

House Bill 2747

Sponsored by Representatives MACPHERSON, BERGER

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 **as introduced**.

Directs Department of Revenue to establish and promote voluntary compliance initiative for taxpayers who utilize abusive tax avoidance transactions to underreport personal income or corporate income or excise taxes.

Establishes reporting and registration requirements and enhanced penalties for persons who use abusive tax avoidance transactions, or who serve as material advisors for certain transactions. Extends period for which notice of deficiency may be issued in cases in which returns reflect use of abusive tax avoidance transactions.

Directs Department of Revenue to establish general tax amnesty program of limited duration. Waives penalties for personal income taxpayers who pay outstanding taxes. Increases penalties on taxpayers who fail to fully participate. Sunsets amnesty program January 2, 2012.

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.

Appropriates moneys from Local Income Tax Collections Fund to Department of Revenue for cost reimbursement and 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.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax compliance; creating new provisions; amending ORS 314.410, 314.415 and 316.189;
3 appropriating money; and prescribing an effective date.

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

VOLUNTARY COMPLIANCE INITIATIVE

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8 **SECTION 1. Sections 2 to 4 and 6 to 16 of this 2007 Act are added to and made a part of**
9 **ORS chapter 314.**

10 **SECTION 2. As used in sections 2 to 4 and 6 to 13 of this 2007 Act:**

11 **(1) "Abusive tax avoidance transaction" means:**

12 **(a) A listed transaction;**

13 **(b) A tax shelter; or**

14 **(c) Any other plan or arrangement devised for the principal purpose of avoiding any tax**
15 **imposed on or measured by income.**

16 **(2) "Listed transaction" means a transaction:**

17 **(a) That is a listed transaction under section 6707A of the Internal Revenue Code;**

18 **(b) That has been specifically identified as a listed transaction by the Department of Re-**

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.

venue by rule because the transaction has a potential for tax avoidance; or

(c) That is substantially similar to a transaction described in paragraph (a) or (b) of this subsection.

(3) "Reportable transaction" means a transaction:

(a) That is a reportable transaction under section 6707A of the Internal Revenue Code;

(b) That has been specifically identified by the department as a transaction for which information is required to be included with a return or statement because, as determined by the department by rule, the transaction is of a type that the department determines by rule as having a potential for tax avoidance or evasion;

(c) That is substantially similar to a transaction described in paragraph (a) or (b) of this subsection; or

(d) That is a listed transaction.

(4) "Tax shelter" has the meaning given that term in section 6662 of the Internal Revenue Code.

SECTION 3. (1) If required by rules adopted by the Department of Revenue:

(a) Any person who engages in a reportable transaction as a buyer or transferor shall report the transaction to the department.

(b) Any person who, as the result of a reportable transaction, acquires an interest in property, a present or future right to income, a present or future right to claim a loss, deduction, credit, exemption or other tax benefit or a present or future right to an adjustment to basis shall report the transaction to the department.

(c) Any person who is associated with a reportable transaction in an association that the department has by rule identified as an association that requires reporting shall report the transaction to the department.

(2) A reportable transaction shall be reported to the department in the time, form and manner prescribed by the department by rule. Rules adopted by the department under this section may not apply to a reportable transaction occurring in a tax year beginning before January 1, 2007.

SECTION 4. A person who is a material advisor to a reportable transaction under section 6111 of the Internal Revenue Code shall send a copy of the return required to be filed with the Internal Revenue Service to the Department of Revenue within 20 days following the date the return is required to be filed with the Internal Revenue Service, if the reportable transaction reported on the return satisfies any of the following conditions:

(1) The transaction occurs in this state; or

(2) At least one party to the transaction is an Oregon personal income taxpayer or an Oregon corporate excise or income taxpayer.

SECTION 5. Notwithstanding the date on which copies of returns are required to be filed with the Department of Revenue under section 4 of this 2007 Act, a person who is required to file a copy of a return with the department under section 4 of this 2007 Act for a tax year that begins prior to January 1, 2007, shall file the copy with the department on or before January 1, 2008.

SECTION 6. A person who engages in a listed transaction in this state as a seller or other transferor and who is required to register with the taxing authority of another state or with the federal Internal Revenue Service shall register with the Department of Revenue within 60 days after the later of:

- 1 (1) The effective date of this 2007 Act;
- 2 (2) The date a person acts as a seller or transferor in a listed transaction; or
- 3 (3) The date the transaction becomes a listed transaction.

4 **SECTION 7.** (1) In addition to and not in lieu of any other penalty, a penalty may be
 5 imposed in an amount equal to 20 percent of that portion of an underpayment of tax that is
 6 attributable to the use of a reportable transaction.

7 (2) A penalty may not be imposed under this section with respect to any underpayment
 8 of tax if:

- 9 (a) The underpayment is not attributable to a listed transaction;
- 10 (b) There was a reasonable cause for the underpayment;
- 11 (c) The taxpayer acted in good faith with respect to the underpayment;
- 12 (d) The relevant facts affecting the tax treatment of the item that caused the under-
 13 payment are adequately disclosed in accordance with section 3 of this 2007 Act;
- 14 (e) There is substantial authority for the tax treatment of the item that caused the
 15 underpayment; and
- 16 (f) The taxpayer reasonably believed that the tax treatment of the item that caused the
 17 underpayment was more likely than not the proper treatment.

18 (3)(a) For purposes of subsection (2)(f) of this section, a taxpayer shall be treated as
 19 having a reasonable belief if:

20 (A) The treatment was based on facts and law that existed at the time the return re-
 21 porting the item was filed; and

22 (B) The belief relates solely to the taxpayer's chances of success on the merits of the
 23 treatment and does not take into account the possibility that the return will not be audited,
 24 that issues over the treatment will not be raised on audit or that these issues will be re-
 25 solved through compromise or settlement if raised.

26 (b) Reliance on the advice of a tax advisor does not constitute grounds for reasonable
 27 belief if the tax advisor:

28 (A) Is a material advisor under section 4 of this 2007 Act with respect to the transaction;

29 (B) Is compensated by a person who is a material advisor under section 4 of this 2007
 30 Act with respect to the transaction;

31 (C) Participates in the organization, management, promotion or sale of a listed trans-
 32 action;

33 (D) Is related, under section 267(b) of the Internal Revenue Code, to a person who par-
 34 ticipates in the organization, management, promotion or sale of a listed transaction;

35 (E) Has a contingent fee arrangement with respect to a listed transaction that is con-
 36 tingent on all or part of the intended tax benefits from the transaction being sustained; or

37 (F) Under rules adopted by the Department of Revenue, has a continuing financial in-
 38 terest with respect to a listed transaction.

