

# House Bill 3269

Sponsored by Representatives BERGER, BRUUN, ESQUIVEL, JENSON, Senators BURDICK, MORSE

## 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**.

Reduces personal income tax rates, including rates imposed on capital gains. Increases state earned income tax credit and makes earned income tax credit refundable permanently.

Increases threshold level of estates of decedents that are not subject to Oregon inheritance tax.

Establishes principal residence property tax exemption for homesteads of seniors or persons with household income below threshold level. Increases elderly rental assistance program.

Enacts uniform sales and use tax administration provisions. Directs Department of Revenue to enter into Streamlined Sales and Use Tax Agreement. Imposes sales tax on sales of tangible personal property or services. Imposes use tax on use of tangible personal property purchased outside this state.

Provides that sales and use tax provisions become operative on January 1, 2010, and apply to transactions occurring on or after January 1, 2010, but do not become operative if Streamlined Sales and Use Tax Agreement is not executed prior to January 1, 2010.

Takes effect on 91st day following adjournment sine die.

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### A BILL FOR AN ACT

Relating to taxation; creating new provisions; amending ORS 305.130, 305.140, 305.265, 305.270, 305.280, 305.565, 305.850, 305.895, 310.635, 310.692, 315.266, 316.037, 316.045, 731.840, 801.040, 802.110 and 803.585; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

**SECTION 1.** ORS 316.037 is amended to read:

316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

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If taxable income is:	The tax is:
Not over \$2,000	[5%] <b>2%</b> of taxable income
Over \$2,000 but not over \$5,000	[\$100 plus 7%] <b>\$40 plus 4%</b> of the excess over \$2,000
Over \$5,000	[\$310 plus 9%] <b>\$160 plus 6%</b>

**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 of the excess  
 2 over \$5,000  
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 5 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a  
 6 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

7 (A) The minimum and maximum dollar amounts for each rate bracket for which a tax is imposed  
 8 shall be increased by the cost-of-living adjustment for the calendar year.

9 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-  
 10 graph shall not be changed.

11 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the  
 12 rate brackets, shall be adjusted.

13 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-  
 14 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer  
 15 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the  
 16 monthly averaged index for the second quarter of the calendar year 1992.

17 (d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City  
 18 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
 19 Labor Statistics of the United States Department of Labor.

20 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,  
 21 the increase shall be rounded to the next lower multiple of \$50.

22 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year  
 23 resident of this state. The amount of the tax shall be computed under subsection (1) of this section  
 24 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided  
 25 under ORS 316.117 to determine the tax on income derived from sources within this state.

26 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident  
 27 that is derived from sources within this state. The amount of the tax shall be determined in ac-  
 28 cordance with the table set forth in subsection (1) of this section.

29 **(4) Notwithstanding subsections (1) to (3) of this section, net capital gain that is included**  
 30 **in taxable income for Oregon tax purposes shall be taxed at the rate of four percent.**

31 **SECTION 2.** ORS 316.045 is amended to read:

32 316.045. (1) As used in this section:

33 (a) "Farming" means:

34 (A) Raising, harvesting and selling crops;

35 (B) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees  
 36 or the produce thereof;

37 (C) Dairying and selling dairy products;

38 (D) Stabling or training equines, including but not limited to providing riding lessons, training  
 39 clinics and schooling shows;

40 (E) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal  
 41 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

42 (F) On-site constructing and maintaining equipment and facilities used for the activities de-  
 43 scribed in this subsection;

44 (G) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products  
 45 raised for human or animal use on land employed in activities described in this subsection; or

1 (H) Any other agricultural or horticultural activity or animal husbandry, or any combination  
 2 of these activities, except that “farming” does not include growing and harvesting trees of a  
 3 marketable species other than growing and harvesting cultured Christmas trees or certain hardwood  
 4 timber described in ORS 321.267 (3) or 321.824 (3).

5 (b) “Section 1231 gain” has the meaning given that term in section 1231 of the Internal Revenue  
 6 Code.

7 (2) Notwithstanding ORS 316.037, taxable income that consists of net long-term capital gain shall  
 8 be subject to tax under this chapter at a rate of [five] **four** percent if all of the following conditions  
 9 apply:

10 (a) The gain is:

11 (A) Derived from the sale or exchange of capital assets consisting of ownership interests in a  
 12 corporation, partnership or other entity in which, prior to the sale or exchange, the taxpayer owned  
 13 at least a 10 percent ownership interest; or

14 (B) Section 1231 gain.

15 (b) The property that was sold or exchanged consisted of:

16 (A) Ownership interests in a corporation, partnership or other entity that is engaged in the  
 17 trade or business of farming; or

18 (B) Property that is predominantly used in the trade or business of farming.

19 (c) The sale or exchange is to a person who is not related to the taxpayer under section 267 of  
 20 the Internal Revenue Code.

21 (d) The sale or exchange constitutes a substantially complete termination of all of the taxpayer’s  
 22 ownership interests in a trade or business that is engaged in farming or a substantially complete  
 23 termination of all of the taxpayer’s ownership interests in property that is employed in the trade  
 24 or business of farming. Ownership of a farm dwelling or farm homesite does not constitute owner-  
 25 ship of property employed in the trade or business of farming.

26 (3) If the taxpayer has net long-term capital gain derived in part from the sale or exchange of  
 27 property described in subsection (2)(b) of this section and in part from the sale or exchange of all  
 28 other property, the net long-term capital gain that is subject to tax under this section shall be de-  
 29 termined as follows:

30 (a) Compute the net long-term capital gain derived from all property described in subsection  
 31 (2)(b) of this section that was sold or exchanged during the tax year.

32 (b) Compute the net capital gain or loss from the sale or exchange of all other property during  
 33 the tax year.

34 (c) If the amount determined under paragraph (b) of this subsection is a net capital gain, the  
 35 gain that is subject to tax under subsection (2) of this section shall be the amount determined under  
 36 paragraph (a) of this subsection.

37 (d) If the amount determined under paragraph (b) of this subsection is a net capital loss, the gain  
 38 that is subject to tax under subsection (2) of this section shall be the amount determined under  
 39 paragraph (a) of this subsection minus the amount determined under paragraph (b) of this subsection.

40 **SECTION 3.** ORS 315.266 is amended to read:

41 315.266. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible  
 42 resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316  
 43 for the tax year in an amount equal to [six] **25** percent of the earned income credit allowable to the  
 44 individual for the same tax year under section 32 of the Internal Revenue Code.

45 (2) An eligible nonresident individual shall be allowed the credit computed in the same manner

1 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.  
 2 However, the credit shall be prorated using the proportion provided in ORS 316.117.

3 (3) If a change in the [taxable] tax year of a taxpayer occurs as described in ORS 314.085, or  
 4 if the Department of Revenue terminates the taxpayer's [taxable] tax year under ORS 314.440, the  
 5 credit allowed by this section shall be prorated or computed in a manner consistent with ORS  
 6 314.085.

7 (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 8 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 9 ORS 316.117.

10 (5) If the amount allowable as a credit under this section, when added to the sum of the amounts  
 11 allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other  
 12 refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year  
 13 after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax  
 14 year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

15 (6) The Department of Revenue may adopt rules for purposes of this section, including but not  
 16 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal  
 17 earned income credit claimed by the taxpayer for the tax year.

18 (7) Refunds attributable to the earned income credit allowed under this section [shall] **may** not  
 19 bear interest.

20 **NOTE:** Sections 4 to 7 were deleted. Subsequent sections were not renumbered.

21 **SECTION 8. The amendments to ORS 315.266, 316.037 and 316.045 by sections 1 to 3 of this**  
 22 **2009 Act apply to tax years beginning on or after January 1, 2009.**

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 24 **INHERITANCE TAX EXEMPTIONS**

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 26 **SECTION 9. Section 10 of this 2009 Act is added to and made a part of ORS 118.005 to**  
 27 **118.840.**

28 **SECTION 10. Notwithstanding any other provision of ORS 118.005 to 118.840:**

29 (1) **In the case of decedents dying on or after January 1, 2009, and before January 1, 2010,**  
 30 **a return under ORS 118.005 to 118.840 is not required and no tax is due under ORS 118.005**  
 31 **to 118.840 if the taxable estate of the decedent is \$1.5 million or less.**

32 (2) **In the case of decedents dying on or after January 1, 2010, and before January 1, 2013,**  
 33 **a return under ORS 118.005 to 118.840 is not required and no tax is due under ORS 118.005**  
 34 **to 118.840 if the taxable estate of the decedent is \$2 million or less.**

35 (3) **In the case of decedents dying on or after January 1, 2013, and before January 1, 2014,**  
 36 **a return under ORS 118.005 to 118.840 is not required and no tax is due under ORS 118.005**  
 37 **to 118.840 if the taxable estate of the decedent is \$3.5 million or less.**

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 39 **PRINCIPAL RESIDENCE PROPERTY TAX EXEMPTION**

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 41 **SECTION 11. As used in sections 11 to 21 of this 2009 Act:**

42 (1) **"Assessed value" means the value of property as determined under ORS 308.146.**

43 (2) **"Dwelling unit":**

44 (a) **Means a structure or part of a structure providing complete, independent living fa-**  
 45 **ilities for one or more persons, including permanent provisions for sleeping, eating, cooking**

1 and sanitation and the land underneath the structure, and may be further defined by rule  
 2 by the Department of Revenue.

3 (b) Includes, if the residence is located in a multiunit building, the portion of the building  
 4 actually used as the principal place of abode and a percentage of the true cash value of the  
 5 common elements and of the true cash value of the tax lot upon which the multiunit building  
 6 is built, as determined by the county assessor. The percentage of the value of the common  
 7 elements and tax lot that is added to the value of the residence unit shall be computed by  
 8 dividing the value of the residence unit by the total value of the building exclusive of the  
 9 common elements, if any.

10 (c) Includes, if the residence is a part of a group of associated single family units on one  
 11 tax lot, the single unit and the portion of the common tax lot allocated to it on the basis of  
 12 the relative value of each unit.

13 (3) "Family" has the meaning given that term in section 267(c)(4) of the Internal Revenue  
 14 Code.

15 (4) "Household" means the taxpayer and the taxpayer's family occupying the principal  
 16 residence during all or any part of the calendar year immediately preceding the calendar year  
 17 in which an application described under section 13 of this 2009 Act is filed.

18 (5) "Household income" has the meaning given that term in ORS 310.630, and includes the  
 19 income of the taxpayer's household.

20 (6) "Income" has the meaning given that term in ORS 310.630.

21 (7) "Occupy":

22 (a) Means to live or dwell in or on the property.

23 (b) Includes temporary absences of limited duration. If a taxpayer is temporarily absent  
 24 from the principal residence, or if the taxpayer is absent from the principal residence due  
 25 to illness, the taxpayer shall nevertheless be considered an occupant of the property. A tax-  
 26 payer who has entered a long term care facility for the purpose of receiving long term care  
 27 may not be considered an occupant of the property. "Temporarily absent" and "long term  
 28 care" may be further defined by the department.

29 (8) "Own" means:

30 (a) To hold of record, either alone or with another or others, a fee simple estate, a life  
 31 estate or the right to possession under a trust instrument or a contract of sale.

32 (b) If the property is a manufactured dwelling or floating home, to be the registered  
 33 owner, either alone or with another or others.

34 (9) "Principal residence":

35 (a) Means real or personal property, subject to property taxation and located in Oregon,  
 36 that is owned and occupied by a taxpayer as a dwelling unit. Unless inconsistent with  
 37 sections 11 to 21 of this 2009 Act, the determination of whether or not a dwelling unit is a  
 38 principal residence shall be made under principles similar to those used to determine if a  
 39 dwelling unit is a principal residence under section 121 of the Internal Revenue Code.

40 (b) Does not include that portion of a dwelling unit that is rented to another person.

41 (10) "Property tax imposed":

42 (a) Means property tax within the meaning of section 11b, Article XI, Oregon Constitu-  
 43 tion, and:

44 (A) In the case of one or more tax lots constituting a single dwelling unit, the entire  
 45 property tax imposed.

1 (B) In the case of one or more tax lots constituting two or more dwelling units, the en-  
 2 tire property tax imposed divided by the number of dwelling units.

3 (C) In the case of an apartment or unit owned or leased by a cooperative housing cor-  
 4 poration, the tenant-stockholder’s proportionate share of the property tax imposed.

5 (b) Does not include:

6 (A) Property tax imposed on land that is specially assessed under ORS 308A.050 to  
 7 308A.128, 308A.300 to 308A.330, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 or,  
 8 if so determined by the department by rule, property tax imposed on any other land that is  
 9 not valued at real market value but is specially valued for ad valorem property tax purposes.

10 (B) Property tax imposed on land area in excess of one acre, or the minimum land area  
 11 by zoning, whichever is greater, or if there is no specific minimum land area upon which a  
 12 residence may be constructed provided in the zoning ordinance, property tax imposed against  
 13 land area in excess of one acre.

14 (11) “Senior citizen” means any person who is at least 65 years of age on or before July  
 15 1 of the year for which application is made for a principal residence property tax exemption  
 16 under sections 11 to 21 of this 2009 Act.

17 (12) “Taxpayer” means a person whose homestead is the subject of property tax levied  
 18 by this state or a political subdivision of this state.

19 (13) “Tenant-stockholder” and “cooperative housing corporation” have the meanings  
 20 given those terms under section 216 of the Internal Revenue Code.

21 (14) “U.S. City Average Consumer Price Index” means the U.S. City Average Consumer  
 22 Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Sta-  
 23 tistics of the United States Department of Labor.

24 **SECTION 12.** (1) Upon the taxpayer’s compliance with sections 11 to 21 of this 2009 Act,  
 25 and subject to sections 11 to 21 of this 2009 Act, the Department of Revenue shall pay a  
 26 portion of the property tax imposed on the principal residence of a taxpayer who:

27 (a) Is a senior citizen; or

28 (b) Has household income that does not exceed \$\_\_\_\_ for the calendar year preceding the  
 29 year for which the application described under section 13 of this 2009 Act is filed.

30 (2) The amount paid shall be the lesser of:

31 (a) The property tax imposed on the property; or

32 (b) The property tax attributable to \$25,000 in assessed value of the principal residence.

33 (3) Payment shall be made by the department from the suspense account referred to in  
 34 ORS 310.692, as prescribed under section 14 of this 2009 Act.

35 (4) The department shall make only one payment under this section for any principal  
 36 residence for any tax year.

37 (5) Notwithstanding subsection (2)(b) of this section, for each tax year beginning on or  
 38 after July 1, 2011, the maximum amount of assessed value for which the department will pay  
 39 attributed property tax shall increase by three percent.

