

# Enrolled House Bill 2161

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Revenue)

CHAPTER .....

AN ACT

Relating to central assessment for property tax purposes; creating new provisions; and amending ORS 308.030, 308.505, 308.510, 308.515, 308.525, 308.560, 308.565, 308.570, 308.575, 308.615, 308.621, 308.640, 308.645 and 308.820.

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

**SECTION 1.** (1) **The Legislative Assembly finds that the central assessment by the Department of Revenue of utility property, transportation company property, similar business property that has inherent value due to the capacity of the property to be operated as a network over a large geographic area and other property that is appropriate for central assessment is a fair, equitable and efficient way to determine value for property tax purposes and to apportion that value among local taxing districts.**

(2) **The Legislative Assembly further finds that central assessment of these types of property has occurred for more than 80 years and that the central assessment system continues to operate in a fair, equitable and efficient way, but that the statutory law upon which the central assessment system is based contains obsolete or confusing language, references to antiquated technologies and disorganized structure.**

(3) **The Legislative Assembly declares that the purpose of the amendments to statutes by sections 2 to 15 of this 2009 Act is to modernize and clarify the central assessment statutory law, while continuing the central assessment system as it currently operates.**

(4) **The Legislative Assembly further declares that the amendments to statutes by sections 2 to 15 of this 2009 Act do not constitute a change in the policies of the State of Oregon with respect to the central assessment system and the administration of the central assessment system by the Department of Revenue.**

**SECTION 2.** ORS 308.030 is amended to read:

308.030. (1) Each person, company, corporation or association required by ORS 308.505 to 308.665 or 308.805 to 308.820 to file a statement with the Department of Revenue, who or which has not filed a statement within the time fixed for filing a statement or as extended, is delinquent.

(2) A delinquent taxpayer is subject to a penalty of \$10 for each \$1,000 (or fraction thereof) of assessed value of the property as placed on the assessment roll of the department for the year of delinquency; except that for a delinquent taxpayer required to file a statement under ORS 308.805 to 308.820, the penalty shall be based upon the assessed value of such property of the taxpayer as would have been placed upon the assessment roll of the department if such property were subject to ad valorem taxation. The penalty may not be less than \$10 or more than \$5,000.

(3) The department shall send any delinquent taxpayer against whom a penalty is imposed under this section a notice of its intention to impose the penalty, by mailing a notice to the taxpayer at the last-known address shown on the records of the department. The notice shall contain the amount of the penalty and the basis for its imposition.

(4)(a) *[If a delinquency penalty is imposed under this section, the director of the Department of Revenue, upon application filed by the taxpayer with the department during the period in which the director reviews the assessment roll of the department for the year of delinquency, may establish by rule instances in which the department may waive or reduce the penalty. A determination to waive or reduce a penalty shall be final, and no appeal may be taken from the determination.]* **If a delinquency penalty is imposed under this section, the taxpayer may file an application with the department to waive or reduce the penalty. An application under this paragraph must be filed with the department within 30 days from the mailing of the notice of intention to impose a delinquency penalty. The Director of the Department of Revenue may establish by rule instances in which the department may waive or reduce the penalty. A determination to waive or reduce a penalty is final, and no appeal may be taken from the determination.**

(b) Rules adopted under this subsection shall be based on the department's finding that:

(A) Good and sufficient cause exists for the actions of the taxpayer that resulted in the imposition of a penalty;

(B) The actions of the taxpayer that resulted in the imposition of a penalty constitute a first-time offense on the part of the taxpayer; or

(C) The action of the department to waive or reduce the penalty enhances the long-term effectiveness or efficiency of the voluntary tax compliance system.

(5) Upon completion of the review of the assessment roll of the department by the director, the department shall note on the assessment roll the name of each delinquent taxpayer, if not otherwise on the roll, and after the name the dollar amount of the penalty imposed under this section that was not waived or reduced by the director under subsection (4) of this section. The amount of penalty *[shall constitute]* **constitutes** a lien as of July 1 of the year of imposition on all real and personal property of the delinquent taxpayer in the state.

(6) Any penalty collected under this section shall be deposited in the unsegregated tax collections account of the counties in which the property of the taxpayer is located.