39 (4) Penalties imposed under this section shall be added to the tax liability of the taxpayer.

40 **SECTION 8.** (1) In addition to and not in lieu of any other penalty, an accuracy-related
 41 penalty may be imposed in an amount equal to 20 percent of that portion of an underpayment
 42 of tax due under ORS chapter 316, 317 or 318 that is attributable to:

- 43 (a) Negligence or disregard of tax law;
- 44 (b) A substantial understatement of tax;
- 45 (c) A substantial valuation misstatement that affects the amount of tax due under ORS

1 chapter 316, 317 or 318; or

2 (d) A substantial overstatement of pension liabilities.

3 (2) The penalty imposed under this section shall be determined in accordance with
4 sections 6662 and 6664 of the Internal Revenue Code.

5 (3) If there is an underpayment of tax that is attributable to a gross valuation mis-
6 statement, as that term is defined under section 6662 of the Internal Revenue Code, the
7 penalty under this section shall be equal to 40 percent of that portion of the underpayment
8 to which the gross valuation misstatement is attributable.

9 (4) Penalties imposed under this section shall be added to the tax liability of the taxpayer.

10 **SECTION 9.** (1) If a taxpayer has a noneconomic substance transaction understatement
11 for a tax year, there shall be added to the tax liability of the taxpayer for the tax year a
12 penalty equal to:

13 (a) Forty percent of the amount of the understatement; or

14 (b) Twenty percent of the amount of the understatement if:

15 (A) All relevant facts affecting or related to the tax treatment of the noneconomic sub-
16 stance transaction are fully and adequately disclosed on the return of the taxpayer or on a
17 statement attached to the return of the taxpayer prior to the date of any notice of the im-
18 position of a penalty under this section; and

19 (B) The noneconomic substance transaction is not a listed transaction.

20 (2) The penalty imposed under this section is in addition to and not in lieu of any other
21 penalty.

22 (3) As used in this section:

23 (a) "Noneconomic substance transaction" means:

24 (A) A transaction that lacks a valid nontax business purpose;

25 (B) A loss, deduction, subtraction, credit or addition to income that lacks economic
26 substance; or

27 (C) A transaction or other arrangement that uses an entity or an interest in an entity
28 that lacks economic substance.

29 (b) "Noneconomic substance transaction understatement" means the sum of:

30 (A) The amount determined by multiplying the highest rate of tax imposed on the tax-
31 payer under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
32 318, by any net increase in taxable income that results from a difference between the proper
33 tax treatment of a noneconomic substance transaction and the treatment of the transaction
34 on the return of the taxpayer; and

35 (B) The amount of any decrease in the aggregate amount of credits determined for pur-
36 poses of ORS chapter 316 or, if the taxpayer is a corporation, for purposes of ORS chapter
37 317 or 318, that results from the taxpayer's treatment of a noneconomic substance trans-
38 action and the proper tax treatment of that transaction.

39 (4) The Department of Revenue may by rule further define "noneconomic substance
40 transaction" and "noneconomic substance transaction understatement" consistently with
41 subsection (3) of this section.

42 **SECTION 10.** (1)(a) A person is liable for a penalty determined under this subsection if
43 the person fails to furnish a copy of a return that is required to be furnished to the De-
44 partment of Revenue under section 4 of this 2007 Act on or before the date on which the copy
45 is required to be furnished.

1 (b) The amount of the penalty shall be determined by the department. The penalty may
2 not exceed the greater of:

3 (A) \$10,000; or

4 (B) Twenty-five percent of the gross income that the person derived from the reportable
5 transactions reflected on returns required to be furnished under section 4 of this 2007 Act.

6 (2)(a) A person is liable for a penalty determined under this subsection if the person fails
7 to comply with the registration requirements under section 6 of this 2007 Act by the date
8 on which registration is required.

9 (b) The amount of the penalty shall be determined by the department. The penalty may
10 not exceed the greater of:

11 (A) \$10,000; or

12 (B) Twenty-five percent of the gross income that the person derived from the listed
13 transactions.

14 (3) The penalties imposed under subsection (1) or (2) of this section do not apply until the
15 60th day following the date the department issues a notice under section 11 of this 2007 Act
16 demanding compliance with section 4 or 6 of this 2007 Act.

17 (4) A penalty imposed under this section is in addition to and not in lieu of any other
18 penalty.

19 **SECTION 11.** (1) If the Department of Revenue believes that a person is required to file
20 a copy of a federal return under section 4 of this 2007 Act and has failed to do so by the date
21 required under section 4 of this 2007 Act, the department shall send a written notice to the
22 person demanding compliance with section 4 of this 2007 Act.

23 (2) If the department believes that a person is required to register under section 6 of this
24 2007 Act and the person has failed to register by the date prescribed in section 6 of this 2007
25 Act, the department shall send a written notice to the person demanding compliance with
26 section 6 of this 2007 Act.

27 (3) A person receiving a notice under this section may appeal to the Oregon Tax Court.
28 Notwithstanding ORS 305.565, an appeal does not stay the collection of a penalty imposed
29 under section 10 of this 2007 Act.

30 **SECTION 12.** (1) A penalty shall be imposed on a person who promotes a tax shelter if:

31 (a) The person is or would be subject to a penalty for promoting an abusive tax shelter
32 under section 6700 of the Internal Revenue Code; and

33 (b) The tax shelter satisfies any of the following conditions:

34 (A) The tax shelter is organized in this state.

35 (B) The tax shelter is doing business in this state.

36 (C) The tax shelter derives income from sources in this state.

37 (D) At least one investor in the tax shelter is an Oregon personal income taxpayer or an
38 Oregon corporate excise or income taxpayer.

39 (2) The amount of the penalty shall equal 100 percent of the amount of gross income
40 derived by the person in promoting the tax shelter.

41 (3) A penalty imposed under this section shall be in addition to and not in lieu of any
42 other penalty.

43 **SECTION 13.** Moneys collected under section 10 or 12 of this 2007 Act shall be considered
44 net revenue from the tax imposed under ORS chapter 316 for purposes of ORS 316.502.

45 **SECTION 14.** (1) The Department of Revenue shall develop and administer a voluntary

1 compliance initiative to be conducted during the period beginning on the later of the effective
2 date of this 2007 Act or November 1, 2007, and ending January 31, 2008.

