

Dealer



June 2020

Solutions

Corporate Activity Tax Update

New DMV Rules on Title Branding

ODOT Facing Cash Crunch

Dealers/Businesses Seek COVID-19 Liability Protection

In this Issue

Table of Contents

A message for our readers.....	2
DMV rule change impacts brands.....	3
Contact your legislators about CAT.....	4
OVDA at the Legislature.....	7
COVID-19 and Unemployment Insurance premiums.....	8
DEQ update.....	9
Corporate Activity Tax (CAT) update.....	11
Update from ODOT Director Strickler.....	12

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From the Editor's Desk

A message for our readers...

When we wrote the April edition of Dealer Solutions, we were convinced the COVID-19 was going to be the story of the year. The world had turned upside down and everyone was holding their breath.

Little did we — or anyone — know that COVID-19 was just the warm up for the second act — outrage over racism and police brutality. Regardless of your opinion of the police — or the actions of protesters ranging from civil disobedience to outright rioting — the nation appears to have reached a tipping point.

COVID-19 was having a disastrous impact on our economy, locally and nationally. Efforts to recover — at least in most larger cities — are now on hold while civil unrest plays out on national television and likely just down the street from your dealership.

Staying up-to-date on COVID-19 and civil unrest is like drinking from a fire hose. Information changes daily — sometimes hourly. In terms of managing your business, your best resources are your tax adviser, your attorney and your banker.

Among the statistics, one of the most interesting (and frightening) is that the people contracting COVID-19 are not focused among the elderly or infirm. While younger, healthier people are likely to have milder symptoms, COVID-19 is truly an

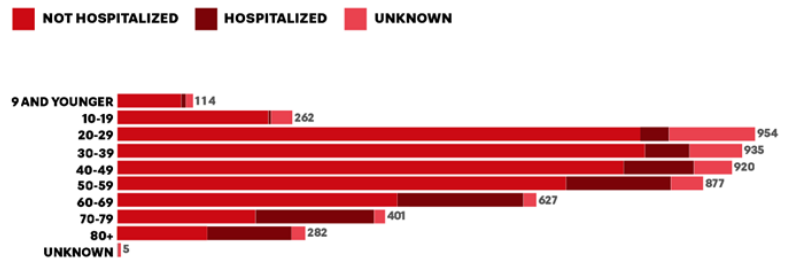
equal opportunity infection.

OVDA is committed to a nation free of racism and police brutality. But we also value and respect the role law enforcement plays in a civil society.

OVDA is here to help if you have any questions, especially with how state government is handling COVID-19. Just send your emails to ovda@ordealers.com or call 503-399-9199. We're all in this together.

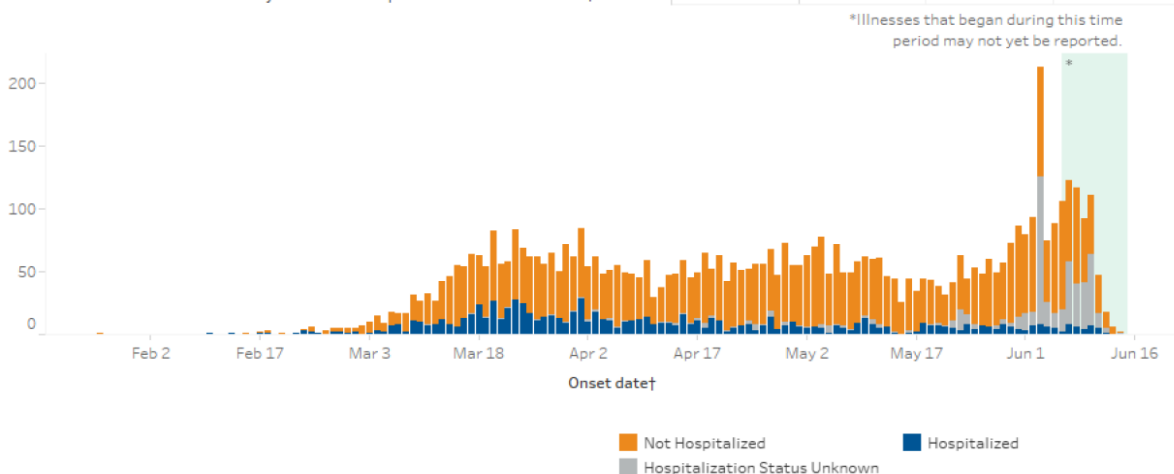
There Oregon Legislature is grappling with many issues, most of which impact all businesses. OVDA continues to be an active part of larger coalitions of business associations to advocate on your behalf. Some of the statements by these business groups with have our support are reprinted here in **Dealer Solutions**.