**SECTION 3.** ORS 308.505 is amended to read:

308.505. As used in ORS 308.505 to 308.665:

(1) "Car" *[includes any]* or "**railcar**" means a vehicle adapted to the rails of a railroad.

(2) "**Centrally assessed**" means the assessment of property by the Department of Revenue under ORS 308.505 to 308.665.

~~(2)]~~ (3) "Communication" includes telephone communication, *telegraph communication*] and data transmission services by whatever means provided.

(4) "**Inland water**" means all water or waters within the State of Oregon, all interstate rivers touching Oregon and all tidewaters extending to the ocean bars.

(5) "**Interstate**" means transit between the State of Oregon and:

(a) Another state;

(b) A district, territory or possession of the United States; or

(c) A foreign country.

(6) "**Large private railcar company**" means a private railcar company with personal property with a real market value for the tax year that exceeds \$1 million.

(7) "**Locally assessed**" means the assessment of property for property tax purposes by the county assessor that is not conducted under ORS 308.505 to 308.665.

~~(3)]~~ (8) "Person," "company," "corporation" or "association" *[includes]* means any person, group of persons, whether organized or unorganized, firm, joint stock company, association, cooperative or mutual organization, people's utility district, joint operating agency as defined in ORS 262.005, syndicate, *[copartnership]* **entity formed to partner or combine public and private interests, partnership** or corporation engaged in performing or maintaining any business or service

or in selling any commodity as [enumerated] set forth in ORS 308.515, whether or not [such] the activity is pursuant to any franchise and whether or not the person or other entity or combination of entities possesses characteristics of limited or unlimited liability.

**(9) "Property":**

**(a) Means all property of any kind, whether real, personal, tangible or intangible, that is used or held by a company as owner, occupant, lessee or otherwise, for the performance or maintenance of a business or service or for the sale of a commodity, as described in ORS 308.515;**

**(b) Includes, but is not limited to, the lands and buildings, rights of way, roadbed, water powers, vehicles, cars, rolling stock, tracks, office furniture, telephone and transmission lines, poles, wires, conduits, switchboards, machinery, appliances, appurtenances, docks, watercraft irrespective of the place of registry or enrollment, merchandise, inventories, tools, equipment, machinery, franchises and special franchises, work in progress and all other goods or chattels; and**

**(c) Does not include items of intangible property that represent:**

**(A) Claims on other property, including money at interest, bonds, notes, claims, demands or any other evidence of indebtedness, secured or unsecured; or**

**(B) Any shares of stock in corporations, joint stock companies or associations.**

[4] **(10) "Property having situs in this state" [includes] means** all property, real and personal, of a company, owned, leased, used, operated or occupied by it and situated wholly within [the] this state, and, as determined under ORS 308.550[, 308.555] and 308.640, [such] the proportion of the movable, transitory or migratory personal property owned, leased, used, operated or occupied by [such] a company, including but not limited to watercraft, aircraft, rolling stock, vehicles [and cars,] and construction equipment, as is used partly within and partly [without the] **outside of this state.**

**(11) "Small private railcar company" means a private railcar company with personal property with a real market value for the tax year that does not exceed \$1 million.**

[5] **(12) "Transportation" [includes the] means** carrying, conveying or moving [of passengers, commodities, freight, mail, rolling stock, cars, vehicles, equipment or any other] **passengers or property** from one place to another.

[6] **(13) "Vehicle" means** any wheeled or tracked device used in transportation under, on or in connection with the physical surface of the earth.

**SECTION 4.** ORS 308.510 is amended to read:

308.510. [(1) "Property," as used in ORS 308.505 to 308.665, includes all property, real and personal, tangible and intangible, used or held by a company as owner, occupant, lessee or otherwise, for or in use in the performance or maintenance of a business or service or in a sale of any commodity, as set forth in ORS 308.515, whether or not such activity is pursuant to any franchise, and includes but is not limited to the lands and buildings, rights of way, roadbed, water powers, vehicles, cars, rolling stock, tracks, wagons, horses, office furniture, telegraph, telephone and transmission lines, poles, wires, conduits, switchboards, machinery, appliances, appurtenances, docks, watercraft irrespective of the place of registry or enrollment, merchandise, inventories, tools, equipment, machinery, franchises and special franchises, work in progress and all other goods or chattels. "Property" does not include items of intangible property that represent claims on other property including money at interest, bonds, notes, claims, demands and all other evidences of indebtedness, secured or unsecured, including notes, bonds or certificates secured by mortgages, and all shares of stock in corporations, joint stock companies or associations.] **For purposes of assessing property under ORS 308.505 to 308.665:**