3 (2) The voluntary compliance initiative shall apply to tax liabilities attributable to abusive
4 tax avoidance transactions for tax years beginning prior to January 1, 2007.

5 (3) The department shall publicize the voluntary compliance initiative so as to maximize
6 public awareness of and participation in the initiative.

7 (4) The department may prescribe forms, issue instructions, conduct public meetings and
8 undertake any other action necessary to maximize public participation in and compliance
9 with the initiative and the collection of tax liabilities to which the initiative applies.

10 (5) Notwithstanding any other provision of law, the department may enter into closing
11 agreements or installment payment agreements to facilitate the collection of tax liabilities
12 to which the initiative applies.

13 **SECTION 15.** (1) The voluntary compliance initiative described in section 14 of this 2007
14 Act applies to any taxpayer that, during the period beginning on the later of the effective
15 date of this 2007 Act or November 1, 2007, and ending January 31, 2008:

16 (a) Files an amended return for each tax year for which the taxpayer has previously filed
17 a return that reflected the use of an abusive tax avoidance transaction or a reportable
18 transaction to underreport the tax liability of the taxpayer for the tax year;

19 (b) For each return described in paragraph (a) of this subsection, reports all income from
20 all sources, without regard to the abusive tax avoidance transaction or reportable trans-
21 action;

22 (c) Identifies on each return described in paragraph (a) of this subsection, or as other-
23 wise prescribed by the Department of Revenue, that the return is being filed under the vol-
24 untary compliance initiative; and

25 (d) Except as authorized under section 14 (5) of this 2007 Act, pays in full all taxes and
26 interest due.

27 (2) With respect to each return filed in compliance with subsection (1) of this section:

28 (a) All penalties that would otherwise be imposed shall be waived; and

29 (b) A taxpayer may not file a subsequent amended return seeking a refund of tax and
30 may not otherwise appeal the amount of tax or interest due with respect to any item re-
31 ported on the amended return.

32 (3)(a) After January 31, 2008, the department may issue a notice of deficiency and impose
33 any penalty, interest or other sanction with respect to the difference between the amount
34 shown on a return filed under subsection (1) of this section and the correct amount of tax.

35 (b) A taxpayer may make written objections to the deficiency or request a conference
36 as prescribed in ORS 305.265.

37 (c) If no written objection or request is received by the department, or as otherwise au-
38 thorized by ORS 305.265, the department shall assess the deficiency as prescribed in ORS
39 305.265 and the taxpayer may appeal the assessment as prescribed in ORS 305.265.

40 (4) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the
41 voluntary compliance initiative if, prior to November 1, 2007, the department has issued a
42 notice of deficiency to the taxpayer or has assessed a tax with respect to any tax year for
43 which the taxpayer could otherwise file an amended return under this section.

44 **SECTION 16.** The definitions in section 2 of this 2007 Act apply to sections 14 and 15 of
45 this 2007 Act.

1 **SECTION 17. Sections 14, 15 and 16 of this 2007 Act are repealed on January 2, 2012.**

2 **SECTION 18.** ORS 314.410 is amended to read:

3 314.410. (1) At any time within three years after the return was filed, the Department of Re-
4 venue may give notice of deficiency as prescribed in ORS 305.265.

5 (2) If the department finds that gross income equal to 25 percent or more of the gross income
6 reported has been omitted from the taxpayer's return, notice of the deficiency may be given at any
7 time within five years after the return was filed.

8 **(3) If the department finds that a return reports or reflects the use of an abusive tax**
9 **avoidance transaction or a reportable transaction, as defined in section 2 of this 2007 Act,**
10 **notice of a deficiency may be given at any time within 10 years after the return was filed.**

11 [(3)(a)] **(4)(a)** The limitations to the giving of notice of a deficiency provided in this section
12 [shall] **do** not apply to a deficiency resulting from false or fraudulent returns, or in cases where no
13 return has been filed.

14 (b)(A) If the Commissioner of Internal Revenue or other authorized officer of the federal gov-
15 ernment or an authorized officer of another state's taxing authority makes a change or correction
16 as described in ORS 314.380 (2)(a)(A) and, as a result of the change or correction, an assessment of
17 tax or issuance of a refund is permitted under any provision of the Internal Revenue Code or ap-
18 plicable law of the other state, or pursuant to an agreement between the taxpayer and the federal
19 or other state taxing authority that extends the period in which an assessment of federal or other
20 state tax may be made, then notice of a deficiency under any Oregon law imposing tax upon or
21 measured by income for the corresponding tax year may be mailed within two years after the de-
22 partment is notified by the taxpayer or the commissioner or other tax official of the correction, or
23 within the applicable [*three-year or five-year*] period prescribed in subsections (1) [*and (2)*] **to (3)** of
24 this section, whichever period expires later.

25 (B) A notice of deficiency mailed pursuant to this paragraph may assert any adjustment neces-
26 sary to arrive at the correct amount of Oregon taxable income and Oregon tax liability for the tax
27 year for which the federal or other state change or correction is made.

28 (c) If the taxpayer files an original or amended federal or other state return as described in ORS
29 314.380 (2)(a)(B), the department may reduce any claim for refund as a result of a change in Oregon
30 tax liability related to the original or amended federal or other state return, but may not give notice
31 of a deficiency for an adjustment to Oregon tax liability following the expiration of the applicable
32 period prescribed in subsections (1) [*and (2)*] **to (3)** of this section and paragraph (a) of this sub-
33 section.

34 [(4)] **(5)** The tax deficiency must be assessed and notice of tax assessment mailed to the taxpayer
35 or authorized representative, who is authorized in writing, within one year from the date of the
36 notice of deficiency unless an extension of time is agreed upon as prescribed in subsection [(6)] **(7)**
37 of this section.

38 [(5)] **(6)** Notwithstanding other provisions of this section, the period for the assessment of any
39 deficiency attributable to any part of the gain realized upon the sale or exchange of the taxpayer's
40 principal residence, as provided in section 1034 of the Internal Revenue Code (as in effect prior to
41 the repeal of section 1034 of the Internal Revenue Code by the Taxpayer Relief Act of 1997 (P.L.
42 105-34)), does not expire prior to the expiration of three years from the date the department is no-
43 tified by the taxpayer of:

44 (a) The cost of purchasing the new residence which the taxpayer claims results in
45 nonrecognition of any part of such gain;

1 (b) The taxpayer's intention not to purchase a new residence; or

2 (c) A failure to purchase a new residence within the period prescribed in section 1034 of the
 3 Internal Revenue Code (as in effect prior to the repeal of section 1034 of the Internal Revenue Code
 4 by the Taxpayer Relief Act of 1997 (P.L. 105-34)).

