

Chapter 320 — Amusement Device Taxes

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320.005 Definitions. As used in this chapter, unless the context requires otherwise:

- (1) “Amusement device” means a video lottery game terminal, including but not limited to any electronic, mechanical-electronic or nonmechanical device that:
 - (a) Displays a ticket through the use of a video display screen;
 - (b) Is available for consumer play upon the payment of consideration;
 - (c) Determines winners through the element of chance; and
 - (d) Displays possible prizes on the device.
- (2) “Department” means the Department of Revenue.
- (3) “Net receipts” has the meaning given the term “net receipts from video lottery games” under ORS 461.547.
- (4) “Operate” means to make an amusement device available for use by the public for gain, benefit or advantage.
- (5)(a) “Person” means every individual, partnership (limited or not), corporation (for-profit or not-for-profit), company, cooperative, joint stock company, joint venture, firm, business trust, association, organization, institution, club, society, receiver, assignee, trustee in bankruptcy, auctioneer, syndicate, trust, trustee, estate, personal representative or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.
 - (b) “Person” includes this or another state, a municipal corporation, quasi-municipal corporation or political subdivision of this or another state, and the agencies, departments and institutions of this or another state, irrespective of the nature of the activities engaged in or functions performed, but does not include the United States or a foreign government or any agency, department or instrumentality of the United States or of any foreign government.
- (6) “Tax year” means a period of 12 months beginning July 1 and ending the following June 30. [1957 c.384 §2; 1975 c.651 §1; 1985 c.476 §1; 1991 c.459 §267; 1993 c.803 §1; 1999 c.501 §1]

320.010 [Amended by 1955 c.574 §1; 1957 c.384 §3; 1959 c.155 §1; 1967 c.344 §7; 1975 c.651 §2; 1981 c.677 §2; 1989 c.786 §1; repealed by 1991 c.459 §268 (320.011 enacted in lieu of 320.010)]

320.011 Amusement device excise tax; amount. (1) An excise tax is imposed upon every person for the privilege of operating an amusement device within this state. The tax shall be imposed as provided in subsection (2) of this section and ORS 320.012.

(2) The tax shall be \$125 for operating an amusement device during the tax year.

(3) If an amusement device is not in operation in each quarter of the tax year, the tax imposed under this section shall be prorated, based on the number of calendar quarters in which the amusement device was operating for one day or more.

(4) The tax imposed by this section is in addition to all other excises, taxes, fees or other charges and shall not be used to reduce amounts otherwise accruing to the State Lottery Fund under contracts or agreements with lottery operators or retailers or in any other manner. [1991 c.459 §269 (enacted in lieu of 320.010); 1993 c.803 §2; 1999 c.501 §2]

320.012 Increase in tax when net receipts exceed specified amounts; rules. (1) If at any point during the tax year, net receipts from one or more amusement devices operating at a single location exceed \$104,000, the tax imposed under ORS 320.011 shall be increased by an additional \$50 for each device at the location.

(2) If at any point during the tax year, net receipts from one or more amusement devices operating at a single location exceed \$260,000, the tax imposed under ORS 320.011 and subsection (1) of this section shall be increased by an additional \$75 for each device at the location.

(3) The department may adopt rules defining the term "location" for purposes of this section. [1993 c.803 §4; 1995 c.79 §173; 1995 c.255 §3; 1999 c.501 §3]

320.013 Additional tax for Oregon Youth Conservation Corps. (1) In addition to the excise tax imposed by ORS 320.011, an excise tax is imposed upon every person for the privilege of operating an amusement device within this state. The tax shall be \$10 for each amusement device operated during the tax year.

(2) All moneys received from the tax imposed under subsection (1) of this section, not including penalties, shall be paid by the Department of Revenue into the State Treasury quarterly and are continuously appropriated to pay the expenses of the state and local programs of the Oregon Youth Conservation Corps established under ORS 418.650 to 418.663. [1993 c.803 §4a; 1995 c.259 §4; 1999 c.501 §4]

320.015 [1955 c.574 §3; repealed by 1957 c.384 §6]

320.016 When tax is due; replacing amusement devices. (1) If an amusement device was in operation before July 1 of the tax year and is to be operating on July 1 of the tax year, the excise tax imposed under ORS 320.011 and 320.013 shall be due on June 30 preceding the tax year.