[2] **(1) All land of any railroad, logging road, electric rail [or trackless transportation company,] or railroad switching and terminal company, including land used or held and claimed exclusively as right of way, with all the tracks and substructures and superstructures that support the [same] right of way, together with all [sidetracks, second tracks, turnouts, station houses, depots, roundhouses, engine houses, machine shops,] buildings or other structures or improvements, without**

separating [*same into lands*] **the land** and improvements, is real property. **Vehicles and any** [*and the rolling stock and all*] other property is personal property.

[(3)] (2) [*Without especially defining and enumerating the treatment, the Department of Revenue shall treat*] All land of any company [*as*] **is** real property[, *and*]. Except as provided in subsection [(2)] (1) of this section, all [*docks, hangars, landing fields, exchanges, office buildings, bridges, power plants, dams, reservoirs, substations, relay stations, telegraph, telephone or transmission and distribution lines located upon property owned by the company, and all other*] buildings, structures, improvements **of any kind** or fixtures of a permanent character [*thereon, as*] **of any kind that are located on land that is owned or used by a company** is real property[, *and*]. All other property [*as*] **owned or used by a company** is personal property.

[(4)(a)] (3)(a) Except as provided in ORS 308.517 (2) and [*in*] paragraphs (b) and (c) of this subsection, the renting, leasing, chartering or otherwise assigning of property exclusively for the use or benefit of another [*shall*] **does** not constitute a use by the lessor.

(b) A lessor shall be deemed the user of property rented, leased or otherwise furnished by [*it to its employee*] **the lessor to the employees of the lessor** as an incident of employment.

(c) A rail transportation company shall be deemed the user of property [*situated*] **located** within [*its*] **the rail transportation company's** station ground reservations or rights of way, notwithstanding [*the fact that such*] **that the** property may be leased, rented or otherwise assigned by [*it*] **the rail transportation company** for the use or benefit of another.

[(5)] (4) Property found by the Department **of Revenue** to have an integrated use for or in more than one business, service or sale, where at least one such business, service or sale is one enumerated in ORS 308.515, shall be classified by the department as being within or without the definition of property under [*subsection (1) of this section*] **ORS 308.505**, according to the primary use of such property, as determined by the department.

[(6)] (5) For purposes of determining the maximum assessed value of property under section 11, Article XI of the Oregon Constitution, "property" means all property assessed to each company that is subject to assessment under ORS 308.505 to 308.665.

**SECTION 5.** ORS 308.515 is amended to read:

308.515. (1) The Department of Revenue shall make an annual assessment of any property that has a situs in this state and that, except as provided in subsection (3) of this section, is used or held for future use by any company in performing or maintaining any of the following businesses or services or in selling any of the following commodities, whether in domestic or interstate commerce or [*both*] **in any combination of domestic and interstate commerce**, and whether mutually[,] or for hire, sale or consumption by other persons:

- (a) Railroad transportation;
- (b) Railroad switching and terminal;
- (c) Electric rail [*and trackless trolley*] transportation;
- (d) Private railcar transportation;
- (e) Air transportation;
- (f) Water transportation upon inland water of the State of Oregon;
- (g) Air or railway express;
- (h) Communication;
- (i) Heating;
- (j) Gas;
- (k) Electricity;
- (L) Pipeline;
- (m) Toll bridge; or

(n) Private railcars of all companies not otherwise listed in this subsection, if the private railcars are rented, leased or used in railroad transportation for hire.

(2) The assessment described in subsection (1) of this section shall be made on an assessment roll that is prepared by the division of the department charged with property tax administration.

(3) There may not be assessed under subsection (1) of this section:

(a) Any property used by or for water transportation companies whose watercraft ply exclusively on the high seas, or between the high seas and inland water ports or terminals, or any combination thereof.

(b) Any property used by or for water transportation companies exclusively for hire by other persons for booming and rafting, dredging, log or marine salvage, ship berthing, maintenance, sludge removal, cleaning or repair, marine or water-based construction, or guide service.