COVID-19 IN OREGON BY AGE GROUP



Oregon's Epi Curve: COVID-19 cases

This chart shows the number of Oregonians who have been identified as COVID-19 cases and whether they were ever hospitalized for their illness.†



DMV Rule Change

A DMV rule change will dramatically impact title brands and will render existing clean titles unreliable due to expanded information

DMV is changing administrative rules about when and how brands will be titled in Oregon. The result will expand the number of vehicles branded in Oregon. And, most significantly, vehicles which have had a clean title for years could be **RETROACTIVELY** branded by DMV when a title is transferred. Dealers need to read and be prepared for this change. You will want to ensure you know the **NEW** history on all of the vehicle is your inventory. And, you'll want to check any vehicles before buying them from auctions or customers.

Below are portions of the Notice of Proposed Rulemaking from DMV. OVDA, along with OADA (franchised dealers) strongly opposed the changes in a Rules Advisory Committee (RAC) and in information conversations with DMV leadership. Nevertheless they are moving forward. The rulemaking documents even acknowledge this will have a substantial and negative impact on dealers who have done nothing wrong.

OVDA will continue to work with DMV in an effort to mitigate the impact these new rules will have on dealers and customers.

NEED FOR THE RULE(S):

Senate Bill (SB) 57, section 18, (2019) (Or Laws 2019, chapter 312, section 18) amended ORS 803.045 and now requires DMV to deny issuance of an Oregon title if the vehicle record available through an electronic record inquiry returns a status of "junk" or comparable language. DMV will

be using the National Motor Vehicle Title Information System (NMVTIS) for the electronic record inquiries. NMVTIS is established by the United States Department of Justice and operated by the American Association of Motor Vehicle Administrators. The purpose of NMVTIS is to assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles into interstate commerce; protect states and individual and commercial consumers from fraud; reduce the use of stolen vehicles for illicit purposes and provide consumer protection