40 **SECTION 13.** (1) A taxpayer may apply for a principal residence property tax exemption  
 41 by filing an application with the Department of Revenue on or before July 1 of the calendar  
 42 year within which begins the tax year to which the application relates.

43 (2) The application shall be on such form as the department shall prescribe, and shall  
 44 contain the following:

45 (a) The name of the applicant as it appears on the applicant’s Social Security card.

1 (b) The Social Security number of the applicant.

2 (c) The date of birth of the applicant.

3 (d) One of the following:

4 (A) The tax lot number or numbers or other identification for the applicant's principal  
5 residence.

6 (B) The name and appropriate address for a cooperative housing corporation and a  
7 statement from the appropriate officer of the corporation or the applicant that contains the  
8 tax information needed to determine the amount of the payment the department shall make  
9 under section 12 of this 2009 Act.

10 (3) If the basis of the application is the household income of the taxpayer, the application  
11 shall contain the following additional information:

12 (a) The names and Social Security numbers of all family members of the taxpayer resid-  
13 ing at the taxpayer's principal residence.

14 (b) The total household income of the taxpayer and the taxpayer's family residing at the  
15 taxpayer's principal residence.

16 (4) If the principal residence is a dwelling unit owned or leased by a cooperative housing  
17 corporation, and the statement required under subsection (2)(d)(B) of this section cannot be  
18 obtained, upon request of the department or the applicant and upon payment by the applicant  
19 of the fee described under subsection (6) of this section, the county assessor shall determine  
20 the amount of property tax imposed, and shall inform the department of the amount so de-  
21 termined. No appeal shall be taken from a determination made under this subsection.

22 (5) The department may require such other information as the department determines  
23 is necessary to process applications under this section.

24 (6) The department may require that an applicant under this section file with the de-  
25 partment a statement from the appropriate county assessor stating for the principal resi-  
26 dence referred to in subsection (1) of this section the amount of property tax imposed on the  
27 principal residence and the year for which the property tax was imposed. At the request of  
28 the applicant, and upon payment of a uniform fee to defray the expense as determined by the  
29 county governing body, the county assessor shall assist the applicant in identifying the  
30 principal residence of the taxpayer.

31 **SECTION 14.** (1) An application for a principal residence property tax exemption filed  
32 under section 13 of this 2009 Act shall be approved or disapproved by the Department of  
33 Revenue on or before August 1 of the tax year to which the application relates.

34 (2) Upon approval of the application, the department shall forward the following infor-  
35 mation to the county assessor of the county within which the principal residence of the  
36 taxpayer is located:

37 (a) The name and Social Security number of the taxpayer.

38 (b) The tax lot number or other identification of the property.

39 (3)(a) Upon receipt of the information described under subsection (2) of this section, the  
40 county assessor shall identify the property on the assessment and tax roll.

41 (b) For the property so identified, the county assessor shall compute the amount that is  
42 to be paid by the department under section 12 of this 2009 Act and shall certify the amount  
43 to the department.

44 (c) The county assessor shall reduce the total amount of taxes otherwise billed for the  
45 property by the amount to be paid by the department under section 12 of this 2009 Act.

1 (d) In addition to the other items required under ORS 311.250 to appear on the tax  
2 statement for the property, the tax statement shall contain the total amount of the current  
3 taxes due that are paid or to be paid by the department under section 12 of this 2009 Act.

4 (4) Upon receipt of the certification under subsection (3) of this section, the department  
5 shall notify the county assessor of the amount paid and shall pay to the county treasurer  
6 of the county from which the certification was issued the amount so certified. The amount  
7 so paid shall be deposited by the county treasurer to the unsegregated tax collections ac-  
8 count established under ORS 311.385 and shall be distributed to the taxing units of the county  
9 in the same manner as the other property tax collections are distributed under ORS 311.390.  
10 Payment under this subsection shall be made by the department from the suspense account  
11 referred to in ORS 310.692.

12 (5) The department shall pay the total amount certified to the county treasurer without  
13 the discount allowed under ORS 311.505 in three approximately equal installments in No-  
14 vember, February and May.

15 (6) The payments received by the county treasurer from the department shall be dis-  
16 tributed to the taxing units of the county using the schedule of percentages determined un-  
17 der ORS 311.390 then in effect.

18 **SECTION 15.** (1) An application filed under section 13 of this 2009 Act shall be disap-  
19 proved by the Department of Revenue if the department has reason to believe that the  
20 household income information or other information contained in the application is inaccur-  
21 ate. Appeal of the disapproval may be made to the Director of the Department of Revenue  
22 in the manner provided under ORS 305.275, and shall be made within 90 days after the notice  
23 of disapproval is mailed.

24 (2) If an application contains information that is determined to be false and provided with  
25 intent to evade taxation, the department shall disapprove the application and direct the  
26 county assessor of the county within which the property is located to add to the property  
27 taxes imposed on the property for the tax year an amount equal to 120 percent of the amount  
28 of the taxes so imposed on the property for the tax year.

29 (3) If the sole issue on appeal under subsection (1) of this section is the failure to timely  
30 file the application described under section 13 of this 2009 Act, the appeal must be made  
31 within the time and in the manner provided under ORS 307.475. No further appeal shall be  
32 made from an order on an appeal under this subsection.

33 (4) If an appeal results in a refund, the refund shall be made in the manner provided  
34 under section 18 of this 2009 Act.

35 **SECTION 16.** (1) A cooperative housing corporation is entitled to the principal residence  
36 property tax exemption granted under sections 11 to 21 of this 2009 Act for those dwelling  
37 units and common elements owned, being purchased or leased by the corporation and occu-  
38 pied by one or more eligible taxpayers if an application for the exemption is filed as provided  
39 in subsection (2) of this section. Except as otherwise provided in this section, and unless the  
40 context requires otherwise, sections 11 to 21 of this 2009 Act shall govern the exemption  
41 granted by this section.

42 (2)(a) Each corporation shall annually aid each resident who could qualify for the prop-  
43 erty tax exemption under sections 11 to 21 of this 2009 Act, if the dwelling unit occupied by  
44 the resident were owned by the resident as a principal residence, by preparing applications  
45 for the exemption on behalf of the corporation.



1 (b) The corporation shall determine the amount of assessed value for each resident of a  
 2 multiunit building who could have qualified for exemption under sections 11 to 21 of this 2009  
 3 Act if the dwelling unit of the resident were owned by the resident as a principal residence.  
 4 The application shall be signed by the resident, or the resident's authorized representative,  
 5 and filed with the Department of Revenue in the same manner as other applications are filed  
 6 under sections 11 to 21 of this 2009 Act.

7 (c) The department shall process each application filed under this subsection in the same  
 8 manner as other applications for exemption under section 13 of this 2009 Act are processed,  
 9 except for the requirement of owning or purchasing a principal residence.

10 (3)(a) Not later than January 15 of each year, a corporation that has received a property  
 11 tax reduction for a dwelling unit and the unit's share of the common elements shall credit  
 12 to the account of the resident an amount equal to the excess of the resident's share of  
 13 property taxes that would have been assessed against the corporation for the tax year if the  
 14 reduction for the dwelling unit and the unit's share of the common elements had not been  
 15 granted over the resident's share of property taxes actually paid by the corporation.

16 (b) Prior to March 1 of each year, the corporation shall satisfy the department that the  
 17 crediting has taken place. If the crediting has not taken place, the department shall notify  
 18 the county assessor and no property tax reduction under sections 11 to 21 of this 2009 Act  
 19 shall be granted for property of the corporation for the next tax year, beginning July 1.

20 SECTION 17. (1) If taxes are required to be prepaid as provided under ORS 311.370 or a  
 21 similar law, the amount of taxes that are required to be prepaid for the principal residence  
 22 shall be computed and paid without regard to sections 11 to 21 of this 2009 Act as provided  
 23 under subsection (2) of this section.

24 (2) Following extension of the taxes under ORS 311.370 (1)(b), or a similar provision, and  
 25 at the time for making the adjustments under ORS 311.370 (4), or a similar provision, the tax  
 26 collector shall notify the county treasurer of the amount the state is obligated to pay under  
 27 section 12 of this 2009 Act and the identity of the taxpayer who made the prepayment.  
 28 Thereafter, the payment shall be made by the county treasurer to the taxpayer and the state  
 29 shall reimburse the county treasurer in the manner provided in section 14 (4) of this 2009  
 30 Act.

31 SECTION 18. (1) If, for any reason, the Department of Revenue makes a payment under  
 32 sections 11 to 21 of this 2009 Act and that payment should not have been made, subject to  
 33 ORS 311.235 the amount of the payment shall be added to the assessment and tax roll as an  
 34 error correction under ORS 311.205 and shall be due and payable, with or without interest,  
 35 as provided in ORS 311.206.

36 (2) If a correction as described in subsection (1) of this section does not become a lien  
 37 under ORS 311.235, the amount of the correction is a debt due and owing from the person  
 38 who received payment or the benefit of the payment and may be collected under any of the  
 39 provisions of the law relating to the collection of personal property taxes.

40 (3) Any payment made by the department under sections 11 to 21 of this 2009 Act, and  
 41 any amount added to the assessment and tax roll under subsection (1) of this section shall  
 42 be processed under the rules adopted by the department.

43 (4) If any correction results in a refund to any person, the refund shall be made by the  
 44 appropriate officer from the unsegregated tax collections account established under ORS  
 45 311.385. If any correction results in an additional amount due from any person to the county,

1 the funds, when collected, shall be deposited in the unsegregated tax collections account es-  
 2 tablished under ORS 311.385.

3 (5) For each county there is established a special adjustment account. The account shall  
 4 reflect all roll corrections in connection with sections 11 to 21 of this 2009 Act. Any net  
 5 balance due, as reflected by the account as of June 30 of each year, shall be certified to the  
 6 county assessor for inclusion in the next certification under section 14 of this 2009 Act. In-  
 7 terest paid or collected on account of any adjustment in payment under sections 11 to 21 of  
 8 this 2009 Act may not be included in the adjustment account. The net balance as of June 30  
 9 shall be a net increase or decrease in the funds available in the suspense account referred  
 10 to in ORS 310.692.

11 (6) Interest may not accrue to or be paid by the state or the county on any balance in  
 12 the special adjustment account established in subsection (5) of this section or the suspense  
 13 account referred to in ORS 310.692 on account of sections 11 to 21 of this 2009 Act.

14 **SECTION 19.** (1) On or before December 15 of each year, the Department of Revenue  
 15 shall send a notice to each taxpayer who has claimed a principal residence property tax ex-  
 16 emption for the current tax year. The notice shall:

17 (a) Inform the taxpayer that the property has or has not qualified for the principal resi-  
 18 dence property tax exemption for the current tax year.

19 (b) Inform the taxpayer that the taxpayer must file an application for the exemption  
 20 under section 13 of this 2009 Act on or before July 1 of the next year in order for the prop-  
 21 erty to receive the principal residence property tax exemption for the next tax year.

22 (c) Contain any other information that the department considers necessary to facilitate  
 23 administration of the principal residence property tax exemption.

24 (2) The department shall give the notice required under subsection (1) of this section by  
 25 an unsealed postcard or other form of mail sent to the residence address of the taxpayer as  
 26 shown in the application for the exemption or as otherwise determined by the department  
 27 to be the correct address of the taxpayer.

28 **SECTION 20.** For property tax years beginning on or after July 1, 2009, the Department  
 29 of Revenue shall recompute the maximum amount of household income a taxpayer may re-  
 30 ceive in a preceding calendar year in order to be eligible for the principal residence property  
 31 tax exemption. The computation shall be as follows:

32 (1) Divide the U.S. City Average Consumer Price Index for the average of the first six  
 33 months of the previous calendar year by the U.S. City Average Consumer Price Index for the  
 34 average of the first six months of 2009 to calculate an indexing ratio for the current taxable  
 35 year.

36 (2) Multiply the maximum household income provided in section 12 of this 2009 Act by the  
 37 current taxable year indexing ratio, computed as provided in subsection (1) of this section.

38 **SECTION 21.** (1) The county assessor and the Department of Revenue shall cooperate in  
 39 carrying out the purposes of sections 11 to 21 of this 2009 Act, including but not limited to  
 40 developing procedures to ensure compliance with the household income standards for eligi-  
 41 bility for the principal residence property tax exemption under section 12 of this 2009 Act.

42 (2) The department may make rules, including the defining of terms, to carry out the  
 43 purposes of sections 11 to 21 of this 2009 Act.

44 **SECTION 22.** Sections 11 to 21 of this 2009 Act apply to property tax years beginning on  
 45 or after July 1, 2010.

ELDERLY RENTAL ASSISTANCE

SECTION 23. ORS 310.635 is amended to read:

310.635. (1) A taxpayer who is eligible for elderly rental assistance shall be granted the rental assistance [either] in the amount determined under subsection (2) of this section [or by using the schedule for renters set forth in subsection (3) of this section, whichever is greater]. A taxpayer is eligible for elderly rental assistance under this section if:

(a) The taxpayer is 58 years of age or older before the close of the calendar year immediately preceding the year in which the rental assistance is claimed;

(b) The household income of the taxpayer is less than \$10,000;

(c) The gross rent of the taxpayer is in excess of [20] five percent of household income; and

(d) The taxpayer files a claim with the Department of Revenue as required by ORS 310.657.

(2)(a) If the gross rent of the taxpayer is in excess of 20 percent of household income, a taxpayer eligible for elderly rental assistance under this section shall be paid by the Department of Revenue an amount equal to the positive difference between the taxpayer's gross rent, not to exceed \$2,100, and 20 percent of household income.

(b) If the gross rent of the taxpayer is in excess of 10 percent of household income, a taxpayer eligible for elderly rental assistance under this section shall be paid by the Department of Revenue an amount equal to the positive difference between the taxpayer's gross rent, not to exceed \$\_\_\_\_\_, and 10 percent of household income.

(c) If the gross rent of the taxpayer is in excess of five percent of household income, a taxpayer eligible for elderly rental assistance under this section shall be paid by the Department of Revenue an amount equal to the positive difference between the taxpayer's gross rent, not to exceed \$\_\_\_\_\_, and five percent of household income.

[(3) The schedule for renters referred to in subsection (1) of this section is:]

[ \_\_\_\_\_ ]

Household Income	Maximum Refundable Rent Constituting Property Tax
\$ 0 - 499	\$ 250
500 - 999	245
1,000 - 1,499	238
1,500 - 1,999	228
2,000 - 2,499	217
2,500 - 2,999	205
3,000 - 3,499	192
3,500 - 3,999	179
4,000 - 4,499	165
4,500 - 4,999	151
5,000 - 5,499	136
5,500 - 5,999	121
6,000 - 6,499	106

1	6,500 - 6,999	91
2	7,000 - 7,499	77
3	7,500 - 7,999	63
4	8,000 - 8,499	50
5	8,500 - 8,999	38
6	9,000 - 9,499	27
7	9,500 - 9,999	18

8 [ \_\_\_\_\_ ]

9  
10 [(4)] (3) The elderly rental assistance payments required by subsection (2) of this section shall  
11 be made by the Department of Revenue during the month of October.

