termination agreement is in exchange for the release of the wrongful termination claim and the covenant not to compete and is not allocable to the District because it is not based on services performed in the District.

Example 3:
Assume the same facts as in Example 2 above except that the termination agreement also provided for a lump-sum payment of one month's salary per year worked ($30,000) in addition to a $25,000 payment for release of a wrongful termination claim and $10,000 payment for the covenant not to compete. No employment agreement, benefit plan, or other agreement indicates that Shawn is entitled to a payment for services performed prior to resigning from the company. The $25,000 payment for the release of the wrongful termination claim and the $10,000 payment for the covenant not to compete are not allocable to the District because neither is based on services performed in the District. The $30,000 lump-sum cash payment based on Shawn's salary and years of service associates the payment with the employer-employee relationship. It is 100 percent allocable to the District because Shawn worked in the District and the facts and circumstances indicate that it is paid because of prior performance of services and no other reason.

Example 4:
Natalie, a nonresident, worked for Chocolate Inc. for 14 years: 12 years and 8 months outside the District and in the District for the last 16 months. Upon resignation, Natalie's hourly wage was $50 and Natalie had 400 hours of paid vacation leave available. Natalie received 8 hours of paid vacation leave per month, therefore the 400 hours of leave represents 50 months of work (400/8=50). Chocolate Inc. paid a lump sum payment for accumulated and accrued vacation leave balance of 400 hours totaling $20,000. Using the first-in-first-out method of allocation, the 400 hours in the leave balance when Natalie terminated will be treated as having been earned in the most recent 50 months of employment; 34 months out of District (68%) and 16 months in the District (32%). Natalie's District taxable income will include all wages from Chocolate Inc. for the year and $6,400 ($20,000 x 32%) of the lump sum payment.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1115 Gross Income of Nonresidents: Sale of Tangible Property
The gain from any sale, exchange, or other disposition by a nonresident of real or tangible personal property located in the District is taxable, even though it is not connected with a business carried on in the District. The loss from such a transaction is deductible if it is a business loss or a transaction entered into for profit. The gain or loss from the sale, exchange, or other disposition of real property or tangible

personal property located in the District is determined in the same manner and recognized to the same extent as the gain or loss from a similar transaction by a resident.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1120 Gross Income of Nonresidents: Compensation Received by Nonresident Professional Athletes

1. General Rule. Metro taxable income of a nonresident individual who is a member of a professional athletic team includes that portion of the individual's total compensation for services rendered as a member of a professional athletic team during the taxable year, based on the number of duty days spent within the District rendering services for the team in any manner during the taxable year to the total number of duty days spent both within and without the District during the taxable year. A taxfiler must follow the definitions and examples under OAR 150-316-0175 or its successor, substituting the District for the State of Oregon.
2. Special rule. Travel days that do not involve either a game, practice, team meeting, promotional caravan or other similar team event are not considered duty days spent in the District. However, those travel days are considered duty days spent within and without the District.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

BUSINESS INCOME

7.06 – 1125 Business Income Not Subject to Metro Business Income Tax

This section pertains to income from a business, trade, profession or occupation (including independent contractor, but excluding compensation received as an employee) reported as Oregon taxable income or Metro taxable income, and not subject to the Metro business income tax. This includes all sole proprietorships and disregarded entities, as well as pass through entities whose gross receipts from all business income, both within and without the District, is equal to or less than $5 million.

1. If a business has income from business activity both within and without the District, the business may apportion its income. Businesses must look to ORS 314.605-695 to determine the applicable apportionment methodology based on their business.
    a. Exception: If an item of income is affected, for purposes of the Oregon personal income tax, by application of various federal laws relating to income received by nonresidents from rail, motor, air and water carriers, then the item has the same characterization that it has for Oregon personal income tax purposes.
2. Businesses that pass-through income to their owners or partners must report the following with the Schedule K-1:
    a. A statement that the business is not subject to the Metro business income tax and has not filed a Metro business income tax return for the tax year of the Schedule K-1.
    b. The Metro apportionment percentage as determined in section (1). If the business does not apportion income, this percentage is 100%.