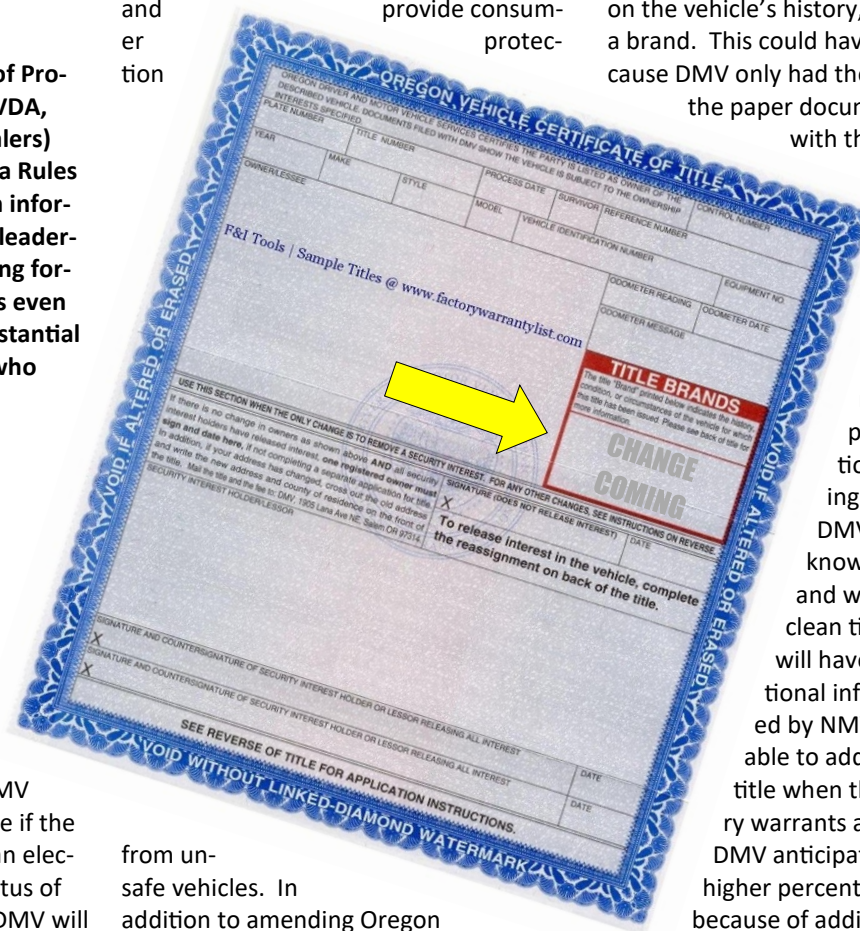
Administrative Rules (OARs) to comply with the new statutory requirement, DMV is proposing to amend rule to provide that DMV will add one or more brands to a vehicle's Certificate of Title if the information in NMVTIS warrants such an action by DMV.

Businesses, including dealerships, may experience a fiscal impact due to DMV using information from NMVTIS to brand vehicles. Previously, DMV may have issued a clean title for a vehicle that, based on the vehicle's history, should have had a brand. This could have occurred because DMV only had the information on the paper documents submitted

with the title application and DMV's

records. If a vehicle was in an event (such as a collision) that required a brand and it was not noted on the paper documentation presented during title issuance,

DMV would not have known about the event and would have issued a clean title. Now, DMV will have access to additional information provided by NMVTIS and will be able to add a brand to the title when the vehicle's history warrants adding the brand. DMV anticipates branding a higher percentage of vehicles because of additional (next page)



from unsafe vehicles. In addition to amending Oregon

DMV Rule Change

Rule change (continued from page 3)

(from previous page) information available to DMV by NMVTIS. The fiscal impact to the businesses would be the difference in the sale price of a vehicle with a branded title compared to a vehicle without a branded title. Other losses may include customer trust erosion, bad reputation, and motor vehicle dealers participating in interstate commerce losing revenue on cars sold due to buybacks.

People applying for a Certificate of Title for their vehicle may be impacted by the proposed rule changes because their vehicle may have a brand added to the title when issued by DMV. The branded title may:

- Lower the value of the vehicle when the person goes to sell the vehicle; or
- Cause a lender to refuse to lend money on the vehicle or the lender could call the loan.

Dismantlers may receive additional vehicles and vehicle parts as a result of this rulemaking. The additional vehicles and parts may increase the dismantler's profits.

NMVTIS vehicle condition and history report providers may receive more requests for vehicle condition and history reports, which will increase profits in correlation to the number of additional requests.

Consumers could pay less than 1.00 or more than \$10 for each NMVTIS vehicle condition and vehicle history report.

There are several providers and their costs vary.

Although not exclusive of this rulemaking, this rulemaking may increase the possibility that dealerships who sell, or who have sold, a vehicle without knowing that the vehicle's history warrants a branded title may receive negative feedback and then a bad reputation, or could even be subject to a lawsuit. The fiscal impact of a bad reputation is incalculable. Nothing can be done regarding vehicles already sold, but vehicle dealers can obtain a NMVTIS vehicle condition and history report prior to sale in order to fully disclose any potential brands.

