

A-Engrossed
House Bill 2592

Ordered by the House June 19
Including House Amendments dated June 19

Sponsored by Representative BUCKLEY; Representatives BERGER, MACPHERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires mandatory withholding of income tax from distributions from employer-sponsored retirement plans.] Requires mandatory withholding of income tax when Oregon real property interests are sold by nonresidents. Applies to distributions and sales occurring on or after January 1, 2008.

[Allows local governments that impose personal income tax that meets certain requirements to request that Department of Revenue provide collection services, including collection of tax on state income tax return forms.]

[Establishes Local Income Tax Collections Fund. Continuously appropriates moneys from fund to Department of Revenue for distribution to local governments.]

Authorizes state agencies, boards and commissions that issue occupational or professional licenses to require licensees to demonstrate and maintain tax compliance as condition of issuance or renewal of license.

[Authorizes Department of Revenue to adopt rules that require payers of certain types of payments identified by department to withhold income tax from payments.]

Requires Department of Revenue, at request of political subdivision, to provide to political subdivision income tax collection, enforcement and distribution services.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax compliance; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **NOTE:** Sections 1 and 2 were deleted by amendment. Subsequent sections were not renumbered.

5 **SECTION 3.** Section 4 of this 2007 Act is added to and made a part of ORS chapter 314.

6 **SECTION 4.** (1) As used in this section:

7 (a) "Authorized agent" means an agent who is responsible for closing and settlement
8 services in a conveyance of a real property interest.

9 (b) "Closing and settlement services" means services that are provided for the benefit
10 of a transferor or a transferee in connection with a conveyance of a real property interest,
11 or the receipt or disbursement of moneys in connection with a sale, lease, encumbrance,
12 mortgage or deed of trust in or related to real property.

13 (c) "Conveyance" means a sale, lease, encumbrance, mortgage or creation of a secured
14 interest in real property.

15 (d) "Real property interest" means a United States real property interest, as defined in
16 section 897(c) of the Internal Revenue Code, that is located in the State of Oregon.

17 (2)(a) If there is a conveyance of a real property interest by an out-of-state transferor,
18 the authorized agent providing closing and settlement services is required to withhold an
19 amount equal to the least of:

20 (A) Four percent of the consideration for the real property interest being conveyed;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) Four percent of the net proceeds resulting from the conveyance; or

2 (C) Ten percent of the gain includable in taxable income.

3 (b) For purposes of this subsection, an out-of-state transferor is:

4 (A) An individual who is not a resident of this state at the time of both the closing date
5 of the conveyance and the date on which proceeds of the conveyance are disbursed; or

6 (B) A C corporation that, immediately after the conveyance of the real property interest,
7 is not doing business in this state.

8 (3) Notwithstanding subsection (2) of this section, an authorized agent is not required to
9 withhold amounts under this section if:

10 (a) The consideration for the conveyance does not exceed \$100,000;

11 (b) The transferee acquires the real property interest through foreclosure; or

12 (c) The authorized agent obtains a written affirmation executed by the transferor on a
13 form prescribed by the Department of Revenue certifying under penalty of perjury that the
14 transferor:

15 (A) If an individual, is a resident of this state;

16 (B) If a corporation, has a permanent place of business in this state; or

17 (C) Has professionally competent knowledge or advice that the transferor will not owe
18 tax under ORS chapter 316, 317 or 318 for the tax year because the conveyance is an ex-
19 change that qualifies for deferral under section 1031 or 1033 of the Internal Revenue Code
20 or is a nontaxable transaction under Oregon tax law.

21 (4) For purposes of this section, a corporation is not doing business in this state if:

22 (a) The corporation has not been issued a certificate of existence or a certificate of au-
23 thorization by the Secretary of State as described in ORS 60.027; and

24 (b) The corporation does not maintain a permanent office with a staff of at least one
25 employee in this state or does not own or lease property in this state other than the property
26 that is the subject of the conveyance.

27 (5) Amounts withheld pursuant to this section are held in trust for the State of Oregon
28 and shall be paid to the department in the time and manner prescribed by the department
29 by rule. If an authorized agent fails to remit an amount withheld or required to be withheld
30 by the agent under this section by the time remittance is required, the department may en-
31 force collection in the same manner as the department enforces the collection of amounts
32 withheld by employers under ORS 316.162 to 316.221.

33 **SECTION 5.** Section 4 of this 2007 Act applies to conveyances of real property interests
34 occurring on or after January 1, 2008.

35 **NOTE:** Sections 6 through 13 were deleted by amendment. Subsequent sections were not re-
36 numbered.

37 **SECTION 14.** Section 15 of this 2007 Act is added to and made a part of ORS chapter 305.

38 **SECTION 15.** (1) Any state agency, board or commission that issues occupational licenses
39 or licenses for the privilege of engaging in an occupation or profession within this state may,
40 as a condition of issuance or renewal of a license, require the licensee to demonstrate com-
41 pliance with the personal income tax laws of this state or the corporate excise or income tax
42 laws of this state, whichever are applicable.

43 (2) Any state agency, board or commission that requires tax compliance as a condition
44 of issuance or renewal of a license under subsection (1) of this section may suspend, revoke
45 or refuse to issue or renew a license if the Department of Revenue determines that the

1 licensee has failed to demonstrate or maintain tax compliance as provided in this section.

2 (3) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose to
3 a state agency, board or commission that requires tax compliance as a condition of issuance
4 or renewal of a license under subsection (1) of this section whether an individual or corpo-
5 ration is in compliance.

6 (4) In determining compliance for purposes of this section, the department may consider
7 whether the individual or corporation:

8 (a) Has failed to timely file returns with respect to taxes imposed by ORS chapter 316
9 or 317, whichever is applicable, for any of the three tax years immediately preceding a year
10 for which a tax return was required to be filed;

11 (b) Has failed to pay any tax within 30 days from the date of mailing of a notice of defi-
12 ciency or otherwise respond to a notice of deficiency within 30 days from the date of its
13 mailing; or

14 (c) Has been or is under investigation for possible criminal offenses related to the per-
15 sonal income tax laws of this state or the corporate excise and income tax laws of this state,
16 whichever are applicable.

17 (5) The department may enter into agreements with any state agency, board or com-
18 mission that requires tax compliance as a condition of issuance or renewal of a license under
19 subsection (1) of this section in order to assist in the administration of the tax compliance
20 requirement.

21 SECTION 16. If a political subdivision of this state imposes a tax on or measured by in-
22 come as determined under ORS chapter 316, 317 or 318, the Department of Revenue shall
23 provide to the political subdivision, at the request of the political subdivision, collection,
24 enforcement, administration and distribution services for the tax in the manner provided in
25 ORS 305.620.

26 SECTION 17. This 2007 Act takes effect on the 91st day after the date on which the
27 regular session of the Seventy-fourth Legislative Assembly adjourns sine die.
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