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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**ED 8-2023**

CHAPTER 471

EMPLOYMENT DEPARTMENT

**FILED**

08/23/2023 3:33 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending Paid Leave Oregon self-employed administrative rule

EFFECTIVE DATE: 08/23/2023 THROUGH 02/18/2024

AGENCY APPROVED DATE: 08/23/2023

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NEED FOR THE RULE(S):

The purpose of having self-employed individuals who chose Paid Leave Oregon coverage report and submit their taxable income from the prior year tax returns was to use that information to calculate both the amount of contributions and benefits. This temporary rule amendment is needed to clarify that the taxable income will also be used to prorate benefits.

JUSTIFICATION OF TEMPORARY FILING:

Paid Leave Oregon continues to review and assess our administrative rules and statutes, particularly as we prepare to start issuing benefits in early September 2023. Part of that continued analysis includes soliciting feedback, as well as applying law and rule to the functions of the department's electronic operating system (Frances). In so doing, Paid Leave Oregon determined there is a need to amend the rule, to support systems processes.

If the temporary rule amendment is not made effective before go-live, the benefits for self-employed individuals will not be calculated accurately, resulting in erroneous determinations and requiring unnecessary added work for staff who are standing up the program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes Chapter 657B ([https://www.oregonlegislature.gov/bills\\_laws/ors/ors657B.html](https://www.oregonlegislature.gov/bills_laws/ors/ors657B.html));  
Oregon Revised Statutes Chapter 293 ([https://www.oregonlegislature.gov/bills\\_laws/ors/ors293.html](https://www.oregonlegislature.gov/bills_laws/ors/ors293.html))

AMEND: 471-070-2030

RULE TITLE: Self-employed: Income, Contribution Payments, and Reporting Requirements

RULE SUMMARY: The administrative rule is amended to clarify that reported taxable income from self-employed individuals who have elected coverage will be prorated for the purposes of contributions and benefits. This rule was temporarily amended; these changes are being made to amend the rule permanently.

RULE TEXT:

(1) A self-employed individual who elects coverage under ORS 657B.130 must contribute to the Paid Family Medical Leave Insurance (PFMLI) Trust Fund in an amount that is equal to 60 percent of the total contribution rate described in OAR 471-070-3010 up to an annual taxable income from self-employment that is equal to the calendar year maximum wage amount described in OAR 471-070-3010.

(2) Total contribution payments will be based on the individual's total taxable income from self-employment from the tax return required to be filed for a prior tax year, per OAR 471-070-2010 and generally shall be divided into four quarterly contribution payments. If a contribution is due for only part of a quarter, the contribution amount and the taxable income from self-employment used to calculate the weekly benefit amount, shall be prorated based on the number of calendar days that the elective coverage is in effect.

Example: Sally, a self-employed individual, elects PFMLI coverage on May 1, 2024. Sally earned \$80,000 in taxable income from self-employment in 2023. Assuming a total contribution rate of one percent, Sally's four quarterly contribution amounts due, and taxable income from self-employment, are calculated as follows:

First quarterly payment, period of May 1 through June 30 (second quarter calendar year 2024), will be \$80.44  $[(\$80,000 \text{ taxable income from self-employment} \times 0.01 \text{ total contribution rate} \times 0.6 \text{ self-employed contribution percentage} / \text{four quarters}) \times 61/91 \text{ calendar days in the quarter}]$ . Her taxable income from self-employment for this quarter will be \$13,406.59  $[(\$80,000 \text{ taxable income from self-employment} / \text{four quarters}) \times 61/91 \text{ calendar days in the quarter}]$ .

Second quarterly payment, period of July 1 through September 30 (third quarter calendar year 2024), will be \$120  $(\$80,000 \text{ taxable income from self-employment} \times 0.01 \text{ total contribution rate} \times 0.6 \text{ self-employed contribution percentage} / \text{four quarters})$ . Her taxable income from self-employment for this quarter will be \$20,000  $(\$80,000 \text{ taxable income from self-employment} / \text{four quarters})$ .

Third quarterly payment, period of October 1 through December 31 (fourth quarter calendar year 2024), will be \$120  $(\$80,000 \text{ taxable income from self-employment} \times 0.01 \text{ total contribution rate} \times 0.6 \text{ self-employed contribution percentage} / \text{four quarters})$ . Her taxable income from self-employment for this quarter will be \$20,000  $(\$80,000 \text{ taxable income from self-employment} / \text{four quarters})$ .

Fourth quarterly payment, period of January 1 through March 31 (first quarter calendar year 2025), will be \$120  $(\$80,000 \text{ taxable income from self-employment} \times 0.01 \text{ total contribution rate} \times 0.6 \text{ self-employed contribution percentage} / \text{four quarters})$ . Her taxable income from self-employment for this quarter will be \$20,000  $(\$80,000 \text{ taxable income from self-employment} / \text{four quarters})$ .

(3) Quarterly contributions shall be due and payable in accordance with OAR 471-070-3030.

(4) A self-employed individual who fails to timely pay contributions as required by sections (1) through (3) of this rule is delinquent. Any individual found to be delinquent in the payment of contributions is subject to the penalties as specified in ORS 657B.320 and also may be assessed an additional penalty as provided in ORS 657B.910.

(5) The date of receipt of contributions transmitted through the mail or private express carrier shall be determined as provided in ORS 293.660. The date of receipt shall be used in the calculation of interest charges, delinquencies, penalties, or other sanctions provided by law.

(6) The self-employed individual must annually report information and submit provide documentation as provided in subsections (a) and (b) of this section that the department deems necessary for the administration of elective coverage.

(a) Except as specified in subsection (b) of this section, a self-employed individual must annually report to the department the prior year's taxable income from self-employment required to be filed and must provide their Oregon personal income tax return to the department on or before April 30 of each year.

(b) If a self-employed individual files their Oregon personal income tax return on extension, the department will use the information on the individual's last tax return filed and provided to calculate quarterly contribution payments. The department will adjust the quarterly contribution payments due when the prior year's tax return on extension is filed and provided to the department. The self-employed individual must report to the department the prior year's taxable

income from self-employed filed on extension and provide their Oregon personal income tax return on or before October 31 of each year.

STATUTORY/OTHER AUTHORITY: ORS 657B.340

STATUTES/OTHER IMPLEMENTED: ORS 293.660, 657B.130, 657B.150, Chapter 292, Oregon Laws 2023