There is no cost to comply. However, vehicle dealerships may want to obtain a NMVTIS report prior to buying a vehicle. NMVTIS reports are available from several companies and the fee charged by the approved NMVTIS data providers varies. The fee could be less than \$1.00 or more than \$10 per vehicle.

IMPACT ON SMALL BUSINESSES: Small businesses are not "subject" to the rule; however, a vehicle owned or sold by a small business may receive a branded title if DMV determines one is necessary based on NMVTIS vehicle history information. Although no businesses and industries are "subject" to the rule, vehicle dealerships, auction companies, insurance companies, and dismantlers will be impacted by the amendments as stated above.

**For more information, dealers should contact
DMV Business Regulation.**

THE GOLDEN RULE:

HE WHO HAS THE GOLD MAKES THE RULES.

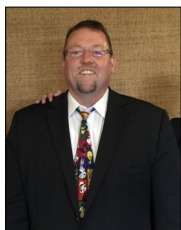
The Oregon Vehicle Dealer's Association has a campaign fund. We use donations from dealers to support candidates who: support a free market, lower taxes, fewer rules, and government getting out of the way of small businesses trying to grow.

Will you help OVDA by making a donation today? Call 503-399-9199 or email OVDA@ordealers.com for details or to make a donation.

Dealer Industry Leadership

Your Oregon Vehicle Dealer Assn Board

The OVDA Board is comprised of active dealers. You likely see them at the auctions. They are volunteering some of their time to ensure the auto industry has a strong voice in Oregon. Would you like to be an industry leader? We are especially looking for dealers in southern, central and eastern Oregon, and for dealers who represent the large minority community of dealers. Are you passionate about the auto industry? Are you willing to donate a little of your time to improve the business in which you work? If you would consider joining our board, please email OVDA@ordealers.com or call 503-399-9199. Thank you for your interest.



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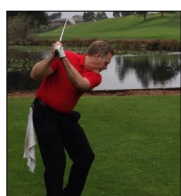


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Corporate Activity Tax



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Retail Installment Contract Update

OVDA Dealers please note:

The Retail Installment Agreement Form has been changed. It adds a line to the 4-K Section to account for Oregon's new Corporate Activity Tax (CAT).

The additional line has caused issues with a number of computer systems. We are exploring options to obtain the 300.8 Contract that was discontinued in January, 2020. We will update our forms users as we obtain additional information. For further questions feel free to call or email us.

OVDA

Phone: 503-399-9199

Email: OVDA@ORDealers.com

IF NOT YOU, WHO? IF NOT NOW, WHEN?

Join OVDA today and protect your livelihood by being a part of something that is already making a difference for your dealership every day. Join at www.ordealers.com, call 503-399-9199, or email OVDA@ordealers.com for details.

OVDA at the Legislature



Businesses, Schools, & other entities including Local Governments and Non-Profits Need COVID Liability Protection Now!

Employers in good standing should not be punished by opportunistic litigation

The ask is simple – entities in Oregon need the following language to ensure they are protected from unwarranted lawsuits during this pandemic:

“A person or entity acting in good faith shall not be subject to civil damages resulting from acts or omissions that complied with an executive order or regulation or were in accordance with guidance regarding COVID-19, unless the damages result from the person or entity’s gross negligence or from the person or entity’s reckless, wanton or intentional misconduct. This section applies to all causes of action that accrue during the complete duration of the COVID-19 emergency declaration, EO 20-03 issued March 9, 2020.”

Why is this needed?

Entities are doing everything they can to comply with Governor Brown’s executive orders, agency mandates and federal guidelines to protect the health of employees and the public can still face punishment from COVID lawsuits. This fundamental unfairness leaves thousands of employers, nonprofits and local governments exposed to new crisis-driven liability even if they are in compliance with government issued COVID regulations. Even as other states have acted to protect these entities, Oregon employers remain vulnerable.