12 [(5)] (4) The elderly rental assistance granted under this section applies to gross rent paid in the  
13 calendar year for which the claim is filed.

14 [(6)] (5) The Department of Revenue may not grant elderly rental assistance under this section:

15 (a) To a person who is, as of December 31 of the year for which elderly rental assistance is  
16 claimed, a tenant-stockholder of a cooperative housing corporation or a resident of a nonprofit home  
17 for the elderly owned or being purchased by a corporation described in ORS 307.375.

18 (b) For less than \$1, after offsets for all amounts owed to the state.

19 (c) For any period during which the taxpayer's needs were included in a payment made by the  
20 Department of Human Services pursuant to ORS 412.155. However, if it is determined that the tax-  
21 payer's needs were included in a payment made by the Department of Human Services under ORS  
22 412.155 and the taxpayer is eligible for the period for elderly rental assistance in an amount greater  
23 than the payment, the Department of Revenue shall grant elderly rental assistance in the amount  
24 of the difference.

25 [(7)] (6) Elderly rental assistance allowed pursuant to this section is not subject to garnishment  
26 under ORS 18.600 to 18.850, except by a government entity.

27 **SECTION 24. The amendments to ORS 310.635 by section 23 of this 2009 Act apply to el-**  
28 **derly rental assistance payments for which claims are filed on or after January 1, 2010.**

29  
30 **ELDERLY RENTAL ASSISTANCE AND**  
31 **PRINCIPAL RESIDENCE EXEMPTION FUNDING**

32  
33 **SECTION 25.** ORS 310.692 is amended to read:

34 310.692. (1) Amounts necessary to make the payments authorized by ORS 307.244 and 310.635  
35 **and section 14 of this 2009 Act** shall be transferred to a suspense account established under ORS  
36 293.445 from the appropriation made by the Legislative Assembly to fund the elderly rental assist-  
37 ance program **and principal residence exemption programs**. Moneys in the suspense account are  
38 continuously appropriated to the Department of Revenue to carry out the purposes of the elderly  
39 rental assistance [*program*] **and principal residence exemption programs**.

40 (2) If any portion of the tax liability for which the refund payments described in subsection (1)  
41 of this section are authorized are offset against the refund, the Department of Revenue shall transfer  
42 from the suspense account referred to in subsection (1) of this section to the General Fund an  
43 amount equal to the income tax liability.

44 (3) Of the total amount transferred to the suspense account referred to in subsection (1) of this  
45 section for the biennium, the department shall allocate a portion to each fiscal year. The allocation

1 shall be the department's best estimate of the most efficient use of the moneys in the suspense ac-  
 2 count so as to minimize any reductions in the payments required under ORS 307.244 and 310.635  
 3 **and section 14 of this 2009 Act** for each fiscal year.

4 (4) On or before November 1 of each fiscal year of each biennium, the Department of Revenue  
 5 shall determine the amount of money needed to make the payments under ORS 307.244 and 310.635  
 6 **and section 14 of this 2009 Act** for that fiscal year. If the sum of the obligations is greater than  
 7 the amounts credited to the suspense account referred to in subsection (1) of this section and allo-  
 8 cated to that fiscal year for those obligations under subsection (3) of this section, the payments re-  
 9 quired under ORS 307.244 and 310.635 **and section 14 of this 2009 Act** shall be proportionally  
 10 reduced so that the state does not accrue a debt in excess of the amount credited. A claim for  
 11 payment may not accrue to a taxpayer under ORS 310.635 or to a county under ORS 307.244 **or**  
 12 **section 14 of this 2009 Act** in excess of the amount determined under this subsection.

13 (5) If the amount allocated to the first fiscal year of a biennium under subsection (3) of this  
 14 section exceeds the amount of actual payments made under ORS 307.244 or 310.635, the excess  
 15 amount shall be available for payments under ORS 307.244 or 310.635 in the second fiscal year of  
 16 the biennium.

17 **SECTION 26. The amendments to ORS 310.692 by section 25 of this 2009 Act apply to**  
 18 **fiscal years beginning on or after July 1, 2010.**

19  
 20 **UNIFORM SALES AND USE TAX**  
 21 **ADMINISTRATION ACT**  
 22

23 **SECTION 27. Title.** Sections 27 to 35 of this 2009 Act shall be known and may be cited  
 24 as the Uniform Sales and Use Tax Administration Act.

25 **SECTION 28. Definitions.** As used in sections 27 to 35 of this 2009 Act:

26 (1) "Streamlined Sales and Use Tax Agreement" means the Streamlined Sales and Use  
 27 Tax Agreement adopted by the Streamlined Sales Tax Project on November 12, 2002, as  
 28 amended and in effect on the effective date of this 2009 Act.

29 (2) "Certified automated system" means software certified jointly by the states that are  
 30 signatories to the agreement to calculate the tax imposed by each jurisdiction on a trans-  
 31 action, determine the amount of tax to remit to the appropriate state and maintain a record  
 32 of the transaction.

33 (3) "Certified service provider" means an agent certified jointly by the states that are  
 34 signatories to the agreement to perform all of the seller's sales tax functions.

35 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability  
 36 company, limited liability partnership, corporation or any other legal entity.

37 (5) "Sales tax" means the tax levied under sections 60 to 68 of this 2009 Act.

38 (6) "Seller" means any person making sales, leases or rentals of personal property or  
 39 services.

40 (7) "State" means any state of the United States and the District of Columbia.

41 (8) "Use tax" means the tax levied under sections 69 to 77 of this 2009 Act.

42 **SECTION 29. Findings and declarations.** The Legislative Assembly finds and declares that  
 43 entering into the Streamlined Sales and Use Tax Agreement with one or more states to  
 44 simplify and modernize sales and use tax administration will substantially reduce the burden  
 45 of tax compliance for all sellers and for all types of commerce.

1       **SECTION 30. Authority to enter agreement.** (1) The Department of Revenue is authorized  
 2 and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more  
 3 states to simplify and modernize sales and use tax administration in order to substantially  
 4 reduce the burden of tax compliance for all sellers and for all types of commerce. In  
 5 furtherance of the agreement, the department is authorized to act jointly with other states  
 6 that are members of the agreement to establish standards for certification of a certified  
 7 service provider and certified automated system, and to establish performance standards for  
 8 multistate sellers.

9       (2) The department is further authorized to take other actions reasonably required to  
 10 implement the provisions set forth in sections 27 to 35 of this 2009 Act. Other actions au-  
 11 thorized by this section include, but are not limited to, the adoption of rules and the joint  
 12 procurement, with other member states, of goods and services in furtherance of the agree-  
 13 ment.

14       (3) The department or the designee of the department is authorized to represent this  
 15 state before the other states that are signatories to the agreement.

16       **SECTION 31. Relationship to state law.** No provision of the Streamlined Sales and Use  
 17 Tax Agreement authorized by sections 27 to 35 of this 2009 Act in whole or part invalidates  
 18 or amends any provision of the law of this state. Adoption of the agreement by this state  
 19 does not amend or modify any law of this state. Implementation of any condition of the  
 20 agreement in this state, whether adopted before, at the time of or after membership of this  
 21 state in the agreement, must be by the action of this state.

22       **SECTION 32. Agreement requirements.** The Department of Revenue may not enter into  
 23 the Streamlined Sales and Use Tax Agreement unless the agreement requires each signatory  
 24 state to abide by all of the following requirements:

25       (1) The agreement must set restrictions to achieve more state uniform sales and use tax  
 26 rates through the following:

- 27       (a) Limiting the number of state rates;
- 28       (b) Eliminating maximums on the amount of state tax that is due on a transaction; and
- 29       (c) Eliminating thresholds on the application of state tax.

30       (2) The agreement must establish uniform standards for the following:

- 31       (a) The sourcing of transactions to taxing jurisdictions;
- 32       (b) The administration of exempt sales;
- 33       (c) The allowances a seller can take for bad debts; and
- 34       (d) Sales and use tax returns and remittances.

35       (3) The agreement must require states to develop and adopt uniform definitions of sales  
 36 and use tax terms. The definitions must enable a state to preserve its ability to make policy  
 37 choices not inconsistent with the uniform definitions.

38       (4) The agreement must provide a central, electronic registration system that allows a  
 39 seller to register to collect and remit sales and use taxes for all signatory states.

40       (5) The agreement must provide that registration with the central registration system  
 41 and the collection of sales and use taxes in the signatory states will not be used as a factor  
 42 in determining whether the seller has nexus with a state for any tax.

43       (6) The agreement must provide for reduction of the burdens of complying with local  
 44 sales and use taxes through the following:

- 45       (a) Eliminating variances between the state and local tax bases;

1 (b) Requiring states to administer any sales and use taxes levied by local jurisdictions  
 2 within the state so that sellers collecting and remitting these taxes will not have to register  
 3 or file returns with, remit funds to or be subject to independent audits from local taxing  
 4 jurisdictions;

5 (c) Restricting the frequency of changes in the local sales and use tax rates and setting  
 6 effective dates for the application of local jurisdictional boundary changes to local sales and  
 7 use taxes; and

8 (d) Providing notice of changes in local sales and use tax rates and of changes in the  
 9 boundaries of local taxing jurisdictions.

10 (7) The agreement must outline any monetary allowances that are to be provided by the  
 11 states to sellers or certified service providers.

12 (8) The agreement must require each state to certify compliance with the terms of the  
 13 agreement prior to joining and to maintain compliance, under the laws of the member state,  
 14 with all provisions of the agreement while a member.

15 (9) The agreement must require each state to adopt a uniform policy for certified service  
 16 providers that protects the privacy of consumers and maintains the confidentiality of tax  
 17 information.

18 (10) The agreement must provide for the appointment of an advisory council of private  
 19 sector representatives and an advisory council of nonmember state representatives to con-  
 20 sult with in the administration of the agreement.

21 **SECTION 33. Cooperating states.** The Streamlined Sales and Use Tax Agreement au-  
 22 thorized by sections 27 to 35 of this 2009 Act is to be an accord among individual states in  
 23 furtherance of their governmental functions. The agreement shall provide a mechanism  
 24 among the member states to establish and maintain a cooperative, simplified system for the  
 25 application and administration of sales and use taxes under the laws of each member state.

26 **SECTION 34. Effect of agreement.** (1) The Streamlined Sales and Use Tax Agreement  
 27 authorized by sections 27 to 35 of this 2009 Act binds and inures only to the benefit of this  
 28 state and the other member states. No person, other than a member state, is an intended  
 29 beneficiary of the agreement. Any benefit to a person other than a state is established by  
 30 the law of this state and the other member states and not by the terms of the agreement.

31 (2) A person may not have any cause of action or defense under the agreement or by  
 32 virtue of the approval by this state of the agreement. A person may not challenge, in any  
 33 action brought under any provision of law, any action or inaction by any department, agency  
 34 or other instrumentality of this state, or any political subdivision of this state, on the ground  
 35 that the action or inaction is inconsistent with the agreement.

36 (3) No law of this state, or the application thereof, may be declared invalid as to any  
 37 person or circumstance on the ground that the provision or application is inconsistent with  
 38 the agreement.

39 **SECTION 35. Seller and third-party liability.** (1) A certified service provider is the agent  
 40 of a seller, with whom the certified service provider has contracted, for the collection and  
 41 remittance of sales and use taxes pursuant to the Streamlined Sales and Use Tax Agreement  
 42 authorized by sections 27 to 35 of this 2009 Act. As the seller's agent, the certified service  
 43 provider is liable for sales and use tax due each member state on all sales transactions the  
 44 certified service provider processes for the seller except as set out in this section.

45 (2)(a) A seller that contracts with a certified service provider is not liable to this state

1 for sales or use tax due on transactions processed by the certified service provider unless  
 2 the seller misrepresented the type of items the seller sells or committed fraud. In the ab-  
 3 sence of probable cause to believe that the seller has committed fraud or made a material  
 4 misrepresentation, the seller is not subject to audit on transactions processed by a certified  
 5 service provider. A seller is subject to audit for transactions not processed by a certified  
 6 service provider.

7 (b) Member states acting jointly may perform a system check of the seller and review  
 8 the seller's procedures to determine if a certified service provider's system is functioning  
 9 properly and the extent to which the seller's transactions are being processed by the certi-  
 10 fied service provider.

11 (3) A person that provides a certified automated system is responsible for the proper  
 12 functioning of that system and is liable to the state for underpayments of tax attributable  
 13 to errors in the functioning of the certified automated system. A seller that uses a certified  
 14 automated system remains responsible and is liable to the state for reporting and remitting  
 15 tax.

16 (4) A seller that has a proprietary system for determining the amount of tax due on  
 17 transactions and has signed an agreement establishing a performance standard for that  
 18 system is liable for the failure of the system to meet the performance standard.

19  
 20 **SALES AND USE TAX**

21  
 22 **SECTION 36. Construction.** Unless the context requires otherwise, the definitions in  
 23 sections 37 to 57 of this 2009 Act govern the construction of sections 36 to 151 of this 2009  
 24 Act.

25  
 26 (Definitions)

27  
 28 **SECTION 37. Business.** "Business" includes any activity engaged in by any person or  
 29 caused to be engaged in by a person with the object of gain, benefit or advantage, either di-  
 30 rect or indirect.

31 **SECTION 38. Delivery charge.** "Delivery charge" means a charge by the seller of personal  
 32 property or services for preparation and delivery to a location designated by the purchaser  
 33 of personal property or services.

34 **SECTION 39. Department; director.** "Department" means the Department of Revenue,  
 35 and "director" means the Director of the Department of Revenue.

36 **SECTION 40. Floating home.** "Floating home" has the meaning given that term in ORS  
 37 830.700.

38 **SECTION 41. Gross receipts.** (1) "Gross receipts" means the total amount of consider-  
 39 ation, including cash, credit, property and services, for which personal property or services  
 40 are sold, leased or rented, without any deduction for the following:

- 41 (a) The seller's cost of the property that is being sold;
- 42 (b) The cost of materials, labor, interest, losses, transportation to the seller, taxes im-  
 43 posed on the seller or other expense of the seller;
- 44 (c) Charges by the seller for any services necessary to complete the sale, other than de-  
 45 livery and installation charges;



1 (d) Delivery charges;

2 (e) Installation charges;

3 (f) The value of exempt personal property given to the purchaser, if taxable and exempt  
4 personal property have been sold by the seller as a single product; or

5 (g) Credit for a trade-in of property.