3. Rents. The gross income of a nonresident from rents includes all rents received from property, whether real or personal, located within the District.

4. S Corporations. The taxable income of an S corporation that elects to be taxed under the provisions of IRC Section 1362 which is derived from or connected with sources in the District is taxable income to nonresident shareholders. Net operating losses of an S corporation derived from or connected with sources in the District are deductible by nonresident shareholders. Net operating losses are determined under IRC Section 1366. If an S corporation of District commercial domicile is liquidated any gain or loss from liquidation is District source income. Nonresident shareholders must report their proportionate share of the gain or loss on their individual District income tax returns as income from District sources.

5. Fiduciary fees. District source income of a nonresident includes compensation received for services performed as a fiduciary of a District estate or trust.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1130 Business Income Not Subject to Metro Business Income Tax: Net Operating Losses

1. Net Operating Loss for a full-year resident.

    a. For District income tax purposes, a resident's net operating loss ("NOL") is computed in the same manner as for Oregon purposes.

    b. General rule. A District NOL for any loss years is applied in the same manner as the Oregon NOL. If the loss was not attributable to District sources and was incurred while the taxfiler was a nonresident, there is no District NOL to carry over even if the taxfiler later becomes a District resident. In such cases, the amount of the NOL carryover that is not attributable to District sources is added back on the District resident tax return. If a taxfiler carries back an Oregon NOL, the taxfiler is treated as carrying the loss back for District purposes as well. If a taxfiler makes an election to carry over the Oregon NOL, the taxfiler is treated as making the same irrevocable election for District purposes as well.

    c. Exceptions.

        i. If a taxfiler has a District NOL but does not have an Oregon NOL, the taxfiler may elect to carry the District NOL over to the next succeeding year. This is an irrevocable election that a taxfiler makes on a timely filed District loss year return (including extensions). If no such election is made, then the taxfiler may only carry the District loss forward or back in the same manner as provided in IRC Section 172(b).

        ii. If a taxfiler is not required to file a District return for all years to which the Oregon net operating loss deduction ("NOLD") is applied, the District NOL is carried to the year in which the loss may be first applied.

        iii. The total number of years to which an NOL may be carried back or forward is the same as for Oregon (including exceptions and limitations).

2. NOLD carryback and carryover amount for a full-year resident.

    a. A taxfiler's NOLD, carryback, and carryover amount is computed in the same manner as for Oregon purposes. The method to compute the carryback and carryover amount is not modified for District purposes.

b. For a full-year resident, generally an NOLD, carryback, and carryover amount is the same as for Oregon purposes.

3. NOL for a part-year resident and a nonresident.

   a. A nonresident is allowed a District NOL for any loss year when the NOL is attributable to District sources. A taxfiler is not allowed an NOL or carryover on the District return if the loss was incurred while the taxfiler was a nonresident and the loss was not attributable to the District. The computation of the allowable NOL for District purposes begins with Metro Taxable Income. A nonresident's Metro NOL must be computed subject to the same limitations and exclusions as a nonresident's Oregon NOL but only taking into account items related to the nonresident's income and deductions sourced to the District.

   b. General rule. A District NOL for any loss years is applied in the same manner as the Oregon NOL for the same period. If the loss was not attributable to District sources and was incurred while the taxfiler was a nonresident, there is no District NOL to carry over. If a taxfiler carries back an Oregon NOL, the taxfiler is treated as carrying the loss back for District purposes as well. If a taxfiler makes an election to carry over the Oregon NOL, the taxfiler is treated as making the same irrevocable election for District purposes as well.

   c. Exceptions.

      i. If a taxfiler has a District NOL but does not have an Oregon NOL, the taxfiler may elect to carry the District NOL forward or back in the same manner as provided in IRC Section 172(b).

      ii. If a taxfiler is not required to file a District return for all years to which the Oregon NOLD is applied, the District NOL is carried to the year in which the loss may be first applied.

      iii. The total number of years to which an NOL may be carried back or forward is the same for the District and Oregon (including exceptions and limitations).