If an entity is acting under orders of the Governor or if they are following the guidelines issued to safely guide their operations, then they should have certainty during the COVID-19 emergency situation that they will not be sued. ***Entities need to know they have protection from lawsuits if they are following state mandated safety guidelines.***

During a Special Session, Oregon Legislators should immediately pass legislation that provides:

- Protection for following State and Federal Guidance – entities who follow guidance from the government about how they can safely operate should be protected from unwarranted lawsuits;
- Recognition of the COVID-19 situation – entities should not be liable for circumstances beyond their control including limited PPE, limited testing and workforce shortages due to the crisis;
- Limited Duration for Liability Protection – only for acts or omissions during the COVID-19 Emergency (effective with the first order: EO 20-03 March 8, 2020)
- Limited Scope of Liability Protection – allow for gross negligence, reckless or willful misconduct claims to move forward (not looking to protect bad actors!)

Fawn Barrie (OBI & ORLRC) 503.580.5487 Jenny Dressler (OSCC) 503.810.4174

Lori Sattenspiel (OSBA) 503.559.6215

OVDA and COVID-19

The Capitol Building may be closed, but government never takes a day off.

The Oregon State Capitol has been closed to the public since March 18: No legislators. No lobbyists. No media. But the gears of big government continue to turn, virtual hearings are being held, and state agencies continue to promulgate rules and regulations.

In the middle of this pandemic, OVDA continues to actively represent your interests. In recent weeks, OVDA has partnered with other business associations to try to impact taxes and environmental overreach by the Governor.

OVDA joins dozens of government and business organizations requesting liability relief from COVID-19 claims

On the opposite page (page 7), you can read the plea of dozens of business and government organizations asking Legislators to provide blanket liability for employers who make a good faith effort to comply with the ever-changing Federal and state guidance, Executive Orders and rules related to COVID-19. The request was developed days before the Oregon Legislature was scheduled to convene in a Special Session to deal with both the pandemic and racial tensions.

In addition to the information presented in the communications, many groups are negotiating behind the scenes on a variety of COVID-19 related issues. The largest of which is how employees and employers will handle workers compensation. Business groups are requesting protection from workers compensation claims when employees contract COVID-19 and

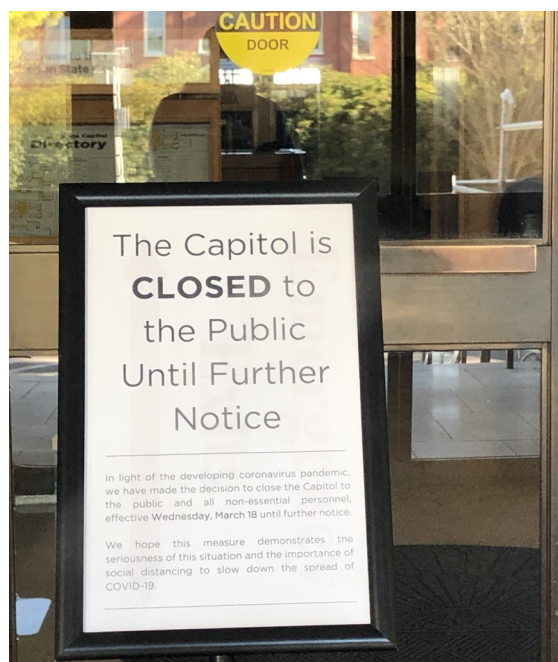
there is no clear proof from where the employee contracted the virus.

On the other hand, groups representing employees are advocating for just the opposite. They are asking legislators to pass a law making a positive COVID-19 claim an automatic workers compensation claim if they person is employed.

Groups are also at loggerheads over the impact of COVID-19 related unemployment on the unemployment insurance trust fund. Employer groups do not believe pandemic-related unemployment should impact their overall rating. However, there is no clear path to protect and replenish the UI fund without increasing employer rates.