(c) Any property used by or for interstate ferries or by or for water transportation companies as ferries operating directly across interstate rivers.

(d) Any property of the National Railroad Passenger Corporation [as long as federal law prohibits the National Railroad Passenger Corporation from paying property taxes].

(e) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the calendar year[,] and that is not used to provide scheduled passenger service.

[4] For the purposes of this section, ORS 308.256 and 308.550, "inland water" means all water or waters within the State of Oregon, all interstate rivers touching Oregon and all tidewaters extending to the ocean bars.]

[5] (4) Any corporation included within subsection (1) of this section, to the extent that it actively engages in any business or service not described therein or not incidental to any business or service or sale of a commodity described therein, may not to that extent be deemed a corporation whose properties are assessed under ORS 308.505 to 308.665.

[6] (5) [Any company,] **A company is not a company described in subsection (1) of this section** to the extent that [it] **the company** furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers[, whether or not through pipe in a gaseous form, is not a gas company under subsection (1) of this section].

[7] (6) A company is not an electric company under subsection (1) of this section if:

(a) The company generates electricity primarily for the company's own use, but makes incidental sales of the company's surplus electricity; or

(b)(A) The company's generating facility is primarily fueled by wood waste or other biomass fuel;

(B) The generating facility has a maximum capacity of 20 megawatts; and

(C) The company, if selling the generated electricity, does so only directly to an electric utility for the utility's distribution to utility customers.

[8] (7) [ORS 308.505 to 308.665 shall be construed to subject] **The department shall assess** property owned, leased or occupied by a legal entity not yet engaged in a business, service or sale of a commodity that is described in **subsection (1) of this section**[, to assessment by the department,] if the property is intended for operation or use in the business, service or sale of [a] **the** commodity.

[9] (8) As used in this section, "electric utility" has the meaning given that term in ORS 758.505.

**SECTION 6.** ORS 308.525 is amended to read:

308.525. Each statement required by ORS 308.520 shall contain the following facts about the company:

(1) The name of the company, the nature of the business conducted by the company and the state or country under whose laws the company is organized.

(2) The location of the company's principal office [and the name and post-office address of its president, secretary, auditor, treasurer, superintendent and general manager].

(3) The name and [post-office] address of the chief officer or managing agent or attorney in fact in Oregon.

(4) The number of shares of its capital stock authorized and issued.

(5) The par value and market value, or actual value if there is no market value, of each issued share of stock on January 1 at 1:00 a.m. of the year in which the report is made.

(6) The bonds and other corporate obligations owing by the company.

(7) The par value and market value, or actual value if there is no market value, of the bonds or other obligations owing by the company on January 1 at 1:00 a.m. of the year in which the report is made.

(8) A detailed statement of the real property owned by the company in Oregon on January 1 at 1:00 a.m. of the year in which the report is made, where situated, and the cost thereof.

(9) A detailed statement of the personal property owned by the company in Oregon on January 1 at 1:00 a.m. of the year in which the report is made, where situated, and the cost thereof.

(10) A statement showing the **historical or original** cost of all of the real property owned by the company as of January 1 at 1:00 a.m. of the year in which the report is made, whether situated within or without the state.

(11) A statement showing the **historical or original** cost of all of the personal property of the company as of January 1 at 1:00 a.m. of the year in which the report is made, whether situated within or without the state.

(12) A full and complete statement of the **historical or original** cost and book value of all buildings of every description owned by the company within the state.

(13) The total length of the company's lines or operational routes, the length of its lines or operational routes within the State of Oregon, and also the length of its lines or operational routes without the State of Oregon, including those which the company controls or uses as owner, lessee or otherwise.

(14) A statement of the number of wire, pipe, pole or operational miles, and miles of main and branch railroad lines, double track, spurs, yard tracks and sidetracks, owned or leased by the company in each county in this state, and each municipal subdivision thereof, stated separately.

(15) A statement in detail of the entire gross receipts and net earnings of the company from all sources, stated separately, for the fiscal year next preceding the date of the report.

(16) Any other facts or information the Department of Revenue requires in the form of return prescribed by it.

**SECTION 7.** ORS 308.560 is amended to read:

308.560. (1) The assessment roll for the companies assessed under ORS 308.505 to 308.665 shall be prepared in a manner prescribed by the Department of Revenue.