5 [(6)] (7) If, prior to the expiration of any period of time prescribed in this section for giving of
 6 notice of deficiency or of assessment, the department and the taxpayer consent in writing to the
 7 notice of deficiency being mailed or deficiency being assessed after the expiration of such prescribed
 8 period, notice of such deficiency may be mailed or the deficiency assessed at any time prior to the
 9 expiration of the period agreed upon. The period so agreed upon may be extended by subsequent
 10 agreements in writing made before the expiration of the period agreed upon.

11 [(7)] (8) In the case of a deficiency attributable to the application to the taxpayer of a net op-
 12 erating loss carryback, notice of such deficiency may be mailed at any time before the expiration
 13 of the period within which notice of a deficiency for the taxable year of the net operating loss which
 14 results in such carryback may be mailed.

15 [(8)] (9) Notwithstanding the other provisions of this section, if any taxpayer agreed with the
 16 United States Commissioner of Internal Revenue or the taxing authority of another state for an
 17 extension, or renewals thereof, of the period for giving notices of deficiencies and assessing defi-
 18 ciencies in income tax for any year, the period for mailing notices of deficiencies of tax for such
 19 years and the period for filing a claim for refund under ORS 314.380 (2)(b) shall expire on the later
 20 of:

21 (a) The expiration of an applicable period described in subsections (1) to [(7) or (9)] (8) or (10)
 22 of this section; or

23 (b) Six months after the date of the expiration of the agreed period for assessing a deficiency.

24 [(9)(a)] (10)(a) Notwithstanding the other provisions of this section and ORS 314.415, the period
 25 for claiming a refund or giving a notice of deficiency with respect to an item that is shown or re-
 26 quired to be shown on a taxpayer's return and that is attributable to a pass-through entity does not
 27 expire prior to three years from the date of the filing of the pass-through entity return to which the
 28 item on the taxpayer's return relates.

29 (b) As used in this subsection, "pass-through entity" means any entity that is recognized as a
 30 separate entity for federal income tax purposes, for which the owners are required to report income,
 31 gains, losses, deductions or credits from the entity for federal income tax purposes.

32 **SECTION 19.** ORS 314.415 is amended to read:

33 314.415. (1) If the Department of Revenue determines pursuant to ORS 305.270 that the amount
 34 of the tax due is less than the amount theretofore paid, the excess shall be refunded by the depart-
 35 ment with interest at the rate established under ORS 305.220, for each month or fraction of a month
 36 during a period beginning 45 days after the due date of the return or the date the tax was paid,
 37 whichever is the later, to the time the refund is made.

38 (2)(a) The department may not allow or make a refund after three years from the time the return
 39 was filed, or two years from the time the tax (or a portion of the tax) was paid, whichever period
 40 expires later, unless before the expiration of this period a claim for refund is filed by the taxpayer
 41 in compliance with ORS 305.270. In any case, if the original return is not filed within three years
 42 of the due date, excluding extensions, of the return, the department may allow or make a refund only
 43 of amounts paid within two years from the date of the filing of the claim for refund. If a refund is
 44 disallowed for the tax year during which excess tax was paid for any reason set forth in this sub-
 45 section, the department may not allow the excess as a credit against any tax occurring on a return

1 filed for a subsequent year.

2 (b) The department may not make a refund if the tax owed after offsets for all amounts owed
3 the state, or a county pursuant to a judgment obtained under ORS 169.151, is less than \$1.

4 (c) If a taxpayer would qualify under section 6511(h) of the Internal Revenue Code for a sus-
5 pension of the running of the periods specified for filing a claim for refund of federal income tax,
6 the period specified in paragraph (a) of this subsection shall also be suspended.

7 (d) The department may not pay an employee interest on a refund of a tax withheld by an em-
8 ployer if the interest would be for any period prior to the time the employee files a personal income
9 tax return for the tax year involved or for any period prior to the day that is 45 days after the date
10 when the employee's annual return for that year was filed or was due, whichever is later.

11 (e) The department may not pay interest on a refund of estimated tax paid under ORS 314.505
12 to 314.525 or 316.557 to 316.589 if the interest would be for any period prior to the time the taxpayer
13 files a tax return for the tax year involved or for any period prior to the day that is 45 days after
14 the date when the tax return for that year was filed or was due, whichever is later.

15 (f) The amount of the refund, exclusive of interest on the refund, may not exceed the portion
16 of the tax paid during the period preceding the filing of the claim or, if no claim is filed, then during
17 the period preceding the allowance of the refund during which a claim might have been filed. Where
18 there has been an overpayment of any tax imposed, the amount of the overpayment and interest on
19 the overpayment shall be credited against any tax, penalty or interest then due from the taxpayer,
20 and only the balance shall be refunded.

21 (g) Except as provided in ORS 305.265 (12), if, pursuant to a notice of deficiency or assessment,
22 the taxpayer pays the amount specified in the notice, or any part thereof, and if, upon appeal, the
23 Oregon Tax Court or the Oregon Supreme Court orders that all or any part of the deficiency amount
24 specified in the notice and paid by the taxpayer be refunded, the amount so ordered to be refunded
25 shall bear interest at the rate established for refunds in ORS 305.220. Interest shall be computed
26 from the date of payment to the department. Nothing in this subsection shall require that interest
27 be paid upon any amount for any period for which interest upon the same amount for the same pe-
28 riod is required to be paid under ORS 305.419.

29 (3)(a) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270 or subsection (1)
30 or (2) of this section, if, prior to the expiration of the period prescribed in subsection (2) of this
31 section, the department and the taxpayer consent in writing to the refund of tax after the expiration
32 of the period prescribed:

33 (A) The department shall make the refund prior to the expiration of the period agreed upon; and

34 (B) The department may not make or allow a refund after the expiration of the period agreed
35 upon unless a claim for refund is filed by the taxpayer before the expiration of the period agreed
36 upon in compliance with the manner prescribed by the department. The period so agreed upon may
37 be extended by subsequent agreements in writing made before the expiration of the period previ-
38 ously agreed upon.

39 (b) The department may consent to extend the period during which a refund may be made only
40 if the taxpayer has consented to the assessment of additional tax, if additional taxes are determined
41 upon audit, after the expiration of the applicable [*three-year or five-year*] period prescribed in ORS
42 314.410 (1) [*and (2)*] **to (3)**.