(2) If an amusement device begins operating at a location on or after July 1 of the tax year, the excise tax imposed under ORS 320.011 and 320.013 shall be due on the day the amusement device begins operating.

(3) If additional taxes are due under ORS 320.012, the additional taxes shall be due on the 14th day after the close of the calendar quarter in which the net receipts from amusement devices operating at a location equal or exceed the level at which the additional taxes are due.

(4) If taxes imposed under ORS 320.011 or 320.013 have been paid for operating an amusement device that, during the tax year, is taken out of operation as the result of being replaced by another amusement device, the taxes that have been paid for the amusement device that has been taken out of operation shall be taken into account in determining any taxes due on the replacement amusement device.

(5) The Department of Revenue may not refund any amusement device tax to an amusement device taxpayer who, at the time of payment, was responsible for the payment of the tax and who subsequently is no longer the person responsible for the payment of the tax. [1999 c.501 §5]

320.020 [Repealed by 1991 c.459 §272c]

320.030 [Amended by 1975 c.651 §3; 1981 c.677 §3; 1985 c.476 §2; repealed by 1993 c.803 §16]

320.031 [1995 c.255 §2; repealed by 1999 c.501 §12]

320.040 [Amended by 1975 c.651 §4; 1989 c.786 §2; 1991 c.459 §270; 1993 c.803 §6; repealed by 1999 c.501 §12]

320.050 [Amended by 1955 c.574 §4; 1957 c.384 §4; 1981 c.677 §4; 1991 c.459 §271; 1991 c.567 §5; 1993 c.18 §87; 1993 c.803 §7; repealed by 1999 c.501 §12]

320.060 [Amended by 1955 c.574 §5; 1957 c.384 §5; 1959 c.155 §2; 1975 c.651 §5; 1981 c.677 §5; 1989 c.786 §4; 1991 c.459 §272; 1991 c.567 §6; 1993 c.803 §8; 1995 c.255 §5; repealed by 1999 c.501 §12]

320.065 [1975 c.651 §8; 1993 c.803 §9; repealed by 1999 c.501 §12]

320.070 [Amended by 1955 c.574 §6; 1959 c.155 §3; 1975 c.651 §6; 1981 c.677 §6; 1989 c.786 §5; 1991 c.459 §272a; 1991 c.567 §7; 1993 c.803 §10; repealed by 1999 c.501 §12]

320.075 Joint and several liability for tax; late payment penalty. (1) Each person responsible by law or contract for the operation of an amusement device in this state, together with any officer or partner thereof, shall be liable jointly and severally for the taxes imposed under this chapter and for any penalties arising under this chapter.

(2) If an amusement device is operated in this state without a tax imposed by this chapter having been paid on or before 30 days after the date the tax is due, a penalty of \$200 shall be imposed.

(3) The penalty imposed in subsection (2) of this section shall be waived if the sole reason the tax was not paid is because of the failure of the Oregon State Lottery to act under the agreement described in ORS 320.150. [1999 c.501 §6]

320.080 Procedure on failure to pay tax or penalty. (1) If any tax or penalty imposed by this chapter is not paid as required by this chapter within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed, the Department of Revenue shall issue a warrant directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the person or persons named in the warrant and liable for the tax found within the county, for the payment of the amount thereof with the added penalty and the cost of executing the warrant, and to return the warrant to the department and pay to it the money collected by virtue thereof by a time to be therein specified not more than 30 days from the date of the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the county a copy thereof. Thereupon the clerk shall enter in the County Clerk Lien Record the names of the persons mentioned in the warrant, and the amount of the tax and penalty for which the warrant is issued and the date when such copy is recorded. Thereupon the amount of the warrant so recorded shall become a lien upon the title to any interest in real property or personal property of the persons against whom it is issued in the same manner as a judgment duly docketed. The sheriff shall thereupon proceed upon the same in all respects, with like effect and in the manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and the sheriff is entitled to the same fees for services in executing the warrant to be collected in the same manner. If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim for taxes as if the people of the state had recovered judgment for the amount of the tax. [Amended by 1981 c.677 §7; 1983 c.696 §13; 1985 c.761 §16; 1989 c.625 §77]