6 (2) "Gross receipts" means the consideration described in subsection (1) of this section  
7 that is valued in money, whether the consideration is received in money or otherwise.

8 (3) "Gross receipts" does not include:

9 (a) Discounts, including cash, term or coupons that are not reimbursed by a third party,  
10 that are allowed by a seller and taken by a purchaser on a sale;

11 (b) Interest, financing or carrying charges from credit extended on the sale of personal  
12 property or services, if the amount is separately stated on the invoice; or

13 (c) Taxes that are legally imposed directly on the purchaser and that are separately  
14 stated on the invoice, bill of sale or similar document given to the purchaser.

15 **SECTION 42. In this state.** "In this state" or "within this state" means within the exte-  
16 rior limits of the State of Oregon and includes all territory within these limits owned by or  
17 ceded to the United States of America.

18 **SECTION 43. Internal Revenue Code.** "Internal Revenue Code" means the federal Inter-  
19 nal Revenue Code, as amended and in effect on December 31, 2008.

20 **SECTION 44. Lease.** (1) "Lease" means a transfer of possession or control of tangible  
21 personal property for a fixed or indeterminate term for consideration, or a future option to  
22 purchase or extend the possession or control of tangible personal property.

23 (2) "Lease" does not include:

24 (a) A transfer of possession or control of property under a security agreement or de-  
25 ferred payment plan that requires the transfer of title upon completion of the required pay-  
26 ments;

27 (b) A transfer of possession or control of property under an agreement that requires the  
28 transfer of title upon completion of required payments and payment of an option price that  
29 does not exceed the greater of \$100 or one percent of the total of required payments;

30 (c) The provision of tangible personal property and an operator of the tangible personal  
31 property for a fixed or indeterminate period of time, if the operator is required for the  
32 equipment to perform as designed. For purposes of this paragraph, an operator must do more  
33 than maintain, inspect or set up the tangible personal property;

34 (d) An agreement covering the rental of a motor vehicle, if the rental agreement contains  
35 a terminal rental adjustment clause as defined in section 7701(h)(3) of the Internal Revenue  
36 Code; or

37 (e) A rental agreement that was executed prior to the date the Department of Revenue  
38 enters into the Streamlined Sales and Use Tax Agreement.

39 **SECTION 45. Manufactured structure.** "Manufactured structure" has the meaning given  
40 that term in ORS 801.333.

41 **SECTION 46. Motor vehicle or vehicle.** (1) "Motor vehicle" has the meaning given that  
42 term in ORS 801.360.

43 (2) "Vehicle" has the meaning given that term in ORS 801.590.

44 **SECTION 47. Nonresident; resident.** (1) "Nonresident" means an individual who is not a  
45 resident of this state.

1 (2) “Resident” means:

2 (a) An individual who is domiciled in this state, unless the individual maintains no per-  
3 manent place of abode in this state, does maintain a permanent place of abode elsewhere and  
4 spends in the aggregate not more than 30 days of the tax year in this state; or

5 (b) An individual who is not domiciled in this state but maintains a permanent place of  
6 abode in this state and spends in the aggregate more than 200 days of the tax year in this  
7 state, unless the individual proves to the satisfaction of the Department of Revenue that the  
8 individual’s presence in this state is only for a temporary or transitory purpose.

9 SECTION 48. Occasional sale. “Occasional sale” includes:

10 (1) A sale of property not held or used by a seller in the course of activities for which  
11 the seller is required to hold a seller’s permit or permits or would be required to hold a  
12 seller’s permit or permits if the activities were conducted in this state, but only if such sale  
13 is not one of a series of sales sufficient in number, scope and character to constitute an  
14 activity for which the seller is required to hold a seller’s permit or would be required to hold  
15 a seller’s permit if the activity were conducted in this state; and

16 (2) Any transfer of 80 percent or more of the tangible personal property, in terms of its  
17 selling price, held or used by a person in the course of an activity requiring the holding of  
18 a seller’s permit if, after such transfer, the real or ultimate ownership of such property is  
19 substantially similar to that which existed before such transfer. For the purposes of this  
20 subsection, stockholders, bondholders, partners or other persons holding an interest in a  
21 corporation or other entity are regarded as having the “real or ultimate ownership” of the  
22 property of such corporation or other entity.

23 SECTION 49. Purchase price; sales price. “Purchase price” or “sales price” means the  
24 total amount of gross receipts derived from the sale or lease of tangible personal property  
25 or services.

26 SECTION 50. Retail sale. “Retail sale” or “sale at retail” means a sale or lease for any  
27 purpose other than for resale, sublease or subrent.

28 SECTION 51. Sales tax. “Sales tax” means the tax levied under sections 60 to 68 of this  
29 2009 Act.

30 SECTION 52. Seller. “Seller” means a person who makes, leases or rents personal prop-  
31 erty or services.

32 SECTION 53. Services. “Services” means all activities engaged in for the benefit of other  
33 persons for a fee, retainer, commission or other monetary charge, if the activities predomi-  
34 nantly involve the performance of a service as distinguished from selling property.

35 SECTION 54. Storage and use. (1) “Storage” includes any keeping or retention in this  
36 state for any purpose except sale in the regular course of business or subsequent use solely  
37 outside this state of tangible personal property purchased from a retailer.

38 (2) “Use” includes the exercise of any right or power over tangible personal property in-  
39 cident to the ownership of that property, and also includes the possession of, or the exercise  
40 of any right or power over, tangible personal property by a lessee under a lease, except that  
41 “use” does not include the sale of that property in the regular course of business.

42 (3) “Storage” and “use” do not include the keeping, retaining or exercising of any right  
43 or power over tangible personal property for the purpose of subsequently transporting it  
44 outside this state for use thereafter solely outside this state, or for the purpose of being  
45 processed, fabricated or manufactured into, attached to or incorporated into, other tangible

1 personal property to be transported outside this state and thereafter used solely outside this  
2 state.

3 **SECTION 55. Streamlined Sales and Use Tax Agreement.** “Streamlined Sales and Use  
4 Tax Agreement” has the meaning given that term in section 28 of this 2009 Act.

5 **SECTION 56. Tangible personal property.** “Tangible personal property” means personal  
6 property that can be seen, weighed, measured, felt or touched, that is in any other manner  
7 perceptible to the senses or that is electricity, water, gas, steam or prewritten computer  
8 software.

9 **SECTION 57. Use tax.** “Use tax” means the tax levied under sections 69 to 77 of this 2009  
10 Act.

11  
12 (Sourcing Rules and Definitional Rules)

13  
14 **SECTION 58.** The Department of Revenue shall adopt rules for sourcing the retail sale  
15 of products or services. The rules shall conform to the sourcing provisions of the Stream-  
16 lined Sales and Use Tax Agreement.

17 **SECTION 59.** The Department of Revenue may adopt rules defining terms for purposes  
18 of imposing and administering the sales or use tax, including rules defining categories of  
19 products or services. The rules shall conform to definitions set forth in the Streamlined  
20 Sales and Use Tax Agreement.

21  
22 (Sales Tax)

23  
24 **SECTION 60. Imposition of tax; rate.** In addition to all other taxes of every kind, for the  
25 privilege of selling tangible personal property or services at retail, a tax is imposed upon all  
26 retailers at the rate of five percent of the gross receipts of any retailer from the sale of all  
27 tangible personal property sold at retail in this state.

28 **SECTION 61. Reimbursement.** (1) The sales tax imposed by section 60 of this 2009 Act is  
29 a tax upon the gross receipts of retailers. Whether a retailer may add sales tax reimburse-  
30 ment to the sales price of the tangible personal property or services sold at retail to a pur-  
31 chaser depends solely upon the terms of the agreement of sale. It shall be presumed that the  
32 parties agreed to the addition of sales tax reimbursement to the sales price of tangible per-  
33 sonal property sold at retail to a purchaser if:

34 (a) The agreement of sale expressly provides for such addition of sales tax reimburse-  
35 ment;

36 (b) Sales tax reimbursement is shown on the sales check or other proof of sale; or

37 (c) The retailer posts in the retailer’s premises in a location visible to purchasers, or  
38 includes on a price tag or in an advertisement or other printed material directed to pur-  
39 chasers, a notice to the effect that reimbursement for sales tax will be added to the sales  
40 price of all items or certain items, whichever is applicable.

41 (2) It shall be presumed that the property or services, the gross receipts from the sale  
42 of which are subject to the sales tax, are sold at a price that includes tax reimbursement if  
43 the retailer posts in the premises or includes on a price tag or in an advertisement, which-  
44 ever is applicable, one of the following notices:

45 (a) “All prices of taxable items include sales tax reimbursement computed to the nearest

1 mill.”

2 (b) “The price of this item includes sales tax reimbursement computed to the nearest  
3 mill.”

4 **SECTION 62. Collection schedule.** (1) The Department of Revenue shall prepare a sales  
5 tax collection schedule showing the total amount that shall be collected by the retailer from  
6 a consumer in reimbursement of the sales tax, computed on each sales price, from one cent  
7 to and including \$100, at the rate of five percent. The schedule shall be identical to the fol-  
8 lowing table up to the amounts specified:

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Price	Tax
\$ .01 to .09.....	\$ .00
.10 to .29.....	.01
.30 to .49.....	.02
.50 to .69.....	.03
.70 to .89.....	.04
.90 to 1.09.....	.05

---

19  
20 (2) Reimbursement on sales prices in excess of those shown in the schedules may be  
21 computed by applying the applicable tax rate to the sales price, rounded off to the nearest  
22 cent by eliminating any fraction less than one-half cent and increasing any fraction of one-  
23 half cent or more to the next higher cent.

24 (3) The sales tax collection schedule shall be made available for inspection and repro-  
25 duction.

26 (4) Each retailer who collects amounts from a consumer in reimbursement of the sales  
27 tax shall either:

28 (a) Use the schedule prepared by the department or the method provided under sub-  
29 section (2) of this section in computing the amount to be collected, based upon the sales price  
30 of the item sold if one item is sold, and if more than one item is sold in any one transaction,  
31 upon the sum of the sales prices of the items sold; or

32 (b) If authorized under rules adopted by the department, include in the sales price of each  
33 item an amount of reimbursement computed to the nearest one-tenth of a cent at the ap-  
34 plicable tax rate and post a notice in the retailer’s premises stating that each posted or ad-  
35 vertised price includes reimbursement so computed. When both taxable and nontaxable items  
36 are included in the same transaction, the requirement of paragraph (a) of this subsection  
37 regarding computation of tax reimbursement upon the sum of the aggregate sales prices  
38 applies only if the purchaser requests at the time of the sale that the computation be made  
39 in this way.

40 (5) Each retailer may retain from the taxes otherwise due under the Sales and Use Tax  
41 Law, out of the remittances by the retailer under sections 126 and 127 of this 2009 Act, an  
42 amount equal to 1.5 percent of the tax owed by such retailer for each reporting period. Such  
43 amounts may be retained only if the remittances were paid when due as required by sections  
44 126 and 127 of this 2009 Act.

45 **SECTION 63. Vending machines.** (1)(a) The Department of Revenue may authorize a

1 seller to pay the sales tax upon sales made through vending machines and similar devices,  
 2 or under conditions of business such as to render impracticable the collection of the tax as  
 3 a separate item, and waive collection of the tax from the purchaser.

4 (b) If sales are made by receipt of a coin or coins dropped into a receptacle that results  
 5 in delivery of the merchandise in single purchases of smaller value than the minimum sale  
 6 upon which a one cent tax may be collected from the purchaser, according to the schedule  
 7 prescribed under section 62 of this 2009 Act, and if the design of the device is such that  
 8 multiple sales of items are not possible or cannot be detected so as practicably to assess a  
 9 tax, then no tax shall be assessed or collected on the gross receipts from such sales if ade-  
 10 quate and complete records are kept by the vending machine operator, readily available for  
 11 inspection by the department. If such records are not maintained, the gross receipts for the  
 12 purposes of the sales tax are 50 percent of the gross receipts of the vending machine through  
 13 which such sales are made, determined by the department according to the best of its in-  
 14 formation and belief, using such records as are available.

15 (c) As used in this section, “adequate and complete records” means that the vending  
 16 machine operator regularly maintains records that would enable a department auditor to  
 17 accurately ascertain liability for sales taxes under section 60 of this 2009 Act, showing the  
 18 location or locations of each machine operated by the vending machine operator during each  
 19 reporting period, the serial number thereof, purchases and inventories of merchandise  
 20 bought for sale through all such machines and the gross receipts derived from the operation  
 21 at each location during each reporting period.

22 (2) No authority under subsection (1) of this section may be granted except upon appli-  
 23 cation to the department and unless the department finds that the conditions of the appli-  
 24 cant’s business are such as to render impracticable the collection of the tax in the manner  
 25 otherwise provided. If required by the department, an applicant under this section must  
 26 furnish a proper bond sufficient to secure the payment of the tax. One permit is sufficient  
 27 for all machines of one operator. A statement shall be affixed upon each vending machine in  
 28 a conspicuous space by the operator thereof, stating the operator’s name, place of business  
 29 and permit number.

30 **SECTION 64. Excess collection.** (1) When an amount represented by a person to a pur-  
 31 chaser as constituting reimbursement for taxes due under section 60 of this 2009 Act is  
 32 computed upon an amount that is not taxable or is in excess of the taxable amount and is  
 33 actually paid by the purchaser to the person, the amount so paid shall be returned by the  
 34 person to the purchaser upon notification by the Department of Revenue or by the purchaser  
 35 that such excess has been ascertained. In the event of the person’s failure or refusal to do  
 36 so, the amount paid, if knowingly or mistakenly computed by the person upon an amount  
 37 that is not taxable or is in excess of the taxable amount, shall be remitted by that person  
 38 to this state. However, those amounts remitted to this state shall be credited by the de-  
 39 partment on any amounts due and payable under section 60 of this 2009 Act on the same  
 40 transaction from the person by whom it was paid to this state and the balance, if any, shall  
 41 constitute an obligation due from the person to this state.

42 (2) Subsection (1) of this section does not apply to an amount computed by using a  
 43 schedule designed to result in collection in an amount as nearly equivalent as practicable to  
 44 the tax applicable to total taxable sales and to the average amount of individual taxable sales.

45 **SECTION 65. Worthless accounts.** (1) A person is relieved from liability for sales tax or

1 use tax insofar as the measure of the tax is represented by accounts that, for federal income  
2 tax purposes, constitute deductible bad debt under section 166 of the Internal Revenue Code,  
3 except that the amount of bad debt for which liability is relieved under this section shall be  
4 reduced by:

5 (a) Interest or other financing charges;

6 (b) Sales or use taxes charged on the sale of the property or services from which the bad  
7 debt is derived;

8 (c) Uncollectible amounts on property that remains in the possession of the seller until  
9 the full purchase price is paid;

10 (d) Expenses incurred in attempting to collect any debt; or

11 (e) The value of repossessed property.