43 (4)(a) If the claim for credit or refund relates to an overpayment on account of the deductibility
44 by the taxpayer, or by a partnership, of the worthlessness of a share of stock in a corporation, of
45 the right to subscribe for or to receive a share of stock in a corporation, or of a debt, in lieu of the

1 three-year period of limitation prescribed in subsection (2) of this section, the period shall be seven
2 years from the date prescribed by law for the filing of the return for the year with respect to which
3 the claim is made.

4 (b) If the claim described in paragraph (a) of this subsection is made after the expiration of the
5 three-year period prescribed in subsection (2) of this section, the department may not allow interest
6 with respect to any credit or refund determined to be due upon the claim for the period beginning
7 at the close of the three-year period prescribed in subsection (2) of this section and ending at the
8 expiration of six months after the date on which the claim is filed.

9 (5)(a) If the claim for credit or refund relates to an overpayment attributable to a net operating
10 loss carryback or a net capital loss carryback, in lieu of the three-year period of limitation pre-
11 scribed in subsection (2) of this section, the period shall be the period that ends three years after
12 the time prescribed by law for filing the return (including extensions) for the taxable year of the
13 net operating loss or net capital loss that results in such carryback. In the case of such a claim, the
14 amount of the credit or refund may exceed the portion of the tax paid within the period provided
15 in subsection (1), (2) or (3) of this section, whichever is applicable, to the extent of the amount of
16 the overpayment attributable to the carryback. If the allowance of a credit or refund of an over-
17 payment of tax attributable to a net operating loss carryback or a net capital loss carryback is
18 otherwise prevented by the operation of any law or rule of law other than ORS 305.150, relating to
19 closing agreements, the credit or refund may be allowed or made if the claim for credit or refund
20 is filed within the period provided in this subsection. To the extent that the carryback was not an
21 issue in any proceeding in which the determination of a court, including the Oregon Tax Court, has
22 become final, the claimed credit or refund applicable to that carryback may be allowed or made
23 under this subsection.

24 (b) For purposes of subsection (1) or (2) of this section, if any overpayment of tax results from
25 a carryback of a net operating loss or net capital loss, the overpayment shall be deemed not to have
26 been made prior to the later of:

27 (A) The due date of the return for the taxable year in which such net operating loss or net
28 capital loss arises;

29 (B) The date the return for the year in which the net operating loss or net capital loss arises
30 is filed; or

31 (C) The date of filing of the return for the year to which the net operating loss or net capital
32 loss is carried back.

33 (6) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270 or this section, if
34 the taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension,
35 or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income
36 tax for any year, the period within which a claim for credit or refund may be filed or credit or re-
37 fund allowed or made if no claim is filed shall be the period provided within subsections (1) to (5)
38 of this section or six months after the date of the expiration of the agreed period for assessing de-
39 ficiency in federal income tax, whichever period expires later.

40 (7) If a joint return is filed, the department may make separate refunds at the request of either
41 spouse. The separate refunds shall bear the same proportion to the total refund as the adjusted gross
42 income of each spouse bears to the adjusted gross income of both spouses, or as otherwise deter-
43 mined by the department.

44 (8) If a taxpayer entitled to a refund under subsection (1) of this section dies, the department
45 may issue a draft for payment of such refund under the terms and conditions set out in ORS 293.490

1 to 293.500 exercising the same powers and subject to the same restrictions pursuant to which the
 2 State Treasurer is authorized to pay the amounts of warrants, checks or orders under those statutes.

3 **SECTION 20.** Sections 2 to 4 and 6 to 16 of this 2007 Act apply to tax years beginning on
 4 or after January 1, 1997.

5
 6 **GENERAL TAX AMNESTY PROGRAM**
 7

8 **SECTION 21.** (1) The Department of Revenue shall develop and administer a tax amnesty
 9 program for personal income taxpayers.

10 (2) The tax amnesty program shall be conducted during the period beginning July 1, 2008,
 11 and ending September 30, 2008.

12 (3) The tax amnesty program applies to tax years for which the department could issue
 13 a notice of deficiency under ORS 314.410, as amended and in effect on the day before the ef-
 14 fective date of this 2007 Act.

15 (4) The department shall publicize the tax amnesty program so as to maximize public
 16 awareness of and participation in the program.

17 (5) The department may prescribe forms, issue instructions, conduct public meetings and
 18 undertake any other action necessary to maximize public participation in and compliance
 19 with the tax amnesty program and the collection of tax liabilities to which the program ap-
 20 plies.

21 **SECTION 22.** (1) A personal income taxpayer who meets all of the following requirements
 22 during the period beginning July 1, 2008, and ending September 30, 2008, may participate in
 23 the tax amnesty program:

24 (a) The taxpayer was required to file a tax return under ORS chapter 314 or 316 or pay
 25 a tax imposed under ORS chapter 316 for a tax year that begins on or after January 1, 2004,
 26 and before January 1, 2007;

27 (b) The taxpayer files a completed amnesty application with the Department of Revenue,
 28 signed under penalty of perjury, to participate in the tax amnesty program; and

29 (c) Within 60 days after the conclusion of the tax amnesty program, the taxpayer does
 30 all of the following:

31 (A) Files a completed tax return for all tax years described in paragraph (a) of this sub-
 32 section for which the taxpayer had not previously filed a completed tax return;

33 (B) Files a completed amended tax return for all tax years described in paragraph (a) of
 34 this subsection for which the taxpayer underreported or underpaid the tax liability of the
 35 taxpayer; and

36 (C) Pays in full the taxes and interest due for all tax years described in paragraph (a) of
 37 this subsection or applies for an installment payment agreement under subsection (6) of this
 38 section that applies to the taxes and interest due for all tax years described in paragraph (a)
 39 of this subsection for which taxes remain unpaid.

40 (2) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the
 41 tax amnesty program for any tax year for which the taxpayer is eligible to participate in the
 42 voluntary compliance initiative described in section 14 of this 2007 Act. The department shall
 43 give notice to any taxpayer seeking amnesty under this section who the department deter-
 44 mines is eligible to participate in the voluntary compliance initiative that the application for
 45 amnesty is being denied. At the discretion of the department and notwithstanding the dead-

1 line for filing an amended return or paying amounts due under section 15 of this 2007 Act,
 2 a taxpayer receiving a notice under this subsection has an additional 60 days after the date
 3 of the notice in which to comply with section 15 of this 2007 Act.

4 (3) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the
 5 tax amnesty program if, prior to July 1, 2008, the department has issued a notice of defi-
 6 ciency to the taxpayer or has assessed a tax for a tax year for which the taxpayer could
 7 otherwise apply for amnesty under this section.