4. NOLD carryback and carryover amount for a part-year resident and a nonresident.

   a. A taxfiler's NOLD, carryback, and carryover amount is computed in the same manner as for Oregon purposes. The method to compute the carryback and carryover amount is not modified for District purposes.

   b. A part-year resident and a nonresident use the Oregon method without modifications, except that the NOLD, carryback and carryover are based only upon amounts attributable to District sources.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1135 Business Income Subject to Metro Business Income Tax: Adjustments for Pass Through Income

1. Pursuant to Metro Code Section 7.06.090, taxfilers are allowed a deduction against the taxfiler's Oregon taxable income or Metro taxable income that is equal to that taxfiler's share of pass-through income subject to Metro Business Income Tax. Pass-through income comes from a business whose net income is taxed on the owners' or partners' personal tax returns. This includes, but is not limited to, entities taxed as partnerships and S-corporations.

2. Businesses that are subject to the Metro business income tax and pass through income to their owners or partners must report the following with the Schedule K-1:

    a. A statement that the business is subject to the Metro business income tax and has filed a Metro business income tax return for the tax year of the Schedule K-1.

    b. The Metro apportionment percentage. If the business does not apportion income, this percentage is 100%. If the business does apportion income, this percentage is determined pursuant to Metro Business Income Tax Administration Rules.

3. The amount of deduction is the Metro apportionment percentage multiplied by the net of all income and deduction amounts reported on the Schedule K-1. The deduction cannot be less than zero, and must be calculated separately for each Schedule K-1.

    Example 1:
    Archer is a resident of the District. Archer holds a 30% ownership interest in Parklife, LLC and is entitled to receive 30% of Parklife, LLC's profits. For tax year 2023, Parklife, LLC operated entirely within the District and paid Metro business income tax on its net income of $6 million. Parklife, LLC reports Archer's $1.8 million share of its 2023 net profit on schedule K-1 to Archer. Archer may take a deduction against Oregon taxable income of $1.8 million for tax year 2023.

    Using the above example, if Parklife, LLC apportioned its income and determined its Metro apportionment percentage to be 75%, Archer would multiply the $1.8 million income reported on the Schedule K-1 by 75% to determine the allowable deduction. Archer may take a deduction against Oregon taxable income of $1.35 million for tax year 2023.

    Example 2:
    Fred and George are 50/50 partners in WizBang Partnership. Fred is a District resident, and George is a nonresident. WizBang has net income of $10 million and apportions $6 million to the District on its Metro business income tax return. WizBang reports $5 million in operating income on Schedule K-1 to both Fred and George, and states that WizBang has filed a Metro business income tax return and the Metro apportionment percentage is 60%. This is the only income for both Fred and George, who both use tax filing status single.

    As a resident, Fred uses Oregon taxable income as the starting figure on the Metro personal income tax return. Fred calculates the pass-through income deduction as $5 million * 60%, or $3 million. Fred takes the $125,000 single filer exemption, for total taxable income of $1,875,000 ($5 million - $3 million - $125,000).

    As a nonresident, George must first calculate Metro taxable income. George's uses the Metro apportionment percentage to determine that $3 million of the WizBang pass through income was sourced from the District ($5 million * 60%). George calculates the pass-through income deduction the same as Fred: $5 million * 60%, or $3 million, and also takes the same $125,000 single filer exemption. George's total taxable income is $0 ($3 million - $3 million - $125,000).

4. The deduction under these rules may not reduce a taxfiler's Oregon taxable income or Metro taxable income for any period below zero.