12 (2) Any deduction allowed under this section for bad debt may not include interest.

13 (3) Bad debt may be deducted only on the sales or use tax return for the period during  
14 which the bad debt is written off as uncollectible in the books and records of the taxpayer  
15 and is eligible for deduction for federal tax purposes, or would be eligible for deduction if the  
16 sales or use taxpayer were required to file a federal income tax return.

17 (4) If bad debt that is deducted under subsection (1) of this section is subsequently col-  
18 lected, the amount collected shall be added to the sales tax liability of the taxpayer for the  
19 reporting period in which the amount is collected.

20 (5) If the amount of bad debt that may be deducted exceeds the sales or use tax liability  
21 of the taxpayer, the excess may be refunded to the taxpayer.

22 (6) The Department of Revenue shall adopt rules for the allocation of bad debt between  
23 Oregon and other states in cases in which the amount of bad debt for federal income tax  
24 purposes is attributable to debt from both within and outside of Oregon.

25  
26 (Seller Registration)

27  
28 **SECTION 66.** (1) The Department of Revenue shall design and implement an online sales  
29 tax registration system that complies with the Streamlined Sales and Use Tax Agreement.

30 (2) A person may not be required to pay a fee in order to register for sales tax purposes.

31 (3) The department may adopt any rules necessary to implement the registration system  
32 or facilitate registration or the operation of the registration system.

33 **SECTION 67.** (1) Each person seeking to conduct business in this state as a seller shall  
34 register with the Department of Revenue through the online registration system described  
35 in section 66 of this 2009 Act.

36 (2) A person acting as an agent of a seller may register on behalf of the seller.

37 (3) A person may not conduct business as a seller in this state without registering under  
38 this section.

39 (4) Each officer of a corporation that conducts business in violation of subsection (3) of  
40 this section is guilty of violating that subsection.

41  
42 (Presumptions)

43  
44 **SECTION 68.** For the purpose of the proper administration of the Sales and Use Tax Law  
45 and to prevent evasion of the sales tax, all gross receipts are presumed subject to the tax

1 until the contrary is established. The burden of proving that a sale of tangible personal  
 2 property or services is not a sale at retail is upon the person who makes the sale.

3  
 4 (Use Tax)

5  
 6 **SECTION 69. Imposition of tax; rate.** An excise tax is imposed on the storage, use or  
 7 other consumption in this state of tangible personal property purchased from any retailer  
 8 for storage, use or other consumption in this state, at the rate of five percent of the pur-  
 9 chase price of the property.

10 **SECTION 70. Liability for tax.** Every person storing, using or otherwise consuming in  
 11 this state tangible personal property purchased from a retailer is liable for the use tax. The  
 12 person's liability is not extinguished until the tax has been paid to this state, except that a  
 13 receipt from a retailer engaged in business in this state or from a retailer who is authorized  
 14 by the Department of Revenue, under such rules as it may adopt, to collect the tax and who,  
 15 for the purposes of the use tax, is regarded as a retailer engaged in business in this state,  
 16 given to the purchaser pursuant to section 71 of this 2009 Act, is sufficient to relieve the  
 17 purchaser from further liability for the tax to which the receipt refers.

18 **SECTION 71. Collection by retailer; tax as debt; itemization of tax.** (1) Except as provided  
 19 in section 95 of this 2009 Act, every retailer engaged in business in this state, every retailer  
 20 required to collect the use tax and every retailer to whom authorization to collect tax has  
 21 been granted by the Department of Revenue, who makes sales of tangible personal property  
 22 for storage, use or other consumption in this state, not exempt for purposes of the Sales and  
 23 Use Tax Law, at the time of making the sales or if the storage, use or other consumption  
 24 of the tangible personal property is not then taxable, at the time the storage, use or other  
 25 consumption becomes taxable, shall collect the tax from the purchaser and shall give to the  
 26 purchaser a receipt therefor in the manner and form prescribed by the department.

27 (2) The tax required to be collected under subsection (1) of this section by the retailer  
 28 and any amount unreturned to the purchaser that is not tax but was collected under repre-  
 29 sentation by the retailer that it was a tax constitutes a debt owed by the retailer to this  
 30 state.

31 (3) With respect to leases constituting sales of tangible personal property, the tax shall  
 32 be collected from the lessee at the time amounts are paid by the lessee under the lease.

33 (4) Unless the department otherwise provides under its rules, the use tax required to be  
 34 collected by the retailer from the purchaser under subsections (1) to (3) of this section shall  
 35 be displayed separately from the list price, the price advertised in the premises, the marked  
 36 price or other price on the sales check or other proof of sale.

37 **SECTION 72. Retailer engaged in business in this state.** For purposes of sections 69 to  
 38 77 of this 2009 Act, "retailer engaged in business in this state" means:

39 (1) Any retailer maintaining, occupying or using, permanently or temporarily, directly  
 40 or indirectly, or through a subsidiary or other agent, by whatever name, an office, place of  
 41 distribution, sales or sample room or place, warehouse or storage place or other place of  
 42 business.

43 (2) Any retailer having any representative, agent, salesperson, canvasser or solicitor op-  
 44 erating in this state under the authority of the retailer or its subsidiary for the purpose of  
 45 selling, delivering or taking orders for any tangible personal property.

1 (3) With respect to a lease, any retailer deriving rentals from a lease of tangible personal  
 2 property situated in this state.

3 **SECTION 73. Registration of retailers.** Every retailer selling tangible personal property  
 4 for storage, use or consumption in this state shall register with the Department of Revenue  
 5 in the manner prescribed in section 67 of this 2009 Act.

6 **SECTION 74. Collection of tax by retailer maintaining or not maintaining place of busi-**  
 7 **ness in state.** The Director of the Department of Revenue may, in the director's discretion,  
 8 upon application of the retailer, authorize the collection of the use tax imposed by section  
 9 69 of this 2009 Act by any retailer who maintains or who does not maintain a place of busi-  
 10 ness within this state and who furnishes adequate security to ensure collection and payment  
 11 of the tax. The retailer shall be issued, without charge, a permit to collect the tax in the  
 12 manner and subject to the rules and agreements as the director shall prescribe or require.  
 13 When so authorized, it shall be the duty of the retailer to collect the tax upon all tangible  
 14 personal property sold by the retailer for use, storage or other consumption within this  
 15 state, in the same manner and subject to the same requirements as any other retailer. The  
 16 permit may be canceled if, at any time, the director considers the security inadequate or that  
 17 the tax can more effectively be collected from the person using the property in this state.

18 **SECTION 75. Excessive collections.** When an amount represented by a person to a pur-  
 19 chaser as constituting reimbursement for taxes due under section 69 of this 2009 Act is  
 20 computed upon an amount that is not taxable or is in excess of the taxable amount and is  
 21 actually paid by the purchaser to the person, the amount so paid shall be returned by the  
 22 person to the purchaser upon notification by the Department of Revenue or by the purchaser  
 23 that such excess has been ascertained. In the event of the person's failure or refusal to do  
 24 so, the amount so paid, if knowingly or mistakenly computed by the person upon an amount  
 25 that is not taxable or is in excess of the taxable amount, shall be remitted by that person  
 26 to this state. However, those amounts remitted to this state shall be credited by the de-  
 27 partment on any amounts due and payable under section 69 of this 2009 Act on the same  
 28 transaction from the person by whom it was paid to this state and the balance, if any, shall  
 29 constitute an obligation due from the person to this state.

30 **SECTION 76. Presumptions.** For the purpose of the proper administration of the Sales  
 31 and Use Tax Law and to prevent evasion of the use tax and the duty to collect the use tax,  
 32 the following presumptions are established:

33 (1) Tangible personal property sold by any person for delivery in this state is sold for  
 34 storage, use or other consumption in this state unless the contrary is established. The bur-  
 35 den of proving the contrary is upon the person who makes the sale unless the person takes  
 36 from the purchaser a resale certificate to the effect that the property is purchased for re-  
 37 sale.

38 (2) Tangible personal property shipped or brought to this state by the purchaser was  
 39 purchased from a retailer on or after the operative date of this section for storage, use or  
 40 other consumption in this state.

41 (3) Tangible personal property delivered outside this state to a purchaser known by the  
 42 retailer to be a resident of this state was purchased from a retailer for storage, use or other  
 43 consumption in this state and stored, used or otherwise consumed in this state. This  
 44 presumption may be controverted by a statement in writing, signed by the purchaser or the  
 45 authorized representative, and retained by the vendor, that the property was purchased for



1 use at a designated point or points outside this state. This presumption may also be  
 2 controverted by other evidence satisfactory to the Department of Revenue that the property  
 3 was not purchased for storage, use or other consumption in this state.

4 (4) A motor vehicle purchased outside of this state that is brought into this state on or  
 5 before the 90th day after its purchase, was acquired for storage, use or other consumption  
 6 in this state. However, a member of the Armed Forces of the United States on active duty  
 7 who purchases a motor vehicle prior to the effective date of discharge of the member is not  
 8 subject to this presumption. The member is not considered to have purchased the motor  
 9 vehicle for storage, use or other consumption in this state unless at the time of purchase  
 10 the member intended to use it in this state, such intent resulting from the member's own  
 11 determination rather than from official orders received as a member of the Armed Forces  
 12 transferring the member to this state.

13 SECTION 77. Credit for tax paid to another jurisdiction. (1) A credit shall be allowed  
 14 against, but may not exceed, the taxes imposed on any person by the Sales and Use Tax Law  
 15 by reason of the storage, use or other consumption of tangible personal property in this state  
 16 to the extent that the person has paid a general retail sales or use tax, or reimbursement  
 17 therefor, imposed with respect to that property by any other state or political subdivision  
 18 thereof prior to the storage, use or other consumption of that property in this state.

19 (2) A credit otherwise permitted under subsection (1) of this section may not be allowed  
 20 against taxes that are measured by periodic payments made under a lease, to the extent that  
 21 the taxes imposed by any other state or political subdivision thereof were also measured by  
 22 periodic payments made under a lease for a period prior to the storage, use or other con-  
 23 sumption of the property in this state.

24  
 25 (Resale Certificates)

26  
 27 SECTION 78. Effect of certificate. The resale certificate referred to in section 76 of this  
 28 2009 Act relieves the person selling the property from liability for sales tax or the duty to  
 29 collect use tax only if it is taken from a person who is engaged in the business of selling  
 30 tangible personal property or services and who is registered under section 67 or 73 of this  
 31 2009 Act.

32 SECTION 79. Form of certificate. A resale certificate must be signed by and bear the  
 33 name and address of the purchaser, indicate the number of the permit issued to the pur-  
 34 chaser and indicate the general character of the tangible personal property sold by the pur-  
 35 chaser in the regular course of business. The resale certificate shall be substantially in such  
 36 form as the Department of Revenue prescribes.

37 SECTION 80. Retention, demonstration or display; liability of purchaser. (1) If a pur-  
 38 chaser who gives a resale certificate or purchases property for the purpose of reselling it  
 39 makes any storage or use of the property other than retention, demonstration or display  
 40 while holding it for sale in the regular course of business, the storage or use is taxable to  
 41 the purchaser under section 69 of this 2009 Act as of the time the property is first so stored  
 42 or used by the purchaser and, except as provided in subsections (2) and (3) of this section,  
 43 the sales price of the property to the purchaser is the measure of the tax.

44 (2) If the use is limited to the loan of the property to customers as an accommodation  
 45 while awaiting delivery of property purchased or leased from the lender or while property is

1 being repaired for customers by the lender, the measure of the tax is the fair rental value  
 2 of the property for the duration of each loan so made.

3 (3) If the property is used frequently for purposes of demonstration or display while  
 4 holding it for sale in the regular course of business and is used partly for other purposes,  
 5 the measure of the tax is the fair rental value of the property for the period of such other  
 6 use or uses.

7 **SECTION 81. Leases; election to pay use tax.** If a purchaser acquires property in a  
 8 transaction described in section 48 (2) of this 2009 Act and leases such property, the pur-  
 9 chaser may elect at the time the property is first leased, after the operative date of this  
 10 section, to pay use tax measured by the purchase price of the property. For purposes of this  
 11 section:

12 (1) "Purchaser" shall include a transferee who acquires property in a transaction that  
 13 qualifies under the provisions of section 48 (2) of this 2009 Act; and

14 (2) The purchase price paid by the transferee shall be the same as that paid by the ori-  
 15 ginal purchaser.

16 **SECTION 82. Resale certificate; fungible goods.** If a purchaser gives a resale certificate  
 17 with respect to the purchase of fungible goods and thereafter commingles these goods with  
 18 other fungible goods not so purchased but of such similarity that the identity of the con-  
 19 stituent goods in the commingled mass cannot be determined, sales from the mass of  
 20 commingled goods shall be deemed to be sales of the goods so purchased until a quantity of  
 21 commingled goods equal to the quantity of purchased goods so commingled has been sold.

22 **SECTION 83. Improper use of certificate.** No person shall give, for the purpose of evading  
 23 payment to the seller or other person selling the property of the amount of the tax applicable  
 24 to the transaction, a resale certificate for property that the person knows, at the time of  
 25 purchase, is not to be resold by the person in the regular course of business.

26  
 27 (Direct Payment Permits)

28  
 29 **SECTION 84. Direct payment permits.** (1) The Department of Revenue may authorize a  
 30 purchaser of substantial amounts of tangible personal property or services to pay the sales  
 31 or use tax directly to the department and to waive the collection of the tax by the seller.

32 (2) The department shall design and implement a direct pay permit program that com-  
 33 plies with the requirements of the Streamlined Sales and Use Tax Agreement.

34 (3) In order to directly pay sales or use tax under subsection (1) of this section, a pur-  
 35 chaser shall obtain a direct pay permit from the department in the time and manner pre-  
 36 scribed by the department by rule.

37 (4)(a) The department may revoke a direct pay permit and the authority granted to a  
 38 purchaser under a direct pay permit for failure to comply with the conditions under which  
 39 the authority was granted or for other reasons constituting the misuse of the authority.

40 (b) Upon revocation of the direct pay permit, a purchaser shall give written notice of the  
 41 revocation to each seller with whom the purchaser has transacted business using a direct  
 42 pay permit, and shall supply the department with evidence that the notice has been given.  
 43 Notwithstanding section 143 of this 2009 Act, if the purchaser fails to notify a seller of the  
 44 revocation, the department may give notice of the revocation to the seller.

45 (c) Notwithstanding paragraphs (a) and (b) of this subsection, a direct pay permit may

1 be revoked only to the extent the revocation is allowable under the Streamlined Sales and  
2 Use Tax Agreement.