8 (4) In addition to the other requirements in subsection (1) of this section, a taxpayer who
 9 has filed a petition for bankruptcy protection under Title 11 of the United States Code may
 10 participate in the tax amnesty program if the taxpayer submits an order from a United
 11 States Bankruptcy Court allowing the taxpayer to participate in the tax amnesty program.

12 (5) A taxpayer who participates in the tax amnesty program described in this section
 13 may not request a refund with respect to any tax paid under the tax amnesty program and
 14 waives any right to appeal any tax reported on a tax return filed or paid under subsection
 15 (1) of this section or pursuant to an installment payment agreement entered into under
 16 subsection (6) of this section.

17 (6)(a) A taxpayer may apply for an installment payment agreement for the payment of
 18 taxes reported and due under subsection (1) of this section. The application shall be made
 19 on a form prescribed by the department and shall be due at the time the taxpayer applies for
 20 amnesty under subsection (1) of this section.

21 (b) The department shall enter into an installment payment agreement with a taxpayer
 22 who has applied under paragraph (a) of this subsection and shall establish a payment sched-
 23 ule if the department concludes that the agreement will facilitate the efficient collection of
 24 the outstanding tax liability.

25 (c) Any amount that remains unpaid under an installment payment agreement shall bear
 26 interest at the rate established under ORS 305.220 for each month, or fraction of a month,
 27 for which the amount remains unpaid.

28 (d) Under any installment payment agreement entered into under this subsection, all
 29 outstanding taxes and interest must be paid on or before December 31, 2009.

30 **SECTION 23.** (1) The Department of Revenue shall waive all applicable penalties that
 31 would otherwise apply to the taxes being reported and paid under section 22 of this 2007 Act
 32 for any taxpayer that fully complies with the tax amnesty program described in section 22
 33 of this 2007 Act, including criminal penalties that would otherwise apply under ORS 314.075
 34 and 314.991 (1).

35 (2)(a) If the department has entered into an installment payment agreement with the
 36 taxpayer, the failure of the taxpayer to fully comply with the terms of the installment pay-
 37 ment agreement shall render the waiver of penalties under subsection (1) of this section and
 38 the installment payment agreement void. The total amount of tax, interest and all applicable
 39 penalties shall become immediately due and payable.

40 (b) This subsection does not apply if the department determines that the failure to fully
 41 comply with the terms of the installment payment agreement is due to reasonable causes.

42 **SECTION 24.** (1) For any tax that was due for a tax year for which amnesty could be
 43 sought under section 22 of this 2007 Act and for which the taxpayer failed to file a return
 44 and failed to apply for amnesty, an amount equal to 25 percent of the total amount of unpaid
 45 tax that is otherwise due shall be added to the amount of outstanding tax liability.

1 (2) If, following the closure of the amnesty period specified in section 22 of this 2007 Act,
 2 the Department of Revenue issues a notice of deficiency with respect to an unreported or
 3 underreported tax liability, as shown on an original or amended tax return filed in conjunc-
 4 tion with an amnesty application filed under section 22 of this 2007 Act, an amount equal to
 5 25 percent of the total amount of unpaid tax that is otherwise due shall be added to the
 6 amount of outstanding tax liability.

7 (3) The penalties imposed under this section are in addition to and not in lieu of any
 8 other penalty.

9 SECTION 25. Sections 21 to 24 of this 2007 Act are repealed on January 2, 2012.

10 SECTION 26. Sections 21 to 24 of this 2007 Act are added to and made a part of ORS
 11 chapter 314.

12
 13 **OTHER COMPLIANCE MEASURES**

14
 15 SECTION 27. (1) The Department of Revenue shall develop and maintain a website on
 16 which are listed the names of individuals who, in the opinion of the department, constitute
 17 the 100 most delinquent personal income taxpayers with respect to taxes owed under ORS
 18 chapter 316.

19 (2) The website shall be made available to the public by January 1, 2009.

20 (3) A taxpayer who participates in the tax amnesty program under sections 21 to 24 of
 21 this 2007 Act and who completely pays all tax liability owed for tax years for which amnesty
 22 was sought or who remains current with respect to any installment payment agreement en-
 23 tered into under section 22 of this 2007 Act may not be listed on the website with respect to
 24 tax years for which an amnesty application was made.

25 (4) ORS 314.835 and other laws governing the confidentiality of the name of a taxpayer
 26 do not apply to taxpayers described in subsection (1) of this section.

27 SECTION 28. The Department of Revenue shall study the effectiveness of the rewards
 28 program described in ORS 314.855 and shall consider possible alternatives to the rewards
 29 program. The department shall make recommendations on improvements to the rewards
 30 program or alternatives to the rewards program to the interim revenue committees of the
 31 Legislative Assembly on or before November 1, 2008.

32
 33 **WITHHOLDING**

34
 35 SECTION 29. ORS 316.189 is amended to read:

36 316.189. (1) As used in this section:

37 (a) "Commercial annuity" means an annuity, endowment or life insurance contract issued by an
 38 insurance company authorized to transact insurance in the State of Oregon.

39 (b) "Department" means the [*Oregon*] Department of Revenue.

40 (c) "Designated distribution" means any distribution or payment from or under an employer de-
 41 ferred compensation plan, an individual retirement plan or a commercial annuity. "Designated dis-
 42 tribution" does not include any amount treated as wages as defined in ORS 316.162, the portion of
 43 any distribution or payment that is not includable in the gross income of the recipient or any dis-
 44 tribution or payment made under section 404(k)(2) of the Internal Revenue Code.

45 (d) "Employer deferred compensation plan" means any pension, annuity, profit-sharing or stock

1 bonus plan or other plan deferring the receipt of compensation.

2 (e) "Individual retirement plan" means an individual retirement account described in section
3 408(a) of the Internal Revenue Code or an individual retirement annuity described in section 408(b)
4 of the Internal Revenue Code.

5 (f) "Nonperiodic distribution" means any designated distribution which is not a periodic pay-
6 ment.

7 (g) "Payer" means any payer of a designated distribution doing business in or making payments
8 or distributions from sources in this state.

9 (h) "Periodic payment" means a designated distribution which is an annuity or similar periodic
10 payment.

11 (i) "Plan administrator" means a plan administrator as described in section 414(g) of the Internal
12 Revenue Code, who is the administrator of a plan created by an Oregon employer.