*[(2) Upon the assessment roll shall be placed, after the name of each of the companies assessed under ORS 308.505 to 308.665, a general description of the properties assessed in the name of each such company as provided in ORS 308.517, which descriptions shall be deemed to include all the properties of the companies liable to assessment for taxation under ORS 308.505 to 308.665. The description may be in the language contained in ORS 308.510, or otherwise, or may refer to an order or a memorandum of the Department of Revenue containing such description, which order or memorandum shall constitute a public record.]*

*[(3) No assessment shall be invalidated by a mistake in the name of the company assessed or by an omission of the name of the owner, or the entry of a name other than that of the true owner, if the property is generally correctly described. If the name of the true owner, or the name of the owner of record, lessee, or user of any property assessable under ORS 308.505 to 308.665 is given, the assessment shall not be held invalid on account of any error or irregularity in the description, if the description would be sufficient in a deed or conveyance from the owner, or on account of which in a contract to convey, a court with jurisdiction to grant equitable remedies would require a conveyance to be made, reading the description in connection with the definition of property assessable under ORS 308.505 to 308.665.]*

*[(4) Whenever possible, there shall be placed on the assessment roll, under the name of the company, under an appropriate heading, the aggregate track mileage, miles of wire, pipe or pole line or of operational route, as the case may be, within the State of Oregon.]*

**(2) The assessment roll prepared by the department under this section must include all of the following:**

**(a) The name of each company assessed under ORS 308.505 to 308.665.**

(b) Under the name of each company, a general description of the property assessed in the name of the company. A general description under this paragraph is deemed to include all property of the company that is assessable under ORS 308.505 to 308.665. A general description under this paragraph may be in any form prescribed by the department and may refer to or incorporate by reference an order or memorandum made by the department that describes property of the company that is assessable under ORS 308.505 to 308.665.

(c) Wherever possible, under the name of each company and under an appropriate heading, the aggregate track mileage, miles of wire, pipe or pole line, or the operational routes within the State of Oregon.

(3) An assessment may not be invalidated because of a mistake related to the ownership, lease or usage of the property if the property is generally correctly described.

**SECTION 8.** ORS 308.565 is amended to read:

308.565. (1) For the purpose of determining the *[respective amounts]* **amount** of the assessment of any **centrally assessed** company, *[under ORS 308.505 to 308.665, that shall]* **that is to** be apportioned to *[the several]* **those** counties in this state, *[into or through]* **in** which the rail lines of the company *[extend or are operated]* **are located**, the Department of Revenue shall multiply the values per mile, as ascertained pursuant to ORS 308.570, of *[the several]* main and branch lines by the number of miles of *[such]* main and branch lines **in each county**, *[respectively,]* including miles of main tracks, spurs, yard tracks and sidetracks, *[in each of the counties,]* as reported by the company, *[or as otherwise [ascertained and] determined by the department.*

(2) **The department shall apportion** values distributed over wire, pipe or pole lines or operational routes *[shall be apportioned to the]* **to those** counties in which the lines or routes are *[situated]* **located** by multiplying the rate per mile in each case, determined pursuant to ORS 308.575, by the number of miles of the wire, pipe or pole lines or operational routes in each county, *[respectively]*.

(3) If the property of any company assessable under ORS 308.505 to 308.665 is of such a character that its value cannot reasonably be apportioned on the basis of rail, wire, pipe, pole line or operational route mileage, the department may adopt *[such]* **any** other method or basis of apportionment to *[the]* **each** county *[or counties]* in which the property is *[situated as may be]* **located that the department determines to be** feasible and proper.

(4) As determined by the department, values of electric power plants and water powers, connected with or used in the operation and business of any company, assessable under ORS 308.505 to 308.665, may be apportioned to *[the counties]* **each county** in which *[the same]* **power plants and water powers** are *[situated, in such manner as]* **located in a manner** the department deems reasonable and fair.

(5) Assessments of the mobile property of air transportation companies shall be allocated and apportioned **only** to those counties *[only]* in which the air transportation companies make service landings. For aircraft less than 75,000 pounds gross taxi weight, the department shall allocate and apportion to the counties 60 percent of the value which would otherwise be allocated and apportioned.