320.090 [Repealed by 1981 c.677 §8]

320.100 Distribution of tax receipts. (1) All moneys received from the taxes imposed under ORS 320.011 and 320.012, including penalties, shall be paid by the Department of Revenue in the following manner:

(a) Seventy-five percent (75%) of the moneys shall be credited, appropriated or remitted as follows:

(A) Forty-three and two-tenths percent (43.2%) thereof shall be credited to the General Fund to be available for payment of general governmental expenses.

(B) Nine and seven-tenths percent (9.7%) is continuously appropriated to pay the expenses of state and local

programs of the Oregon Youth Conservation Corps established under ORS 418.650 to 418.663.

(C) Forty-seven and one-tenth percent (47.1%) thereof shall be remitted to the county treasurers of the several counties of the state. Each county shall receive such share of the moneys as its population, determined by the State Board of Higher Education, bears to the total population of the counties of the state, as determined by the census last preceding such apportionment.

(b) Twenty-five percent (25%) of the moneys shall be continuously appropriated to pay the expenses of the state and local programs of the Oregon Youth Conservation Corps established under ORS 418.650 to 418.663.

(2) All revenues received under this section by the treasurers of the several counties shall be placed in the general fund of each county to be expended by the county courts or the board of county commissioners of the several counties for general governmental expenses. [Amended by 1959 c.143 §1; 1963 c.644 §3; 1967 c.323 §1; 1969 c.230 §1; 1989 c.786 §3; 1991 c.459 §272e; 1993 c.803 §11; 1995 c.259 §3; 1999 c.501 §7]

320.110 Rules. The Department of Revenue may adopt rules necessary for the administration and enforcement of this chapter. [Amended by 1991 c.459 §272b]

320.120 Employment of agents. (1) The Department of Revenue may employ the agents necessary for the administration and enforcement of this chapter. Agents of the department charged with the enforcement of this chapter have all the power and authority of police officers in the performance of such duties.

(2) The Oregon State Lottery and the agents and employees of the Oregon State Lottery may not be considered agents of the department charged with the enforcement of this chapter. [Amended by 1999 c.501 §8]

320.130 Law enforcement officers to enforce chapter and assist department. The state police, sheriffs, constables, police and other law enforcement officers within the State of Oregon shall enforce all provisions of this chapter and shall assist the Department of Revenue.

320.140 Tax does not legalize ownership, display or operation in violation of law. Nothing in this chapter shall be construed as licensing, authorizing or legalizing the ownership, possession, display or operation, in violation of any law of this state, of any amusement device. [Amended by 1993 c.270 §64; 1993 c.803 §14]

320.150 Oregon State Lottery assistance in tax collection responsibilities. The Department of Revenue and the Oregon State Lottery Commission shall enter into an agreement pursuant to which the Oregon State Lottery shall assist the department in the collection of excise taxes imposed under this chapter on amusement devices operated under the authority of the Oregon State Lottery Commission pursuant to ORS 461.215 and 461.217 and any other functions of the department under this chapter as may be provided under the agreement. The agreement is not intended to preclude performance by the department of collection functions as from time to time may be required, nor is the agreement intended to preclude the performance of functions by the Oregon State Lottery, under less formal arrangements made with the department, with respect to the tax imposed under this chapter if the functions are not specifically mentioned in the agreement. The collection of taxes under this chapter by the Oregon State Lottery shall not render the Oregon State Lottery or the agents and employees of the Oregon State Lottery responsible for collection of the tax. [1993 c.803 §13; 1999 c.501 §9]

320.990 Penalties. Violation of any provision of this chapter by any person is punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or by both. Justice courts have concurrent jurisdiction with the circuit courts of any prosecution provided for in this subsection. [Amended by 1955 c.574 §7; 1971 c.743 §356; 1999 c.501 §10]