COVID Employer Relief on UI payments

On May 28 the Employment Department released the following statement:



On March 8, 2020, Governor Kate Brown announced an emergency declaration under ORS 401.165 in response to the COVID-19 pandemic. In an effort to reduce the spread of COVID-19, Executive Orders addressing the safety and health of Oregon citizens were issued in the weeks following the initial emergency declaration.

We know that many employers had to reduce staff, limit operations, or in some instances temporarily close their business until further notice, and that you may be facing challenges as the economy recovers.

The Oregon Employment Department is offering relief to any business subject to Unemployment Insurance (see page 10)

Updates from DEQ

Environmental Quality Commission approves temporary vehicle inspection fee increase

May 7, 2020

Oregon's Environmental Quality Commission, the [Oregon Department of Environmental Quality](#)'s policy and rulemaking board, approved temporary fee increases for inspection compliance certificates required for vehicle registrations in the Portland and Medford-Ashland areas, as well as fees for [Mobile On-Site Testing](#) at auto dealerships.

DEQ has been working with the Commission, stakeholders and the Oregon State Legislature to examine and adjust fees for the Vehicle Inspection Program for the last 18 months and the Commission originally confirmed the new rule in its [November 2019 meeting](#). These are the first fee increases undertaken since 1997 and will go into effect as of June 1.

Most compliance certificates [have been put on hold](#) since March 17 when vehicle inspection stations closed to alleviate the risk of spreading COVID-19 among staff and customers. The closures have additionally affected DEQ's budget, further reinforcing the need for an increase.

"We appreciate the Commission's reaffirmation that our Vehicle Inspection Program is a cost-effective way to achieve Oregon's clean air goals," said Ali Mirza-khalili, DEQ's Air Quality administrator. "The approved fee increase allows us to continue to deliver air quality benefits and maintain our high level of customer service once we resume operations."

Five-year-old and older vehicles in the Portland and Medford-Ashland areas undergo a test prior to DMV registration every other year. This ensures their emission control systems keep pollution levels within the Environmental Protection Agency's allowable standards. Previous and new fees are as follows:

- Portland
Previous fee: \$21
New fee: \$25
Amount increased: \$4
- Medford-Ashland
Previous fee: \$10
New fee: \$15
Amount increased: \$5
- Mobile On-Site Testing at Auto Dealerships
Previous fee: \$26
New fee: \$30
Amount increased: \$4

DEQ must go before the Environmental Quality Commission in six months to extend the fee increase to the end of the current biennium. At that time, the agency will ask that the temporary fees be made permanent.

Currently, vehicle inspection stations are scheduled to re-open on May 18, pending additional news. Visit DEQ's [Vehicle Inspection Station Closure Information page...](#) for station updates.

For specific questions concerning

- Vehicle inspections, email VIPINFO@deq.state.or.us or call 503-229-5066.
- Vehicle registrations, [contact Oregon DMV](#) at 503-945-5000.

DEQ requests patience as vehicle inspections station begin to reopen

The [Oregon Department of Environmental Quality](#) will reopen many of its [vehicle inspection stations](#) beginning mid-June. The Medford-Ashland station began offering inspection services June 15; while the Clackamas, Sherwood and Hillsboro/Sunset stations will reopen June 16; and the Scappoose station will reopen on June 19. The agency asks the public for patience as the staff works within new COVID-19-related procedures and through a backlog of vehicles. DEQ will continue to offer several other options for obtaining an inspection compliance certificate for those who do not want to wait in line.

The vehicle inspection stations originally closed on March 17 to lessen the risk of spreading COVID-19 among staff and customers. Over the last month, DEQ has been communicating with state health and safety officials on timing and safety precautions, and stations have modified plans in alignment with new health and physical distancing guidelines. These will increase time spent on each transaction. Additionally, the agency recognizes that nearly 200,000 inspections were postponed over the last three months. Wait times will be longer as those vehicles are serviced along with the 60,000 vehicles typical for June and July.