13 (j) "Qualified total distribution" means any designated distribution made under a retirement,
14 annuity or deferred compensation plan described in section 401(a), 403(a) or 457(b) of the Internal
15 Revenue Code, that consists of the balance to the credit of the employee, exclusive of accumulated
16 deductible employee contributions, made within one tax year of the recipient.

17 (2)(a) The payer of any periodic payment shall withhold from [such] **the** payment the amount
18 [which] **that** would be required to be withheld from [such] **the** payment under ORS 316.167 if the
19 payment were wages paid by an employer to an employee. The time and manner of payment of
20 withheld amounts to the department shall be the same as that required under ORS 316.197 for
21 withholding of income taxes from wages.

22 (b) The payer of any nonperiodic distribution shall withhold from [such] **the** distribution an
23 amount determined under tables prescribed by the department.

24 (c) The maximum amount to be withheld under this section on any designated distribution shall
25 not exceed 10 percent of the amount of money and the fair market value of other property received
26 in the distribution. If the distribution is not subject to withholding for federal income tax purposes
27 under section 3405 of the Internal Revenue Code, it shall not be subject to withholding under this
28 section.

29 (3)(a) Except as provided in paragraph (b) of this subsection, the payer of a designated distrib-
30 ution shall withhold and be liable for payment of amounts required to be withheld under this section.

31 (b) In the case of any plan described in section 401(a), 403(a) or 457(b) of the Internal Revenue
32 Code, or section 301(d) of the Tax Reduction Act of 1975, the plan administrator shall withhold and
33 be liable for payment of amounts required to be withheld under this section, unless the plan ad-
34 ministrator has directed the payer to withhold the tax and has provided the payer with the infor-
35 mation required by rule of the department.

36 (4)(a) An individual may elect to have no withholding by a payer under subsection (2) of this
37 section. If an individual has elected to have no federal withholding from payments or distributions
38 described in this section, the individual shall be deemed to have elected no withholding for state
39 purposes, unless the individual notifies the payer otherwise.

40 (b) An election made under this subsection shall be effective as provided under rules
41 promulgated by the department. The rules required under this paragraph shall provide the manner
42 in which an election may be revoked and when such revocation shall be effective.

43 **(c) An election may not be made under this subsection with respect to any distribution**
44 **for which federal income taxes are to be withheld or are required to be withheld under sec-**
45 **tion 3405 of the Internal Revenue Code.**

1 (5) The payer of any periodic payment or nonperiodic distribution **for which an election may**
 2 **be made under subsection (4) of this section** shall give notice to the payee of the right to make
 3 *[an election to have no state withholding from the payment or distribution]* **the election**. The depart-
 4 ment shall provide by rule for the time and manner of giving the notice required under this sub-
 5 section.

6 (6) Any rules permitted or required to be promulgated by the department under this section
 7 shall, insofar as is practicable, be consistent with corresponding provisions of section 3405 of the
 8 Internal Revenue Code and regulations promulgated thereunder.

9 (7) Any designated distribution shall be treated as if it were wages paid by an employer to an
 10 employee within the meaning of ORS 316.162 to 316.221 for all other purposes of ORS 316.162 to
 11 316.221. In the case of any designated distribution not subject to withholding by reason of an
 12 election under subsection (4) of this section, the amount withheld shall be treated as zero.

13 **SECTION 30. The amendments to ORS 316.189 by section 29 of this 2007 Act apply to**
 14 **distributions made on or after January 1, 2008.**

15 **SECTION 31. Section 32 of this 2007 Act is added to and made a part of ORS chapter 314.**

16 **SECTION 32. (1) As used in this section:**

17 (a) **“Authorized agent” means an agent who is responsible for closing and settlement**
 18 **services in a conveyance of a real property interest.**

19 (b) **“Closing and settlement services” means services that are provided for the benefit**
 20 **of a transferor or a transferee in connection with a conveyance of a real property interest,**
 21 **or the receipt or disbursement of moneys in connection with a sale, lease, encumbrance,**
 22 **mortgage or deed of trust in or related to real property.**

23 (c) **“Conveyance” means a sale, lease, encumbrance, mortgage or creation of a secured**
 24 **interest in real property.**

25 (d) **“Real property interest” means a United States real property interest, as defined in**
 26 **section 897(c) of the Internal Revenue Code, that is located in the State of Oregon.**

27 (2) **If there is a conveyance of a real property interest, the authorized agent providing**
 28 **closing and settlement services is required to withhold an amount equal to four percent of**
 29 **the consideration for the real property interest being conveyed or the net proceeds resulting**
 30 **from the conveyance, whichever is less, when:**

31 (a) **The transferor is an individual who is not a resident of this state at the time of both**
 32 **the closing date of the conveyance and the date on which proceeds of the conveyance are**
 33 **disbursed; or**

34 (b) **The transferor is a corporation that, immediately after the conveyance of the real**
 35 **property interest, is not doing business in this state.**

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

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

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

40 (c) **The authorized agent obtains a written affirmation executed by the transferor on a**
 41 **form prescribed by the Department of Revenue certifying under penalty of perjury that the**
 42 **transferor:**

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

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

45 (C) **Will not owe tax under ORS chapter 316, 317 or 318 for the tax year because the**

1 conveyance is a nontaxable exchange under the Internal Revenue Code.

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

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

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

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

14 **SECTION 33.** Section 32 of this 2007 Act applies to conveyances of real property interests
15 occurring on or after January 1, 2008.

16
17 **LOCAL GOVERNMENT INCOME TAXES**

18
19 **SECTION 34.** Sections 35 to 40 of this 2007 Act are added to and made a part of ORS
20 305.620 to 305.640.

21 **SECTION 35.** As used in sections 35 to 40 of this 2007 Act:

22 (1) "Local government" means a city, county or other local district that has the author-
23 ity to impose an income tax.

24 (2) "Local tax" means a tax that meets the criteria set forth in section 36 (1) of this 2007
25 Act.

26 **SECTION 36.** (1) In lieu of an agreement entered into under ORS 305.620, a local gov-
27 ernment that has adopted an ordinance, resolution or other local legislation levying a tax
28 imposed on income may request collection services to be performed by the Department of
29 Revenue if:

30 (a) The rate of tax does not exceed one percent;

31 (b) The tax is imposed on residents of the territory of the local government imposing the
32 tax; and

33 (c) The tax is imposed only on taxable income as determined under ORS chapter 316.

34 (2) A local government must request collection services under this section at least six
35 months prior to the beginning of the first calendar year for which the collection services are
36 sought.

