

A-Engrossed
House Bill 2715

Ordered by the House April 29
Including House Amendments dated April 29

Sponsored by Representatives BRUUN, D EDWARDS; Representatives BERGER, CANNON, CLEM, OLSON, READ, SHIELDS, G SMITH, THOMPSON

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.

Permits corporations operating emerging businesses to defer corporate excise and income taxes. Establishes maximum amount and duration of deferred taxes.

Directs Economic and Community Development Department to publicize and promote availability of tax deferral.

Applies to tax years beginning on or after January 1, 2010.

A BILL FOR AN ACT

1
2 Relating to tax deferrals for emerging businesses.

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

4 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 317.**

5 **SECTION 2. (1) A corporation, other than an S corporation as defined in ORS 314.730, is**
6 **eligible to defer income or excise taxes otherwise due if:**

7 (a) **The corporation has total annual revenue of less than \$3.5 million;**

8 (b) **The corporation has at least two employees; and**

9 (c) **The business operations of the corporation have existed for less than five years.**

10 (2) **A corporation meeting the requirements of subsection (1) of this section and seeking**
11 **deferral shall file an application for the deferral with the Department of Revenue at the time**
12 **the corporation files the corporation's tax return for the tax year for which deferral is**
13 **sought.**

14 (3) **The department may require the taxpayer to provide proof of eligibility for the tax**
15 **deferral granted by this section.**

16 (4) **Deferral may be granted under this section only if:**

17 (a) **The corporation has timely filed the corporation's tax return for the tax year;**

18 (b) **The corporation has paid the amount of tax that is not eligible for deferral under**
19 **subsection (5) of this section for the tax year; and**

20 (c) **The corporation and its majority owner are not delinquent in the payment of any tax**
21 **imposed under this chapter or ORS chapter 316, 318 or 323.**

22 (5) **The amount of tax that may be deferred under this section shall equal the lesser of:**

23 (a) **Eighty percent of the tax liability of the taxpayer; or**

24 (b) **\$200,000.**

25 (6) **If the corporation meets the requirements for deferral under this section, the de-**
26 **partment shall grant the deferral. Upon granting the deferral, the department shall have a**

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

1 lien against all real and personal property of the corporation in the amount of the deferred
2 tax. The deferred tax liens shall have the same priority as other income tax liens. The de-
3 partment shall obtain, from the majority owner of the corporation, a personal guarantee of
4 payment of the tax deferred under this section.

5 (7)(a) Deferred taxes shall accrue interest at the prime rate.

6 (b) As used in this subsection, “prime rate” means the primary credit rate of the dis-
7 count window program of the United States Federal Reserve System, as of January 1 of the
8 year for which the interest is being accrued.

9 (8)(a) Taxes imposed under this chapter may be deferred only for a maximum period of
10 two years. Following the end of the deferral period, the deferred taxes, together with accrued
11 interest, are immediately due and payable. The taxpayer may elect to pay the deferred taxes
12 and accrued interest in equal quarterly payments over the four-year period immediately fol-
13 lowing the end of the deferral period.

14 (b) Payments made in any quarter may exceed the minimum payment amount described
15 in paragraph (a) of this subsection.

16 (c) The department may enforce the lien for deferred income taxes and collect any de-
17 linquent deferred taxes, plus accrued interest, in the same manner as it collects other de-
18 linquent income taxes.

19 (9) The department may adopt rules and prescribe any forms necessary to administer the
20 tax deferral program.

21 (10) The Economic and Community Development Department shall publicize and promote
22 to potential applicants the availability of the tax deferral granted by this section.

23 **SECTION 3.** Section 2 of this 2009 Act applies to tax years beginning on or after January
24 1, 2010, and before January 1, 2018.