In late March, the [ODOT announced](#) a partnership with law enforcement to exercise discretion in enforcing of driver's licenses, vehicle registrations and trip permits that expire during the COVID-19 emergency stay-at-home order declared by Governor Brown. That citation moratorium [has been extended through Oct. 1, 2020](#).

OVDA and COVID-19

COVID-19 UI Relief

(Continued from Page 8)

tax affected by the pandemic and the measures taken to slow its spread. If an employer is unable to pay their unemployment insurance taxes fully for the first quarter of 2020 (for which the statutory deadline for payments was April 30, 2020) because of COVID-19 related factors, the Department will abate interest and penalties. However, the payments must be made within 30 days of the COVID-19 Executive Orders being no longer in effect, or later if a payment arrangement is reached with the Employment Department. To apply for an abatement, you must complete the Em-

ployment Department COVID-19 Application for Interest and Penalty Relief available at their website.

Employers must have still filed their quarterly payroll reports on time.

Receiving timely, accurate wage reports helps us provide much needed unemployment insurance benefits and other benefits to those affected by the recent layoffs. If you do not file timely and accurate quarterly payroll reports, it can delay our ability to pay benefits to people who are relying on, and are entitled to, benefits and can cause improper payments.

We appreciate your patience as we are working to implement the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The work effort for the new federal benefit programs delayed our ability to stop some of our system-generated notices, such as the Combined Failure to File Notice and Notice of Tax Assessment.

Thank you again for your contributions to the State of Oregon's economy. The jobs you provide contribute to a vibrant Oregon economy and support the quality of Oregonians lives.

DMV Business Regulation during COVID-19

DMV field offices still are not accepting in-person transactions from dealers at this time. You should still submit your transactions through the mail to DMV HQ, and Vitu members will still be able to utilize their services.

There is no known timetable for returning to "normal" dealer business at DMV field offices considering the huge backlog of public transactions.

DMV field offices are just now starting to open for nondealer business, but only by appointment and they have been over-

whelmed by the response.

The DMV Business Licensing office continues to also be closed to in-person visits. Temporary and Trip Permit books can be ordered, and certificate renewal applications will be accepted through the mail. Limited staff will be working and can be reached at 503-945-5052 for assistance.

For more detailed information, including how to process and submit transactions, please contact DMV at 503-945.5052.

THE GOLDEN RULE:

HE WHO HAS THE GOLD MAKES THE RULES.

The Oregon Vehicle Dealer's Association has a campaign fund. We use donations from dealers to support candidates who: support a free market, lower taxes, fewer rules, and government getting out of the way of small businesses trying to grow. Will you help OVDA by making a donation today? Call 503-399-9199 or email OVDA@ordealers.com for details or to

Corporate Activity Tax

Department of Revenue will not penalize those who can't pay Corporate Activity Tax

Dear Corporate Activity Tax stakeholder:

The Oregon Department of Revenue is adjusting requirements of businesses making estimated quarterly payments of the Corporate Activity Tax.

Beginning immediately, Revenue has revised OAR 150-317-1300, dated April 27, 2020, to reflect a change in the threshold for making estimated tax payments from \$5,000 of annual tax liability to \$10,000 of annual tax liability for the first year of the tax. This means businesses that will owe less than \$10,000 are not required to make quarterly estimated tax payments during 2020.

Revenue also won't assess penalties for underestimated quarterly payments or for not making a quarterly payment, if businesses don't have the financial ability to make the estimated payment.

If businesses know they'll owe \$10,000 or more in annual Corporate Activity Tax in 2020 and can pay, they should make estimated quarterly payments and comply with the law to the fullest extent possible.

Information and a worksheet for calculating quarterly payments can be found on the CAT page of the agency [website](#) under the Beyond the FAQ "When are estimated payments required?" The information has recently been updated to reflect the higher threshold of \$10,000 or more.

The Department of Revenue will honor a business taxpayer's good-faith efforts to comply and not assess penalties if they document their efforts to comply, including how COVID-19 has impacted their business.