37 (3) If a local government requests collection services under this section and the tax im-
38 posed by the local government is a local tax:

39 (a) The department shall modify the state personal income tax return forms and in-
40 structions so that the local tax is reported and collected on the same form, at the same time
41 and in the same manner as the state personal income tax is reported and collected.

42 (b) An underpayment of estimated local tax shall be treated as an underpayment of es-
43 timated tax under ORS 314.505 to 314.525 or 316.557 to 316.589. The department may waive
44 interest on underpayments of estimated local tax for the first year for which the department
45 provides collection services to the local government under this section.

1 (4) For any period for which collection services are being provided by the department
 2 under this section, the local government for which the services are being provided may not
 3 accept payment of the tax from a taxpayer.

4 (5) The department may provide collection services under this section to more than one
 5 local government that has overlapping territory with another local government for which the
 6 department is required to provide collection services under this section, but may not provide
 7 collection services if the combined tax rate of the local jurisdictions exceeds one percent. A
 8 local government that is currently receiving collection services from the department under
 9 this section has priority over a local government that is seeking collection services under
 10 this section.

11 **SECTION 37.** (1) The Department of Revenue shall deposit all collections of local tax re-
 12 ceived by the department in the performance of collection services under section 36 of this
 13 2007 Act into the Local Income Tax Collections Fund established under section 39 of this 2007
 14 Act. The department shall record the amount of each collection and the local government
 15 for which the collection is made.

16 (2) Based on the amounts of local tax actually collected, the department shall develop a
 17 distribution schedule consisting of the ratios of the collections on behalf of each local gov-
 18 ernment for which collection services are being performed to the total amount of local tax
 19 collections. The department shall periodically adjust the distribution schedule to reflect
 20 changes in collections.

21 **SECTION 38.** Unless the context requires otherwise, with respect to a local tax for which
 22 the Department of Revenue is providing collection services under section 36 of this 2007 Act,
 23 the provisions of ORS chapters 305, 314 and 316 apply to the determination of deficiencies,
 24 assessments, claims for refunds, confidentiality and disclosure of information, penalties, in-
 25 terest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court
 26 as if the local tax were a state tax imposed on or measured by income.

27 **SECTION 39.** (1) The Local Income Tax Collections Fund is created, separate and distinct
 28 from the General Fund. Interest earned by the Local Income Tax Collections Fund shall be
 29 credited to the Local Income Tax Collections Fund.

30 (2) A working balance of unreceipted revenue may be retained in the fund for the pay-
 31 ment of refunds, but the working balance may not exceed \$1 million.

32 (3) Except as provided in subsection (2) of this section, the Department of Revenue shall
 33 at least quarterly distribute all revenue in the fund as follows:

34 (a) An amount equal to the costs incurred by the department in providing collection
 35 services under section 36 of this 2007 Act, not to exceed three percent of the total amount
 36 being distributed under this section, shall be distributed to the department for cost re-
 37 imbursement; and

38 (b) The balance shall be distributed to the local governments for which the department
 39 performs collection services under section 36 of this 2007 Act, in accordance with the dis-
 40 tribution schedule established under section 37 of this 2007 Act.

41 (4) Moneys distributed under subsection (3) of this section are continuously appropriated
 42 to the department for the purposes for which the distributions are being made under sub-
 43 section (3) of this section.

44 **SECTION 40.** Notwithstanding sections 37 and 39 of this 2007 Act, the Department of
 45 Revenue may by rule modify the distribution schedule established under section 37 of this

1 2007 Act in order to recover an equitable portion of administrative costs incurred in the first
2 year in which any local government received collection services from the department from
3 those local governments that receive collection services from the department in subsequent
4 years.

5 SECTION 41. Section 40 of this 2007 Act is repealed on January 2, 2014.

6
7 **TAX COMPLIANCE OF OCCUPATIONAL**
8 **LICENSE HOLDERS**
9

10 SECTION 42. Section 43 of this 2007 Act is added to and made a part of ORS chapter 305.

11 SECTION 43. (1) Any state agency, board or commission that issues occupational licenses
12 or licenses for the privilege of engaging in an occupation or profession within this state may,
13 as a condition of issuance or renewal of a license, require the licensee to demonstrate com-
14 pliance with the personal income tax laws of this state or the corporate excise or income tax
15 laws of this state, whichever are applicable.

16 (2) Any state agency, board or commission that requires tax compliance as a condition
17 of issuance or renewal of a license under subsection (1) of this section may suspend, revoke
18 or refuse to issue or renew a license if the licensee fails to demonstrate or maintain tax
19 compliance.

20 (3) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose to
21 a state agency, board or commission that requires tax compliance as a condition of issuance
22 or renewal of a license under subsection (1) of this section any information the department
23 considers necessary to assist the state agency, board or commission in verifying the tax
24 compliance of the licensees of the state agency, board or commission.

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

29 (5) The department may adopt rules defining tax compliance for purposes of this section.

30
31 **PAYMENT WITHHOLDING REQUIREMENTS**
32

33 SECTION 44. Section 45 of this 2007 Act is added to and made a part of ORS 316.162 to
34 316.221.

35 SECTION 45. (1) The Department of Revenue may adopt rules to require the payer of a
36 specified type of payment to withhold from the payment the amount that would be required
37 to be withheld from the payment under ORS 316.167 if the payment were wages paid by an
38 employer to an employee. The rules shall identify the types of payments for which with-
39 holding is required and may set forth any other requirements necessary to facilitate the
40 withholding and payment of the proper amounts from the payments from which withholding
41 is being required.

42 (2) The maximum amount that may be required to be withheld from a payment may not
43 exceed 10 percent of the amount of the payment.

44 (3) Amounts withheld pursuant to this section are held in trust for the State of Oregon
45 and shall be paid to the department in the time and manner prescribed by the department

1 by rule. If a payer is required to withhold amounts under rules adopted under this section
2 and fails to remit an amount withheld by the payer under this section by the time remittance
3 is required, the department may enforce collection in the same manner as the department
4 enforces the collection of amounts withheld by employers under ORS 316.162 to 316.221.

5
6 **CAPTIONS**

7
8 **SECTION 46.** The unit captions used in this 2007 Act are provided only for the conven-
9 ience of the reader and do not become part of the statutory law of this state or express any
10 legislative intent in the enactment of this 2007 Act.

11
12 **EFFECTIVE DATE**

13
14 **SECTION 47.** This 2007 Act takes effect on the 91st day after the date on which the
15 regular session of the Seventy-fourth Legislative Assembly adjourns sine die.