(6)(a) Assessments of water transportation companies shall be allocated and apportioned to those counties in which such companies use or maintain ports or termini, including off-shore anchorages.; *but, for the]*

(b) **For** purposes of ORS 308.505 to 308.665, the taxing districts to which assessments are apportioned by the county assessor shall be deemed to extend to the center of any river channel or to the ocean bar.

**SECTION 9.** ORS 308.570 is amended to read:

308.570. (1) In the assessment of the property of any company conducting transportation or operating over rail lines, *[except any private railcar company with personal property that does not exceed \$1 million in real market value,]* the Department of Revenue shall determine the value of each branch line of the company *[situated]* **located** within this state and the mileage of *[such]* **each** branch line, including miles of main tracks, spurs, yard and sidetracks., *[and]*

(2) **The department** shall determine the values per mile of *[such]* a branch line by dividing *[its]* **the value of the line** by the mileage *[thereof]* **of the line**.

(3) The department shall deduct the total *[amount so determined as the]* value of branch lines **of the company** from the total value of *[the]* **all centrally assessed** property of the company.*[, assessable under ORS 308.505 to 308.665, and]* **The department** shall **then** determine the values per mile of the main line of *[such]* **the company** by dividing the remainder by the number of miles of the main line, taking into consideration miles of main tracks, spurs, yard and sidetracks. Each mile of spurs, yard and sidetracks shall be valued at not to exceed 50 percent of the value per mile assigned to the main track of the branch or main line with which *[they]* **the spurs, yard and sidetracks** are connected.

(4) **This section does not apply to small private railcar companies.**

**SECTION 10.** ORS 308.575 is amended to read:

308.575. *[In the assessment of the property of any company owning, operating over or using wire, pipe or pole lines or operational routes, the assessed value thereof may in the discretion of]* The Department of Revenue *[be apportioned]* **may apportion the assessed value of the property of any company owning or using wire, pipe or pole lines, or operating over operational routes,** over the wire, pipe or pole lines *[or operational routes]* in such manner and at such rate or rates per mile as the department *[shall determine]* **determines** to be reasonable and fair.

**SECTION 11.** ORS 308.615 is amended to read:

308.615. **When the review of the assessment roll is complete,** *[when examined, reviewed, corrected, equalized and apportioned, shall be kept on file in the office of]* the Department of Revenue **shall keep the roll** as a public record.

**SECTION 12.** ORS 308.621 is amended to read:

308.621. (1) *[The assessment roll having been reviewed by]* **When the Director of the** Department of Revenue **completes review of the assessment roll,** the assessments therein shall be considered complete.

(2) Except as otherwise provided in ORS 308.640, **upon completion of the roll** the Department *[immediately]* **of Revenue** shall certify to the assessor of each county in which the property of any company so assessed is *[situated]* **located,** the number of miles of main and branch lines of the company, including miles of main tracks, spurs, yard and sidetracks, or the number of miles of wire, pipe or pole lines or operational routes, as the case may be, and the assessed *[value or]* values apportioned to the county. The **county** assessor shall apportion the *[amount or amounts so]* certified **amounts** to the municipal corporations and taxing districts of the county by multiplying the value per mile of each *[such]* main and branch rail line, and of spurs, yard and sidetracks connected therewith, or the value per mile of each wire, pipe or pole line or operational route by the mileage *[thereof]* **located** in each of the municipal corporations and taxing districts, and shall enter the assessments so certified and apportioned in the assessment roll.

(3) The assessed value of any property assessed by the department and apportioned on a basis other than that of rail, wire, pipe or pole line mileage or operational route mileage,*[]* shall be certified in similar manner to the county assessor and shall be entered in the county assessment roll, with allocation to the municipal corporations and taxing districts in which *[such]* **the property is** *[situated]* **located.**

(4) Taxes shall be levied and collected on *[assessments of]* properties *[so made,]* **assessed,** certified and apportioned in the same **time and** manner as taxes on other properties are levied and collected *[and at the same time and by the same officers].*

**SECTION 13.** ORS 308.640 is amended to read:

308.640. (1) *[When the Department of Revenue assesses a private railcar company with personal property that does not exceed \$1 million in real market value,]* The Department **of Revenue** shall determine the assessed value *[thereof]* **of the personal property of each small private railcar company** by multiplying the real market value of the company's personal property by the average ratio of assessed value to real market value of all *[properties]* **property of large private railcar**



companies [with personal property with a real market value exceeding \$1 million, as computed and determined by the department for the current year].