3  
4 (Absorption of Tax by Retailer)

5  
6 **SECTION 85. Unlawful advertising.** Except as otherwise provided by law or rule of the  
7 Department of Revenue, no retailer shall advertise, hold out or state to the public or to any  
8 customer, directly or indirectly, that the sales tax or use tax on tangible personal property  
9 or services or any part thereof:

- 10 (1) Will be assumed or absorbed by the retailer;  
11 (2) Will not be added to the selling price of the property sold; or  
12 (3) If added, will be refunded in whole or in part.

13  
14 (Vehicles, Vessels and Aircraft)

15  
16 **SECTION 86. Definitions.** (1) As used in sections 86 to 97 of this 2009 Act, unless the  
17 context requires otherwise:

18 (a) "Aircraft" means any powered contrivance used or designed for navigation of or flight  
19 in the air, except a rocket or missile.

20 (b) "Vessel" means any boat, ship, barge, craft or floating object designed for navigation  
21 in the water except:

22 (A) A seaplane;

23 (B) A watercraft specifically designed to operate on a permanently fixed course, the  
24 movement of which is restricted to or guided on such permanently fixed course by means  
25 of a mechanical device on a fixed track or arm to which the watercraft is attached or by  
26 which the watercraft is controlled, or by means of a mechanical device attached to the  
27 watercraft itself;

28 (C) A watercraft of a type designed to be propelled solely by oars or paddles;

29 (D) A watercraft of eight feet or less in length of a type designed to be propelled by sail;

30 (E) A floating home; or

31 (F) A boathouse, as defined in ORS 830.700.

32 (c) "Vehicle" means a vehicle or motor vehicle for which registration or a certificate of  
33 title is required under ORS 803.025 or 803.300, or would be required if the vehicle were not  
34 exempted from registration or certification requirements under ORS 801.026. "Vehicle" does  
35 not include any of the following:

36 (A) A manufactured structure.

37 (B) A snowmobile, as defined in ORS 801.490.

38 (C) A school bus, as defined in ORS 801.460.

39 (D) An ambulance, as defined in ORS 801.115, an emergency vehicle, as defined in ORS  
40 801.260, or other fire apparatus or fire engine.

41 (E) A bicycle, as defined in ORS 801.150.

42 (F) A farm tractor, as defined in ORS 801.265, or a farm trailer, as defined in ORS 801.270,  
43 or other implements of husbandry, as defined in ORS 801.310.

44 (G) Fixed load vehicles, as defined in ORS 801.285, that are subject to ad valorem property  
45 taxation.

1 (H) Golf carts, as defined in ORS 801.295, and similar vehicles described in ORS 803.030  
 2 (13).

3 (I) Road rollers.

4 (J) A trolley.

5 (K) Well drilling machinery.

6 (L) Wheelchairs.

7 (2) A motor or other component part of a vessel, whether or not detachable, is considered  
 8 to be a part of the vessel when sold with the vessel.

9 **SECTION 87. Persons that are retailers of vehicles, vessels or aircraft.** Every person  
 10 making a retail sale of a vehicle, vessel or aircraft is a retailer of the vehicle, vessel or air-  
 11 craft for purposes of the Sales and Use Tax Law, regardless of whether the person is a  
 12 retailer by reason of other provisions of the Sales and Use Tax Law unless another person  
 13 is the retailer, as provided in section 88 of this 2009 Act.

14 **SECTION 88. Sales through certified dealers or dismantlers.** Every person holding a  
 15 certificate as a dealer or a dismantler under ORS chapter 822 is the retailer of a vehicle when  
 16 a retail sale of the vehicle is made through the person and the person provides to the De-  
 17 partment of Transportation a notice of transfer with respect to the vehicle. That person  
 18 shall hold a seller's permit and remit tax to the Department of Revenue with respect to those  
 19 sales in the same manner as a dealer or dismantler making sales on the dealer's or  
 20 dismantler's own account. For purposes of this section, "sale" does not include a lease.

21 **SECTION 89. Sales tax; exemption if seller other than dealer or dismantler.** There are  
 22 exempted from the computation of the amount of the sales tax the gross receipts from sales  
 23 of vehicles required to be registered or titled by the Department of Transportation when the  
 24 retailer is other than a person certified as a dealer or a dismantler under ORS chapter 822.  
 25 However, this exemption does not extend to the rentals payable under a lease of tangible  
 26 personal property.

27 **SECTION 90. Boat trailers.** Notwithstanding section 89 of this 2009 Act, the gross re-  
 28 cepts from the sales of boat trailers by persons in the business of selling boats or boat  
 29 trailers are not exempt from the computation of the amount of sales tax.

30 **SECTION 91. Vessels and aircraft; sellers.** There are exempted from the computation of  
 31 the amount of the sales tax the gross receipts from the sale of a vessel or aircraft when the  
 32 retailer is other than a person required to hold a seller's permit issued under the Sales and  
 33 Use Tax Law by reason of the number, scope and character of the sales by the person of  
 34 vessels or aircraft, as the case may be.

35 **SECTION 92. Seller's permit requirements.** If a person is engaged in the business of  
 36 selling vehicles, vessels or aircraft, the person is not excused from the requirements of the  
 37 Sales and Use Tax Law relating to seller's permits, collection and payment of sales tax or  
 38 any other provision of the Sales and Use Tax Law by reason of the exemptions provided in  
 39 sections 89 and 91 of this 2009 Act.

40 **SECTION 93. Family sales.** There are exempted from the taxes imposed by the Sales and  
 41 Use Tax Law the gross receipts from the sale of, and the storage, use or other consumption  
 42 in this state of, a vehicle, vessel or aircraft, when the person selling the property is either  
 43 by blood, marriage or adoption the parent, grandparent, child or spouse of the purchaser and  
 44 the person selling is not engaged in the business of selling the type of property for which the  
 45 exemption is claimed.

1        **SECTION 94. Substantially same ownership after transfer.** There are exempted from the  
 2 taxes imposed by the Sales and Use Tax Law the gross receipts from the sale of, and the  
 3 storage, use or other consumption in this state of, a vehicle, vessel or aircraft, when such  
 4 property is included in any transfer of 80 percent or more of the tangible personal property,  
 5 in terms of its selling price, held or used in the course of a business activity of the person  
 6 selling the property, and when after such transfer the real or ultimate ownership of such  
 7 property is substantially similar to that which existed before such transfer. For the purposes  
 8 of this section, stockholders, bondholders, partners or other persons holding an interest in  
 9 a corporation or other entity are regarded as having the “real or ultimate ownership” of the  
 10 property of such corporation or other entity.

11        **SECTION 95. Use tax; payment; interest and penalties.** (1) Notwithstanding section 126  
 12 or 127 of this 2009 Act, except when the sale is by lease, the use taxes imposed with respect  
 13 to the storage, use or other consumption in this state of vehicles, vessels and aircraft are  
 14 due and payable by the purchaser at the time the storage, use or other consumption of the  
 15 property first becomes taxable to the Department of Revenue or to the following, whichever  
 16 is applicable:

17        (a) In the case of a vehicle required to be titled or registered, to the Department of  
 18 Transportation before a certificate of title or registration may be issued to the purchaser  
 19 by the Department of Transportation.

20        (b) In the case of a boat that is subject to certification of title, or registration if no  
 21 certificate of title is to be issued, by the State Marine Board pursuant to ORS 830.700 to  
 22 830.870, to the Department of Revenue before it may be certified or registered by the State  
 23 Marine Board.

24        (c) In the case of aircraft subject to registration for the first time to the purchaser by  
 25 the Oregon Department of Aviation pursuant to ORS 837.040 to 837.070, to the Department  
 26 of Revenue before it may be registered by the Oregon Department of Aviation.

27        (2) If the purchaser of a vehicle, boat or aircraft mentioned in subsection (1) of this  
 28 section does not make application for registration or certification to the Department of  
 29 Transportation, the Oregon Department of Aviation or the State Marine Board, whichever  
 30 is applicable, within 30 days after the date of purchase of the vehicle, boat or aircraft, the  
 31 purchaser then becomes liable for a penalty as specified in section 128 (1) of this 2009 Act,  
 32 but no interest shall accrue. However, if the purchaser does not make application for cer-  
 33 tification or registration or does not pay the amount of use tax due within 90 days after the  
 34 date of purchase, or files a return with the Department of Revenue that is not timely, the  
 35 purchaser shall become fully liable for the penalties and interest as provided in section 128  
 36 of this 2009 Act, which shall be collectible by the Department of Revenue or the Department  
 37 of Transportation in the same manner and subject to the same procedures as for other de-  
 38 linquent sales and use taxes. The Department of Transportation shall collect delinquent use  
 39 tax, penalties and interest as provided in this section and section 97 of this 2009 Act with  
 40 respect to any delinquent application for certification of title or registration of a vehicle.

41        (3) Application to the Department of Transportation for certification of title or registra-  
 42 tion of a vehicle accompanied by payment of the use tax by the purchaser relieves the pur-  
 43 chaser of the obligation to file a separate return with the Department of Revenue under  
 44 section 127 of this 2009 Act.

45        **SECTION 96. Presumption on sale to lessee.** There shall be a presumption that a transfer

1 of a vehicle to a lessee by a lessor was a sale for resale if the lessee transfers title and reg-  
 2 istration to a third party within 10 days from the date the lessee acquired title from the  
 3 lessor at the expiration or termination of a lease. The presumption may be rebutted by evi-  
 4 dence that the sale was not for resale prior to use.

5 SECTION 97. Use tax; collection by Department of Transportation; disposition of pro-  
 6 ceeds. (1) Except when the sale is by lease, in the collection of the use tax on motor vehicles  
 7 for which a certificate of title or registration is required, the Department of Transportation  
 8 shall act as collecting agent. The Department of Transportation shall collect the use tax, and  
 9 any penalty or interest that may be due, at the time an applicant applies for the registration  
 10 of, or certification or transfer of title to, the motor vehicle, unless:

11 (a) The applicant exhibits a retailer's receipt showing that the retail sales tax has been  
 12 collected by the retailer;

13 (b) The application is for the renewal of registration;

14 (c) The applicant presents an exemption certificate provided by the Department of Re-  
 15 venue under section 125 of this 2009 Act; or

16 (d) The applicant presents satisfactory evidence showing that the sales tax or the use tax  
 17 has been paid on the vehicle in question.

18 (2) Every applicant for registration or issuance or transfer of certificate of title who is  
 19 subject to payment of the use tax shall declare the value of the vehicle for which application  
 20 is made, which shall consist of the consideration paid or contracted to be paid therefor. No  
 21 person wilfully shall misrepresent or fail to declare such value.

22 (3) The moneys collected by the Department of Transportation under this section shall  
 23 be deposited promptly in the Department of Transportation Driver and Motor Vehicle Sus-  
 24 pense Account established under ORS 802.100 (1). As much as is necessary of the moneys so  
 25 collected is appropriated continuously to the Department of Transportation to pay the ad-  
 26 ministrative expenses of the Department of Transportation in collecting the use tax under  
 27 this section. All moneys in excess of these administrative expenses shall be transferred  
 28 monthly to the Sales Tax Fund established under section 148 of this 2009 Act. At least once  
 29 each month the Department of Transportation shall account to the Department of Revenue  
 30 for all use tax moneys collected and administrative expenses retained under this section. The  
 31 Department of Transportation shall turn over to the Department of Revenue all reports,  
 32 applications and other information required by the Department of Revenue that have been  
 33 obtained in the collection and administration of the use tax on motor vehicles.

34 (4) An applicant who has paid a use tax under this section may apply to the Department  
 35 of Revenue for a refund within the time and in the manner provided under ORS 305.270 if the  
 36 applicant has reason to believe the use tax was not due and owing.

37 (5) The provisions of this section are in addition to any other methods prescribed in the  
 38 Sales and Use Tax Law for the collection of the use tax.

39  
 40 (Exemptions Generally)

41  
 42 SECTION 98. Exemptions must be specific. Notwithstanding any other provision of law,  
 43 no exemption may be made from the sales tax or use tax unless such exemption is provided  
 44 in the Sales and Use Tax Law.

45 SECTION 99. Definition of "exempted from the taxes imposed by the Sales and Use Tax

1 Law. “Exempted from the taxes imposed by the Sales and Use Tax Law,” as used in sections  
2 93, 94 and 100 to 113 of this 2009 Act, means, in the case of the sales tax, exempted from the  
3 computation of the amount of tax imposed.

4 **SECTION 100. Constitutional exemptions; Indians.** (1) There are exempted from the taxes  
5 imposed by the Sales and Use Tax Law those transactions that this state is prohibited from  
6 taxing under the laws or Constitution of the United States or under the Oregon Constitution,  
7 including but not limited to gross receipts derived from contracts in existence prior to the  
8 effective date of this 2009 Act.

9 (2) There are exempted from the taxes imposed by the Sales and Use Tax Law the gross  
10 receipts from the sale, storage, use or consumption of tangible personal property to an In-  
11 dian tribe or Indian enterprise within an Indian reservation.

12 **SECTION 101. Water.** There are exempted from the taxes imposed by the Sales and Use  
13 Tax Law the gross receipts from the sales, furnishing or service of and the storage, use or  
14 other consumption in this state of water. As used in this section, “water” does not include  
15 ice.

16 **SECTION 102. Food products.** (1) There are exempted from the taxes imposed by the  
17 Sales and Use Tax Law the gross receipts from the sale of and the storage, use or other  
18 consumption in this state of food and food ingredients.

19 (2) The exemption under this section does not apply to prepared food.

20 **SECTION 103. Alcoholic beverages taxable.** Notwithstanding ORS 471.725, 471.730 or  
21 471.745 or any other provision of law to the contrary, the taxes imposed by sections 60 and  
22 69 of this 2009 Act apply to the gross receipts from the sale of, or the storage, use or other  
23 consumption of alcoholic beverages.

24 **SECTION 104. Manufacturing machinery and equipment.** There are exempted from the  
25 taxes imposed by the Sales and Use Tax Law the gross receipts from the sale or use of ma-  
26 chinery and equipment used in manufacturing.

27 **SECTION 105. Drugs and medical devices.** There are exempted from the taxes imposed  
28 by the Sales and Use Tax Law the gross receipts from the sale of or the storage, use or other  
29 consumption in this state of drugs, durable medical equipment for home use, mobility en-  
30 hancing equipment and prosthetic devices.

31 **SECTION 106. Animals; feed; seed; fertilizer; farm machinery and equipment.** There are  
32 exempted from the taxes imposed by the Sales and Use Tax Law the gross receipts from sales  
33 of and the storage, use or other consumption of:

34 (1) Animals, feed, seed, plants, fertilizer and pesticides that, or the products of which,  
35 are ordinarily used or for use in commercial, agricultural, horticultural or silvicultural ac-  
36 tivities.

