CITY OF PORTLAND

OFFICE OF MANAGEMENT AND FINANCE

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Entity Level Assessment of Tax Liability Policy

The Business License Law and the Business Income Tax Law both assess tax at the entity level. However, when two or more individuals or other persons combine to conduct business in the jurisdiction as a joint venture, or for ownership of rental property as tenants in common, both programs will look to the total gross and net incomes of the combining entities to measure net income, calculate apportionment and determine the gross receipts exemption status. In these cases, the substance of the combined entity is that of the a partnership even though, in form, the entity(ies) may not be required to file as one.

> Example 1: Sarah, Tom, and Adam Roirdan are equal owners in a commercial rental in the City as tenants in common. The income (loss) from the rental activity is reported on each owner's Schedule E as part of the individual's form 1040. No partnership return is filed for the entity. The gross income from the rental is $120,000 and the net income is $60,000. The Combined Tax Return will be filed as though it is a partnership showing net income of $60,000. If any owner is required to be taxed for another business activity, the Schedule E income will be treated as currently taxed pass-through income as described in Administrative Rule 600.94-1.

Occasionally circumstances occur that makes the determination of net income at the entity level unfeasible. This situation can occur when there are numerous individuals or persons involved in a business activity and depreciation and other deductions are calculated differently by each owner on his/her Schedule E. If the person responsible for filing the tax return at the entity is unable to determine the net income and is unwilling or unable to contact all owners to gather the required information, the Bureau may allow each owner to file a return on his/her own behalf. The gross receipts exemption does not apply to the individual owners if the gross income from the entity itself is $50,000 or greater. Gross income for the gross receipts exemption is determined at the entity or joint activity level, not at the pass-through level.

> Example 2: The Commerce Building which generates annual losses in excess of $500,000 is owned by 14 individuals. The person responsible for filing the Combined Tax Return determined that it was impossible to gather the information necessary to file a correct return. The Bureau granted the petition request that all owners file their own Combined Tax Returns. Therefore, in this example, the rental of the Commerce Building requires fourteen returns be filed each year, each paying at least the minimum tax.

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Date	Director, Revenue Bureau

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