

Income/Franchise:

Oregon Tax Court Magistrate Says Captive Insurer Payments are Deductible Despite IRS Settlement Agreement

Case No. TC-MD 240601N, Or. Tax Ct. (3/19/25). In an unpublished order of the Magistrate Division of the Oregon Tax Court, the presiding magistrate held that a taxpayer's payments made to a captive insurer affiliate were deductible insurance expenses for Oregon corporate excise tax purposes despite having been disallowed by the Internal Revenue Service (IRS) for federal income tax purposes pursuant to a settlement agreement. In doing so, the presiding magistrate explained that although Oregon incorporates the federal definition of taxable income, the Oregon Department of Revenue is not necessarily bound by IRS adjustments because it may draw its own factual conclusions. Applying the specific facts in this case to the four criteria of determining the existence of "insurance" for federal tax purposes (*i.e.*, risk shifting, risk distribution, insurable risk, and commonly accepted notions of insurance), the magistrate concluded that there was "no bar under applicable law" in granting the taxpayer's requested relief for Oregon corporate excise tax purposes. Please contact us with any questions.

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