37 (2) Equipment, machinery and implements for use in conducting a farming activity.

38 **SECTION 107. Tobacco.** There are exempted from the taxes imposed by the Sales and Use  
39 Tax Law the gross receipts from the sale of, and the storage, use or other consumption in  
40 this state of, tobacco.

41 **SECTION 108. Motor vehicle and aircraft fuel.** (1) There are exempted from the taxes  
42 imposed by the Sales and Use Tax Law the gross receipts from the sale or distribution and  
43 the storage, use or other consumption in this state of motor vehicle fuel, fuel or aircraft  
44 fuel, the sale, use or other consumption of which in this state is:

45 (a) Subject to tax under ORS 319.010 to 319.430 or 319.510 to 319.880, and not subject to

1 refund; or

2 (b) Exempt from the tax imposed under ORS 319.510 to 319.880 by ORS 825.484 (2).

3 (2) The Department of Transportation shall collect the sales tax upon sales of motor ve-  
 4 hicle fuel, fuel and aircraft fuel that are subject to tax and refund under ORS chapter 319.  
 5 Collection may be accomplished by way of deduction from refunds otherwise allowable under  
 6 ORS chapter 319. For the purpose of establishing gross receipts upon which the sales tax is  
 7 computed, the Department of Transportation shall use estimated average fuel sales prices.  
 8 At the request of a refund claimant, the Department of Transportation may adjust the sales  
 9 tax so computed upon presentation by the claimant of information showing the exact amount  
 10 paid for the fuel upon which refund is claimed. The Department of Transportation shall  
 11 transfer the amount of the sales tax deductions from the appropriate General Fund account  
 12 from which refunds are made under ORS chapter 319. The moneys transferred by the De-  
 13 partment of Transportation under this subsection shall be deposited promptly in the De-  
 14 partment of Transportation Driver and Motor Vehicle Suspense Account established under  
 15 ORS 802.100 (1). As much as is necessary of the moneys so collected is appropriated contin-  
 16 uously to the Department of Transportation to pay the administrative expenses and refunds  
 17 of the Department of Transportation in collecting the sales tax under this subsection. All  
 18 moneys in excess of these administrative expenses and refunds shall be transferred monthly  
 19 to the State Highway Fund. At least once each month the Department of Transportation  
 20 shall account to the Department of Revenue for all sales tax moneys collected under this  
 21 subsection.

22 (3) In accordance with joint rules of the Department of Revenue, the Public Utility  
 23 Commission and the Department of Transportation:

24 (a) Sales tax collected on fuel exempt from the tax imposed under ORS 319.510 to 319.880  
 25 by ORS 825.484 (2) may be offset against taxes imposed under ORS chapter 825 in returns  
 26 made under that chapter. On the 15th day of each month, the Public Utility Commission shall  
 27 certify to the Department of Revenue and the State Treasurer the amount so offset and the  
 28 State Treasurer shall cause that amount to be transferred from the Sales Tax Fund estab-  
 29 lished under section 148 of this 2009 Act to the Motor Carrier Account in the General Fund.

30 (b) Sales tax collected on fuel subject to the tax imposed under ORS 319.010 to 319.430  
 31 or 319.510 to 319.880, and not subject to refund, may be offset against taxes imposed under  
 32 ORS 319.010 to 319.430 or 319.510 to 319.880 in returns made under those statutes. On the 15th  
 33 day of each month, the Department of Transportation shall certify to the Department of  
 34 Revenue and the State Treasurer the amount so offset and the State Treasurer shall cause  
 35 that amount to be transferred from the Sales Tax Fund established under section 148 of this  
 36 2009 Act to the State Highway Fund.

37 SECTION 109. Fuel oil and natural gas, electricity, firewood, coal, nuclear fuel and other  
 38 fuel products and waste by-products. (1) There are exempted from the taxes imposed by the  
 39 Sales and Use Tax Law the gross receipts from the sales, furnishing or service of and the  
 40 storage, use or other consumption in this state of:

41 (a) Fuel oil, natural gas, liquefied petroleum gas, electricity or geothermal resources  
 42 when delivered to consumers through mains, lines, pipes or by tank truck or for purposes  
 43 of residential heating and of exhaust steam, waste steam, heat or resultant energy, produced  
 44 in connection with cogeneration technology.

45 (b) Coal.



1 (c) Firewood.

2 (d) Organic products grown expressly for fuel purposes.

3 (e) Waste by-products from agricultural or forest products operations, municipal refuse  
4 or manufacturing that are delivered in bulk and are used in an industrial facility as a fuel  
5 source in lieu of the use of either oil, natural gas or coal.

6 (f) Nuclear fuel. For purposes of this paragraph, “nuclear fuel” means special nuclear  
7 material and source material used for fueling or refueling nuclear reactors.

8 (2) As used in this section, “cogeneration” means the sequential use of energy for the  
9 production of electrical and useful thermal energy. The sequence can be thermal use followed  
10 by power production or the reverse, subject to the following standards:

11 (a) At least five percent of the cogeneration project’s total annual energy output shall  
12 be in the form of useful thermal energy.

13 (b) Where useful thermal energy follows power production, the useful annual power out-  
14 put plus one-half of the useful annual thermal energy output equals not less than 42.5 per-  
15 cent of any natural gas or oil energy input.

16 SECTION 110. Manufactured structures and floating homes. There are exempted from  
17 the taxes imposed by the Sales and Use Tax Law the gross receipts from the sale, lease or  
18 rental of, and the storage, use or other consumption in this state of, any manufactured  
19 structure or any floating home.

20 SECTION 111. United States Government and instrumentalities. (1) There are exempted  
21 from the taxes imposed by the Sales and Use Tax Law the gross receipts from the sale of  
22 any tangible personal property to:

23 (a) The United States and its unincorporated agencies and instrumentalities;

24 (b) Any incorporated agency or instrumentality of the United States wholly owned by the  
25 United States or by a corporation wholly owned by the United States; or

26 (c) The American Red Cross and its chapters and branches.

27 (2) The exemption provided under this section does not extend to the rentals payable  
28 under a lease of tangible personal property.

29 SECTION 112. United States contractors. A sale of tangible personal property to a con-  
30 tractor purchasing such property, either as the agent of the United States or for the con-  
31 tractor’s own account and subsequent resale to the United States for use in the performance  
32 of a contract with the United States for the construction of improvements on or to real  
33 property in this state, is a retail sale. The gross receipts from the sale or the sales price of  
34 the property so sold shall be included in the measure of the taxes imposed under the Sales  
35 and Use Tax Law.

36 SECTION 113. Cargo containers for use in interstate or foreign commerce. (1) If a cargo  
37 container is purchased for use outside of this state and is delivered by an in-state manufac-  
38 turer to the purchaser within this state, and the purchaser moves the cargo container to  
39 any point outside this state within 30 days after the date of delivery, there are exempted  
40 from the taxes imposed by the Sales and Use Tax Law the gross receipts from the sale of  
41 and the storage, use or other consumption of the cargo container within this state provided  
42 that the purchaser furnishes both of the following to the manufacturer:

43 (a) The purchaser’s affidavit attesting that the purchaser purchased the cargo container  
44 at a specified location for use exclusively outside of this state, or exclusively in interstate  
45 commerce.

1 (b) The purchaser’s affidavit that the cargo container has been moved to a point outside  
 2 this state within 30 days of the date of the delivery of the cargo container to the purchaser.

3 (2) As used in this section, “cargo container” means a receptacle that:

4 (a) Is of a permanent character and accordingly strong enough to be suitable for repeated  
 5 use;

6 (b) Is specially designed to facilitate the carriage of goods, by one or more modes of  
 7 transport, one of which shall be by vessel, without intermediate reloading;

8 (c) Is fitted with devices permitting its ready handling, particularly its transfer from one  
 9 mode of transport to another;

10 (d) Is designed to be easy to fill and empty; and

11 (e) Has a displacement of 1,000 cubic feet or more.

12  
 13 (Exemptions from Sales Tax)

14  
 15 **SECTION 114. Sales to common carriers.** (1) There are exempted from the computation  
 16 of the amount of the sales tax imposed under section 60 of this 2009 Act the gross receipts  
 17 from sales of tangible personal property to a common carrier, shipped by the seller via the  
 18 purchasing carrier under a bill of lading, whether the freight is paid in advance or the ship-  
 19 ment is made freight charges collect, to a point outside this state and the property is actu-  
 20 ally transported to the out-of-state destination for use by the carrier in the conduct of its  
 21 business as a common carrier.

22 (2) As used in this section with respect to water transportation, “common carrier”  
 23 means any person that engages in the business of transporting persons or property for hire  
 24 or compensation and that offers such services indiscriminately to the public or some portion  
 25 of the public and includes any vessel engaged for compensation in transporting persons or  
 26 property in interstate or foreign commerce.

27 (3)(a) There are exempted from the computation of the amount of the sales tax imposed  
 28 under section 60 of this 2009 Act the gross receipts from sales of tangible personal property,  
 29 other than aircraft fuel and petroleum products, purchased by a foreign air carrier and  
 30 transported by the foreign air carrier to a foreign destination for use by the air carrier in  
 31 the conduct of its business as a common carrier by air of persons or property.

32 (b) To qualify for this exemption, the foreign air carrier shall timely furnish to the seller  
 33 a certificate in writing that the property shall be transported and used in the manner de-  
 34 scribed in this subsection. Such certificate shall be substantially in the form prescribed by  
 35 the Department of Revenue. Acceptance in good faith of such a certificate shall relieve the  
 36 seller from liability for the sales tax. The foreign air carrier shall maintain records in this  
 37 state, such as a copy of a bill of lading, an air waybill or cargo manifest, documenting its  
 38 transportation of the tangible personal property to a foreign destination.

39 (4) Pursuant to subsection (3) of this section, any use of the property by the purchasing  
 40 foreign air carrier, other than that incident to delivery of the property to the foreign air  
 41 carrier and the transportation of the property by the carrier to a foreign destination and  
 42 subsequent use in the conduct of its business as a common carrier, or a failure of the foreign  
 43 air carrier to document its transporting the property to a foreign destination, shall subject  
 44 the carrier to liability for payment of sales tax as if it were a retailer making a retail sale  
 45 of the property at the time of such use or failure, and the cost of the property to it shall

1 be deemed to be the gross receipts from such retail sale.

2 (5) "Foreign air carrier," as used in this section, means a foreign air carrier as defined  
 3 in 49 U.S.C. 40102, as amended and in effect on December 31, 2008.

4 (6) Nothing in section 41 or 49 of this 2009 Act shall affect the exemption afforded under  
 5 this section to sales of tangible personal property to a common carrier under the circum-  
 6 stances set forth in this section.

7 **SECTION 115. Sales to water, air or rail carriers.** There are exempted from the taxes  
 8 imposed by section 60 of this 2009 Act the gross receipts from sales of tangible personal  
 9 property, other than tangible personal property described in sections 111 to 125 of this 2009  
 10 Act, for use by the purchaser in connection with the business of operating as a private or  
 11 common carrier by water, air or rail in interstate or foreign commerce. However:

12 (1) Any actual use of such property or services in this state shall be subject to the tax  
 13 imposed by section 69 of this 2009 Act at the time of such actual use; and

14 (2) Charges made by one railroad to another railroad for maintenance and repair of  
 15 jointly owned and used, or singly owned and jointly used, railroad facilities do not constitute  
 16 a sale.

17 **SECTION 116. Occasional sales.** (1) There are exempted from the computation of the  
 18 amount of the sales tax imposed under section 60 of this 2009 Act the gross receipts from  
 19 occasional sales of tangible personal property as described under section 48 (1) of this 2009  
 20 Act. This exemption does not apply to the gross receipts from the sale of, or the storage,  
 21 use or other consumption in this state of, a vehicle, vessel or aircraft as defined in section  
 22 86 of this 2009 Act.

23 (2) This section does not preclude the exemptions granted under section 94 of this 2009  
 24 Act.

25 **SECTION 117. Export packers.** There are exempted from the computation of the amount  
 26 of the sales tax imposed under section 60 of this 2009 Act the gross receipts from sales of  
 27 tangible personal property purchased for use outside the continental limits of the United  
 28 States and delivered to a forwarding agent, export packer or other person engaged in the  
 29 business of preparing goods for export or arranging for their exportation, and actually de-  
 30 livered to a port outside the continental limits of the United States prior to making any use  
 31 thereof.

32 **SECTION 118. Out-of-state contractors.** There are exempted from the computation of the  
 33 amount of the sales tax imposed under section 60 of this 2009 Act the gross receipts from  
 34 the sale in this state of tangible personal property to a seller registered under section 67 of  
 35 this 2009 Act if the property is used by the purchaser outside of this state in the performance  
 36 of a contract to improve real property and, as a result of such use, is incorporated into and  
 37 becomes a part of real property located outside this state. This exemption applies only if the  
 38 purchaser certifies in writing to the seller, in such form as the Department of Revenue may  
 39 prescribe, that the property will be used in a manner and for a purpose specified in this  
 40 section.

41 **SECTION 119. Rentals included in use tax or outside this state.** There are exempted from  
 42 the computation of the amount of the sales tax imposed under section 60 of this 2009 Act the  
 43 rentals payable under a lease of tangible personal property when such rentals are required  
 44 to be included in the measure of the use tax imposed under section 69 of this 2009 Act or  
 45 when such property is situated outside this state.



1 to be registered or titled under the laws of this state, is exempted from the use tax.

2 **SECTION 124. New resident's purchases while nonresident.** The storage, use or other  
 3 consumption in this state of tangible personal property by a bona fide resident of this state  
 4 is exempted from the use tax imposed under section 69 of this 2009 Act if the tangible per-  
 5 sonal property was acquired by the person in another state while a bona fide resident thereof  
 6 primarily for use outside this state and if the use was actual and substantial. If the tangible  
 7 personal property was acquired by the person less than three months prior to the time the  
 8 person entered this state, it is presumed that the tangible personal property was acquired  
 9 for use in this state and that its use outside this state was not actual and substantial.

10  
 11 (Exemption Procedures)

12  
 13 **SECTION 125. Rules; forms.** (1) The Department of Revenue shall adopt rules establishing  
 14 procedures for claiming exemption from sales or use taxes, and may prescribe forms, ex-  
 15 emption certificates or other documentation requirements pertaining to exemptions.

16 (2) Procedures, forms, certificates and other requirements prescribed under subsection  
 17 (1) of this section shall comply with the Streamlined Sales and Use Tax Agreement.