If businesses have been impacted by COVID-19 and are finding it difficult to



calculate or pay an estimated quarterly payment, they should keep documentation showing:

- Their inability to pay a quarterly payment because of insufficient funds due to COVID-19.

- Their inability to reasonably calculate a quarterly payment or annual tax liability due to their business being impacted by COVID-19.

- That the taxpayer is unclear at this time whether the business will owe Corporate Activity Tax in April 2020 due to COVID-19 impacts, after taking into consideration exclusions and subtractions in the law.

Businesses uncertain about their economic future due to the COVID-19 crisis,

or those that have been closed during this crisis and have no ability to determine that they will owe a tax this year, won't be penalized.

Stakeholders can direct questions or comments about the CAT via email to cat.help.dor@oregon.gov or call 503-945-8005.

Thank you.

Corporate Activity Tax Policy Team

Oregon Department of Revenue

cat.help.dor@Oregon.gov

Reminder: Minimum Wage increases July 1

The Portland Metro Area minimum wage is currently \$12.50 per hour and will increase to \$13.25 per hour on July 1st. The standard minimum wage will increase from \$11.25 to \$12.00 per hour. The nonurban county minimum wage will increase from \$11.00 to \$11.50 per hour. Nonurban counties include the counties of Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler. Note that the portions of Clackamas, Multnomah and Washington counties that lie within the Portland Metro Area Urban Growth Boundary are subject to the Portland Metro Area minimum wage, but the portions lying outside of the Urban Growth Boundary are subject to the standard minimum wage rate.

ODOT and Revenue

The newly appointed Director of the Dept. of Transportation discusses the impact of revenue losses

As a critical partner in the ongoing operation of our state's transportation system, I want to share directly with you challenges that lie ahead for ODOT's budget. To simplify a complicated story, unless we take proactive steps to bring our resources and expenditures into alignment, around the year 2024 ODOT will not have enough State Highway Fund resources to cover the costs of operating the agency. While the current COVID-19 pandemic certainly impacts our revenues, the structural issues the State Highway Fund faces are much larger than COVID-19.

This shortfall is specific to the State Highway Fund resources that are available to cover the costs of operating the agency—paying for functions like day-to-day road maintenance and operations by ODOT forces, collecting revenue through the DMV and Commerce and Compliance Division, as well as administrative functions like human resources and information technology. This shortfall is not in the state and federal funds available for transportation projects in the Statewide Transportation Improvement Program or our multimodal grant programs, as those funds are specifically directed by law to investments in the transportation system. However, some of those state and federal funding streams may be challenged by COVID-19 or other factors.

Many will wonder how ODOT can face a shortfall of operating funding after the recent passage of the largest transportation investment package in the state's history. The reality is that virtually all of the funding from HB 2017 and other recent transportation investment packages was directed by law to the transportation system rather than to cover the agency's operating costs and maintenance. The challenge is that our operating expenditures are growing by about 6% per year, while the resources we have available to cover these costs are growing at

about 2% per year. This is by definition unsustainable, and in the near future our expenditures will eclipse our available resources.



While we do not face an immediate shortfall, our executive leadership team is proactively working with the Oregon Transportation Commission to address this challenge. All parts of the agency will be seeking to maximize efficiency in order to close the budget gap. We will look for ways to innovate and do things differently so we get more bang for the buck. But we will also need to focus on core priorities and reduce service levels in some areas.

Our decisions to bring revenue and expenditures into alignment will have impacts on our customers and stakeholders. We want to ensure that you understand the challenge, and we will engage with you as we seek to solve it. We pledge

that as we seek to close this gap we will keep customer needs in the front of our minds and engage our stakeholders and local governments in a spirit of partnership.

If you would like more information, you can read our [budget factsheet](#). Oregon Department of Transportation also has information available on our YouTube page. We hope you'll visit.

While the road ahead will at times be difficult, we will navigate it together.

Sincerely,

Kris Strickler, Director