    Example:
    Bérénice is a nonresident of the district. Bérénice owns 60% of CDE, Inc., a California corporation that has elected to be taxed as a Subchapter-S corporation. CDE, Inc. has gross receipts of $70 million from all sources, and net income of $28 million. CDE, Inc. has nexus with the District and is required to file and pay tax to the District. CDE, Inc's apportioned net income under Metro Code

Chapter 7.07 is $7 million for 2024. CDE, Inc. pays tax on its net income to the District. Bérénice's Schedule K-1 reports an income share of $16.8 million and Metro apportionment percentage of 25% ($7 million / $28 million). Bérénice calculates a deduction of $4.2 million ($7 million * 25%). Bérénice has Metro taxable income after personal exemption for tax year 2024 of only $3 million, because Bérénice has losses associated with sole proprietorship activity in the District. Bérénice's pass through deduction amount is reduced to $3 million, because the pass-through deduction may not reduce taxable income below zero.

5. A business subject to Metro business income tax which incurs a net operating loss is allowed to carry over the loss to subsequent tax years. Due to the carry over provision, business losses reported to owners or partners on a Schedule K-1 must be added back to the owners' or partners' Oregon taxable income or Metro taxable income.

6. The amount of the addition is the Metro apportionment percentage multiplied by loss amounts reported on the Schedule K-1.

   Example:
   Alex is a resident of the District. Alex holds a 40% ownership interest in Gambit, Inc, an S corporation. For tax year 2023, Gambit, Inc earns gross receipts of $10 million and reports a loss of $2 million. Gambit, Inc files a Metro business income tax return and carries over the net operating loss. On the Schedule K-1 to Alex, Gambit, Inc reports net operating loss of $800,000 and Metro apportionment percentage of 100%. Alex must make an addition to Oregon taxable income to add back the $800,000 loss. Gambit, Inc will carry over the net operating loss as allowed under Metro Administrative Rule 7.07 – 1045.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.090

7.06 – 1140 Other Income and Sale of Property: Nonresidents

1. Income from intangible personal property.

   a. Business situs. Intangible personal property, including money or credits, of a nonresident has a situs for taxation in the District when used in the conduct of the taxfiler's business, trade, or profession in the District. Income from the use of the property, including dividends, interest, royalties, and other income from money or credits, constitutes a part of the income from a business, trade, or profession carried on in the District when the property is acquired or used in the course of the business, trade, or profession as a capital or current asset and is held in that capacity at the time the income arises.

   b. If a nonresident pledges stocks, bonds, or other intangible personal property in the District as security for the payment of indebtedness, taxes, etc., incurred in connection with a business in the District, the property has a business situs here. Thus, if a nonresident maintains a branch office here and a bank account on which the agent in charge of the branch office may draw for the payment of expenses in connection with the activities in the District, the bank account has a business situs here. If intangible personal property of a nonresident has acquired a business situs here, the entire income from the property, including gains from the sales of the property, regardless of where the sale is consummated, is income from sources within the District and is taxable to the nonresident.

2. Sales of property.

a. Tangible property. The gain from any sale, exchange, or other disposition by a nonresident of real or tangible personal property located in the District is taxable, even though it is not connected with a business carried on in the District. The loss from such a transaction is deductible if it is a business loss or a transaction entered into for profit. The gain or loss from the sale, exchange, or other disposition of real property or tangible personal property located in the District is determined in the same manner and recognized to the same extent as the gain or loss from a similar transaction by a resident.

b. Intangible property. The gain from the sale, exchange, or other disposition of intangible personal property, including stocks, bonds, and other securities is not taxable unless the intangible personal property has acquired a business situs in the District. See section (1) of this rule. Likewise, losses from the sale, exchange, or other disposition of such property are not deductible, unless they are losses incurred in a business carried on within the District by the nonresident taxfiler.

c. Disposition of interests in business entities. In general, to calculate a nonresident's Metro taxable income or loss on the sale, exchange, or disposition of an interest in a business entity, a taxfiler must follow the sourcing treatment of the disposition for Oregon personal income tax purposes under OAR 150-316-0171 or its successor, substituting the District for the State of Oregon.