(2) The department shall determine the tax to be imposed on **small** private railcar companies [with personal property that does not exceed \$1 million in real market value] as follows:

(a) Taxes to be credited to the county school funds shall be calculated by applying to the assessed value of the property the average school tax rate in the state for the immediately prior tax year, applying to the assessed values of **large** private railcar companies [with personal property, the real market value of which exceeds \$1 million, as compiled and] **as** determined by the department for the year.

(b) Taxes to be credited to the county general funds shall be calculated by applying to the assessed value thereof the average [non-school] **nonschool** tax rate in the state for the immediately prior tax year, applying to the assessed values of **large** private railcar companies [with personal property, the real market value of which exceeds \$1 million, as compiled and] **as** determined by the department for the year.

(c) The taxes determined under this subsection [shall] **may** not be imposed in an amount that exceeds the limits established in ORS 310.150 for any year.

(3) The department [of Revenue hereby is empowered to] **may** charge, levy and collect the tax so determined on the personal property of any [such] **small private railcar** company having a taxable situs in this state. Each tax so charged and levied [shall constitute] **constitutes** a lien as of July 1 of the tax year on all the personal property of the company within this state and shall be payable in the same manner, at the same due dates and with the same rates of discount or interest provided by law in respect to taxes on personal property payable in the several counties. In collecting such taxes, the Department of Revenue may pursue any or all of the rights, remedies or processes provided by law for the collection of delinquent taxes on personal property and, in connection therewith, the department shall have, in any county, the power and authority of the sheriff and tax collector thereof.

(4) Moneys collected by the department under this section shall be apportioned to each county in the proportion that the portion of the assessed value of cars of **large** private railcar companies [with personal property, the real market value of which exceeds \$1 million, and] that is attributable to the county bears to the total assessed value of cars of **large** private railcar companies [with personal property, the real market value of which exceeds \$1 million]. Moneys so distributed to each county treasurer shall be credited to the county school fund and general fund of the county as directed by the department.

(5) Real property of [such] **large private railcar** companies **and small private railcar companies** shall be apportioned to the several counties according to the [situs thereof] **location of the real property**.

**SECTION 14.** ORS 308.645 is amended to read:

308.645. [Each county assessor may require, and it is hereby made the duty of the several persons or companies liable to assessment] **Upon request by the county assessor, a company assessed by the Department of Revenue** under ORS 308.505 to 308.665 [to furnish, reports] **shall furnish a report** to the county assessor, under oath, showing the length, **as of January 1 at 1:00 a.m. of the assessment year**, in each city, town, school district, road district, port or other municipal taxing agency or district, or in lieu thereof the length in each tax code area in the county, of main and branch railroad lines, and of main tracks, spurs, yard tracks and sidetracks and also of wire, pipe or pole lines and operational routes.

**SECTION 15.** ORS 308.820 is amended to read:

308.820. (1) All taxes levied under ORS 308.805 shall be a debt due and owing from the association and shall be a lien on all the property, real and personal, of the association from [February 1] **March 1** of each year. The taxes shall be delinquent if not paid within 30 days of the due date thereof. Interest shall be charged on the delinquent taxes in the manner prescribed in ORS 305.220.

(2) The Department of Revenue shall enforce collection of the taxes levied under ORS 308.805 and immediately after the delinquency date thereof shall institute an action for the collection of

such taxes, together with interest, costs and other lawful charges thereon. The department shall have the benefit of all laws of this state pertaining to provisional remedies against the properties, either real or personal, of such associations, without the necessity of filing either an affidavit or undertaking, as otherwise provided by law.

**SECTION 16. Section 1 of this 2009 Act is repealed on January 2, 2022.**

**SECTION 17. The amendments to statutes by sections 2 to 15 of this 2009 Act apply to tax years beginning on or after July 1, 2010.**

**Passed by House February 19, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate May 12, 2009**

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President of Senate

**Received by Governor:**

.....M.,....., 2009

**Approved:**

.....M.,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2009

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Secretary of State