



Rollin' On



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STATE TAX EXEMPTION, MONTH END AND HOLDING

Drivers and income tax exemptions.

In today's world of tax and spend and then run out of money, the various state and local governments around the country are looking for additional revenues without raising taxes, which is always a hot button. They scratch to see what areas have been left untapped, and then they may take a run at trying to collect money from what is frequently a new source.

Our state government here in Oregon is currently trying to collect supposed past due taxes from a nonresident interstate driver who is employed by an Oregon establishment. Some of you know that Congress has exempted certain employees, such as drivers, from state income taxes other than from the state in which the driver resides. This is true for employees of both motor carriers and rail carriers.

In this case the state is saying that the employees work for a nonprofit corporation, and do not fit within the exemption. The employees would qualify, the state says, if the nonprofit had operations that compete with private businesses, for example, a Salvation Army clothing store. So the bigger the nonprofit entity, with these retail-type operations, the more apt the employees are to be free from this kind of taxation. Conversely, the smaller the nonprofit, the more likely it will be for the employees to find themselves on the state's radar.

In this instance the state has used a variety of laws and reasons to support its position. Each time it has referred us to a particular law or regulation, we have furnished a response explaining why such law or regulation doesn't

LARRY R. DAVIDSON
Attorney at Law
1850 Benj. Franklin Plaza
One SW Columbia St.
Portland, Oregon 97258
(503) 229-0199
Fax (503) 229-1856
E-Mail: larry@rollin-on.com
www.rollin-on.com

apply, only to receive a reply from the state with yet another cited law or regulation which likewise does not apply. Finally, the state claimed that each entity must have a USDOT number, even though the exemption statute makes no reference to such number. The state has recently abandoned this assertion and has settled on the basis mentioned above, that the nonprofit must have operations that competes with private enterprise in order for its employees to qualify for the exemption provided by federal law.

If the state is correct, it could find itself owing refunds and other money to employees who could be taxed in other states under the same thought process. Also, it's kind of like a retroactive tax in the sense that these employees have always been considered exempt from out of state taxation for this type of employment, have never paid these state income taxes and then wham, the employee gets a claim from a state a few years later. That would hurt.

End of the Month Emerges

Yikes! The month's end has arrived without warning! The government must have taken a day or a week from us, as this is a totally unexpected development. I thought it could be only the third week, max. This issue of **Rollin' On** is barely making it.

On hold, and liking it

Toward the end of a recent busy day, which was concluding with unfinished work due to time constraints (it beats the alternative), I had to make a phone call. After several rings, I received the all-too-common recording

giving me several options, none of course which matched up with what I was calling about. I finally selected an option that had the computer dialing yet another nonhumanoid-attended device, where I was placed again on hold with the representation, probably false, that everyone was busy helping other important customers and that my call would be answered in the order received. Of course everyone else was probably dialing a better number than the one I had.

But then to my surprise and even joy, the tune that started playing on the hold recording was *Pachelbel's Canon* (generic name), a very pleasant and relaxing musical composition. I use a headset on my phone, and the reception was good, remarkable in today's satellite world of communications. As the minutes went on I became less anxious about maybe finishing one more piece of work, and instead I became more and more relaxed. Then, without warning, a voice, a real human being, came on the line and asked what she could do to help me. And then I did something I've never done before, and I doubt if I would ever do again.

I asked her to put me back on hold. And the music was still there, so I was able to listen to the whole composition. I was completely relaxed. The person later came back on the phone, we did what we needed to do, then I hung up, decided the day had gone on long enough and hit the road for home.

Switch to email.

Just email me your company name and fax number where **Rollin' On** is currently being received, and I'll switch you over.

That's all for now. Until next time, keep the cargo rollin'!

Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 25 years and emphasizing transportation law, business law and related litigation.

The Obligatory Disclaimer

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