3. Interest income received on contract sale of property. Interest income received by a nonresident from the sale of District property is not Metro taxable income. The source of the income is not from the sale of the property but rather from the use of the money permitted the buyer in an installment contract.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1145 Partnerships: Guaranteed Payments to Nonresidents

1. Guaranteed payments paid to nonresident partners of a partnership that has business activity in the District are treated as a distributive share of partnership income for District tax purposes. In order to determine the income attributable to District sources, each nonresident partner's entire distributive share, including the guaranteed payments, is then subject to the allocation and apportionment provisions of Metro Code Chapter 7.07.

   Example:
   Frank is a 25 percent partner in the law firm DC & H, Associates, a calendar year partnership. DC & H's main office is in Washington, but it also has a branch office in the District. Total gross receipts of the law firm are less than $5 million, and the firm is not subject to the Metro Business Income Tax. Frank lives in Seattle and works in the Washington branch of the firm. This is Frank's only District sourced income.

   For tax year 2021, Frank received $250,000 in guaranteed payments from the partnership. Frank's 25 percent share of partnership profits after the deduction of guaranteed payments was $500,000. DC & H calculated and reported to Frank on the Schedule K-1 that DC & H's apportionment percentage for the District was 20 percent. Frank's 2021 Oregon source income attributable to the law firm is calculated as follows:

   Distributive share of partnership income $500,000

Guaranteed payments	$250,000
Adjusted distributive share	$750,000
District apportionment percentage	x 20%
Frank's 2021 District sourced income	$150,000

2. The inclusion of guaranteed payments into a nonresident partner's share of apportionable income is irrespective of that partner's percentage interest in the profit or loss of the partnership.

   Example:
   Assume the same facts as the example above, except that Frank does not share in the profits or loss of the partnership. Frank's 2021 Oregon source income attributable to the law firm is calculated as follows:

Distributive share of partnership income	$0
Guaranteed payments	$250,000
Adjusted distributive share	$250,000
District apportionment percentage	x 20%
Frank's 2021 District sourced income	$50,000

   In the second example, Frank's District sourced income is below the requirement to file a Metro return per Metro Code 7.06.070.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

OTHER CREDITS AND DEDUCTIONS

7.06 – 1150 Credit for Income Taxes Paid Another State

1. General: A resident taxfiler may claim a credit against income tax imposed under Chapter 7.06 if the taxfiler claims a credit for income taxes paid to another state on the taxfiler's Oregon income tax return.
2. The credit may only be used to reduce tax and cannot be claimed as an offset against interest or penalty charges imposed by the District.
3. Computation: The definitions and method to calculate the credit are the same as for Oregon personal income tax purposes. The credit is the lesser of:
   a. The District tax based on mutually taxed income; or
   b. The tax actually paid to the other state.

   Example:

Jim is a District resident who claims a credit for income taxes paid to another state on the Oregon income tax return. Jim's modified adjusted gross income of $400,000 includes mutually taxed rental income taxed to Idaho and the District of $40,000. Jim's District net income tax is $2,750 and Idaho net income tax is $2,500. Jim figures the allowable credit as follows:

(Mutually taxed income / modified adjusted gross income) x District net income tax = District tax based on mutually taxed income.

($40,000 ÷ 400,000) x $2,750 = $275

Jim's allowable credit is $275, which is the lesser of the District tax based on mutually taxed income or the income tax actually paid to Idaho of $2,500.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040

7.06 – 1155 Exemption for PERS and FERS Income

Local governments are prohibited from taxing Oregon Public Employees Retirement System (PERS) or Federal Employees Retirement System (FERS) under ORS 238.445.

1. Residents who receive PERS or FERS income are allowed an exemption for that income from Oregon taxable income.
2. Nonresidents and part-year residents who receive PERS or FERS income should exclude that income when determining District sourced income.

Effective: August 8, 2021
Statutory/Other Authority: Metro Code 7.06.040