18  
 19 (Returns and Payments)

20  
 21 **SECTION 126. Due date.** The taxes imposed by the Sales and Use Tax Law are due and  
 22 payable to the Department of Revenue as follows:

23 (1) If the taxes may reasonably be expected to be \$500 or less for the entire calendar  
 24 year, the taxes are due and payable to the department not later than the January 31 follow-  
 25 ing the end of the calendar year.

26 (2) If the taxes may reasonably be expected to be more than \$500, but \$5,000 or less for  
 27 the entire calendar year, the taxes are due and payable to the department semiannually not  
 28 later than the last day of the calendar month next following June 30 and December 31.

29 (3) Except for estimated taxes that may be required to be paid under section 127 of this  
 30 2009 Act, if the taxes imposed by the Sales and Use Tax Law may reasonably be expected to  
 31 exceed \$5,000 for the entire calendar year, the taxes are due and payable quarterly not later  
 32 than the 15th day of the calendar month next following the calendar quarter.

33 **SECTION 127. Remittance of funds and filing returns.** (1) The Department of Revenue  
 34 shall prescribe methods for the remittance of sales and use taxes, including but not limited  
 35 to the remittance of estimated taxes. The department shall design sales or use tax return  
 36 forms and prescribe procedures for the filing of sales or use tax returns.

37 (2) Methods of remittance and return forms and procedures shall be in compliance with  
 38 the Streamlined Sales and Use Tax Agreement.

39 **SECTION 128. Delinquencies; penalties.** (1) If a person fails to file a return required un-  
 40 der the Sales and Use Tax Law at the time prescribed for filing, or fails to pay a tax at the  
 41 time the tax becomes due, there shall be added to the amount of tax required to be shown  
 42 on the return a delinquency penalty of five percent of the amount of the tax.

43 (2) If the failure to file a return continues for a period in excess of three months after  
 44 the due date:

45 (a) There shall be added to the amount of tax required to be shown on the return a fail-

1 ure to file penalty of 20 percent of the amount of the tax; and

2 (b) The Department of Revenue may send a notice to the person demanding that the  
 3 person file a return within 30 days of the mailing of the notice. If, after the notice and de-  
 4 mand, no return is filed within 30 days, the department may determine the tax according to  
 5 the best of its information and belief, assess the tax with appropriate penalty and interest,  
 6 plus an additional penalty of 25 percent of the tax deficiency determined by the department,  
 7 and give written notice of the determination and assessment to the person required to make  
 8 the filing.

9 (3) A penalty equal to 100 percent of any deficiency determined by the department shall  
 10 be assessed and collected if:

11 (a) There is a failure to file a return with intent to evade the tax; or

12 (b) A return was falsely prepared and filed with intent to evade the tax.

13 (4) Interest shall be collected on the unpaid tax at the rate established under ORS  
 14 305.220, for each month or fraction of a month, computed from the time the tax became due,  
 15 during which the tax remains unpaid.

16 (5) Each penalty imposed under this section is in addition to any other penalty imposed  
 17 under this section. However, the total amount of penalty imposed under this section with  
 18 respect to any deficiency may not exceed 100 percent of the deficiency.

19 **SECTION 129. Proceeding to compel return.** (1) If a person fails to file a report or return  
 20 required under the Sales and Use Tax Law within 60 days of the time prescribed by any tax  
 21 law administered by the Department of Revenue, the department may petition the Oregon  
 22 Tax Court for an order requiring the person to show cause why the person is not required  
 23 to file the report or return.

24 (2) Within 10 days after the filing of the petition, the tax court shall enter an order di-  
 25 recting the person to appear and show cause why no report or return is required to be filed.  
 26 The petition and order shall be served upon the person in the manner provided by law. Not  
 27 later than 20 days after service, the person shall:

28 (a) File the requested report or return with the department;

29 (b) Request from the tax court an order granting reasonable time within which to file the  
 30 requested report or return with the department; or

31 (c) File with the tax court an answer to the petition showing cause why the report or  
 32 return is not required to be filed.

33 (3) If an answer is filed, the tax court shall set the matter for hearing within 20 days  
 34 after the filing of the answer, and shall determine the matter in an expeditious manner,  
 35 consistent with the rights of the parties.

36 (4) An appeal may be taken to the Supreme Court as provided in ORS 305.445 from an  
 37 order of the tax court made and entered after a hearing and determination under subsection  
 38 (3) of this section.

39 (5) Costs shall be awarded to the prevailing party.

40 **SECTION 130. Penalty; discount; temporary provisions.** Notwithstanding sections 62 (5)  
 41 and 128 of this 2009 Act, no penalty for late filing of a return or late payment of tax due shall  
 42 be assessed and the right of a retailer to retain a percentage of sales tax due may not be  
 43 denied during the six-month period beginning on the operative date of this section.

44 **SECTION 131. Duty to file proper returns.** (1) A retailer or other person may not:

45 (a) Fail to furnish any return required to be made pursuant to the Sales and Use Tax

1 Law;

2 (b) Fail to furnish a supplemental return or other data required by the Department of  
3 Revenue; or

4 (c) Render a false or fraudulent return, report or claim for refund.

5 (2) A person who is required to make, render, sign or verify any return under the Sales  
6 and Use Tax Law may not make a false or fraudulent return or fail to furnish a return with  
7 intent to defeat or evade the determination of an amount due required by law.

8  
9 (Determinations)

10  
11 **SECTION 132. Audits; deficiencies; assessments; refunds; appeals.** The provisions of ORS  
12 chapters 305 and 314 relating to the audits and examinations of returns, periods of limita-  
13 tions, determinations of deficiencies, assessments, liens, delinquencies, claims for refund,  
14 conferences and appeals to the Oregon Tax Court, and the procedures relating thereto, shall  
15 apply to the determinations of taxes, penalties and interest under the Sales and Use Tax  
16 Law, except where the context requires otherwise.

17  
18 (Deficiencies)

19  
20 **SECTION 133. Deficiency determination.** If, under the Sales and Use Tax Law, the De-  
21 partment of Revenue is not satisfied with the return of the tax or the amount of tax required  
22 to be paid to this state by any person, it may compute and determine the amount required  
23 to be paid upon the basis of the facts contained in the return or upon the basis of any in-  
24 formation within its possession or that may come into its possession. One or more deficiency  
25 determinations may be made of the amount due for one or more periods. Notices of defi-  
26 ciency shall be given within the time for giving notices of deficiencies under the various  
27 circumstances described under ORS 314.410. Notices of deficiency shall be given and interest  
28 on deficiencies shall be computed as provided in ORS 305.265. Subject to ORS 314.421 and  
29 314.423, liens for taxes or deficiencies shall arise at the time of assessment, shall continue  
30 until the taxes, interest and penalties are fully satisfied and may be recorded and collected  
31 in the manner provided for the collection of delinquent income taxes.

32  
33 (Collection of Tax)

34  
35 **SECTION 134. Tax as debt.** All taxes, interest and penalties due and unpaid under the  
36 Sales and Use Tax Law shall become, from the time liability is incurred, a personal debt, due  
37 the State of Oregon, from the person or persons liable for the taxes, interest and penalties.

38 **SECTION 135. Jeopardy determination.** If the Department of Revenue believes that any  
39 determination or collection of any sales or use tax or any amount of sales or use tax required  
40 to be collected and paid to the state will be jeopardized by delay, it shall make a determi-  
41 nation of the tax or amount of tax required to be collected, noting that fact upon the de-  
42 termination. The amount determined is immediately due and payable, and the department  
43 shall assess the tax, notify the person and proceed to collect the tax in the same manner and  
44 using the same procedures as for the collection of income taxes under ORS 314.440.

45 **SECTION 136. Warrant for collection.** (1) If any tax imposed under the Sales and Use Tax

1 Law or any portion of the tax is not paid within the time provided by law and no provision  
2 is made to secure the payment of the tax by bond, deposit or otherwise, pursuant to rules  
3 adopted by the Department of Revenue, the department may issue a warrant under its offi-  
4 cial seal directed to the sheriff of any county of this state commanding the sheriff to levy  
5 upon and sell the real and personal property of the taxpayer found within the county, for the  
6 payment of the amount of the tax, with the added penalties, interest and the sheriff's cost  
7 of executing the warrant, and to return the warrant to the department and pay to it the  
8 money collected from the sale, within 60 days after the date of receipt of the warrant.

9 (2) The sheriff shall, within five days after the receipt of the warrant, record with the  
10 clerk of the county a copy of the warrant, and the clerk shall immediately enter in the  
11 County Clerk Lien Record the name of the taxpayer mentioned in the warrant, the amount  
12 of the tax or portion of the tax and penalties for which the warrant is issued and the date  
13 the copy is recorded. The amount of the warrant so recorded shall become a lien upon the  
14 title to and interest in real property of the taxpayer against whom it is issued in the same  
15 manner as a judgment duly docketed. The sheriff immediately shall proceed upon the war-  
16 rant in all respects, with like effect and in the same manner prescribed by law in respect to  
17 executions issued against property upon judgment of a court of record, and shall be entitled  
18 to the same fees for services in executing the warrant, to be added to and collected as a part  
19 of the warrant liability.

20 (3) In the discretion of the department, a warrant of like terms, force and effect may be  
21 issued and directed to any agent authorized to collect the taxes imposed by the Sales and  
22 Use Tax Law. In the execution of the warrant, the agent shall have all the powers conferred  
23 by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses  
24 paid in the performance of such duty.

25 (4) If a warrant is returned not satisfied in full, the department shall have the same  
26 remedies to enforce the claim for taxes against the taxpayer as if the people of this state  
27 had recovered judgment against the taxpayer for the amount of the tax.

28 **SECTION 137. Indian reservations; refund agreements.** (1) The Director of the Depart-  
29 ment of Revenue is authorized to enter into a sales and use tax refund agreement with the  
30 governing body of any Indian reservation in Oregon. The agreement may provide for a mu-  
31 tually agreed upon amount as a refund to the governing body of any sales or use tax collected  
32 under the Sales and Use Tax Law in connection with the sale, use, storage or consumption  
33 of tangible personal property on the Indian reservation. This provision is in addition to other  
34 laws allowing tax refunds.

35 (2) There is annually appropriated to the director, from the suspense account established  
36 under section 147 of this 2009 Act, the amounts necessary to make the refunds provided by  
37 subsection (1) of this section.

38 **SECTION 138. Security.** (1) If the Department of Revenue considers such action neces-  
39 sary to ensure compliance with the Sales and Use Tax Law, it may require any person sub-  
40 ject to the Sales and Use Tax Law to place with the department such security as the  
41 department may determine.

42 (2) The amount of the security shall be fixed by the department but may not be greater  
43 than twice the estimated tax liability of a person for the reporting period under the Sales  
44 and Use Tax Law, determined in such manner as the department considers proper.

45 (3) The limitations provided in this section apply regardless of the type of security placed



1 with the department. The required amount of the security may be increased or decreased  
 2 by the department subject to the limitations provided in this section.

3  
 4 (Administration)

5  
 6 **SECTION 139. Department to administer and enforce Sales and Use Tax Law; rules.** The  
 7 Department of Revenue shall administer and enforce the Sales and Use Tax Law. The de-  
 8 partment shall adopt and enforce rules relating to the administration and enforcement of the  
 9 Sales and Use Tax Law. Notwithstanding any provision of law to the contrary, the Sales and  
 10 Use Tax Law shall be administered in a way that is consistent with the Streamlined Sales  
 11 and Use Tax Agreement.

12 **SECTION 140. Records required.** Every seller, every retailer, every person described un-  
 13 der section 67 of this 2009 Act and every person storing, using or otherwise consuming in this  
 14 state tangible personal property purchased from a retailer shall keep records, receipts, in-  
 15 voices and other pertinent papers in a form that the Department of Revenue may require,  
 16 consistent with the Streamlined Sales and Use Tax Agreement.

17 **SECTION 141. Examination of records.** (1) The Department of Revenue or any person  
 18 authorized in writing by the department may examine, during reasonable business hours, the  
 19 books, papers, records and equipment of any person selling tangible personal property and  
 20 any person liable for the use tax and may investigate the character of the business of the  
 21 person in order to verify the accuracy of any return made, or, if no return is made by the  
 22 person, to ascertain and determine the amount required to be paid. The department may  
 23 require the attendance of any such person and any other person having knowledge of the  
 24 premises, and may take testimony and require proof material for the information, with  
 25 power to administer oaths to such persons. The department may, by order or subpoena, to  
 26 be served with the same force and effect and in the same manner that a subpoena is served  
 27 in a civil action in the circuit court, require the production, at any time and place it may  
 28 designate, of any books, papers, accounts or other information necessary to carry out the  
 29 Sales and Use Tax Law.

30 (2) If any person fails to comply with any subpoena or order of the department or to  
 31 produce or permit the examination or inspection of any books, papers, records or equipment  
 32 pertinent to any investigation or inquiry under this section, or to testify to any matter re-  
 33 garding which the person may be lawfully interrogated, the department may apply to the  
 34 Oregon Tax Court, or to the circuit court for the county in which the person resides, for an  
 35 order to the person to attend and testify or otherwise comply with the demand or request  
 36 of the department. The application to the court shall be by ex parte motion, upon which the  
 37 court shall make an order requiring the person against whom it is directed to comply with  
 38 the request or demand of the department within 10 days after service of the order (or such  
 39 further time as the court may grant) or to justify the failure within that time. The order  
 40 shall be served upon the person to whom it is directed in the manner required by this state  
 41 for service of process, the service of which shall be required to confer jurisdiction upon the  
 42 court. Failure to obey any order issued by the court under this section is contempt of court.  
 43 The remedy provided by this section is in addition to other remedies, civil or criminal, ex-  
 44 isting under the tax laws or other laws of this state.

45 **SECTION 142. Reports required.** (1) In the administration of the use tax, the Department

1 of Revenue may require the filing of reports by any person or class of persons having in their  
 2 possession or custody information relating to sales of tangible personal property, the stor-  
 3 age, use or other consumption of which may be subject to the tax imposed under section 69  
 4 of this 2009 Act.

5 (2) The reports shall be filed when the department requires and must set forth:

6 (a) The names and addresses of purchasers of the tangible personal property;

7 (b) The sales price of the property;

8 (c) The date of sale; and

9 (d) Such other information as the department requires.

10 (3) The department may require reports under this section only if the reports are per-  
 11 mitted to be required under the Streamlined Sales and Use Tax Agreement.

12 **SECTION 143. Divulging particulars of returns prohibited.** Except as otherwise specif-  
 13 ically provided by law, it is unlawful for the Department of Revenue or any officer or em-  
 14 ployee of the department or other person having administrative duty under the Sales and  
 15 Use Tax Law to divulge or make known in any manner the amount of gross receipts or  
 16 purchase price or any particulars set forth or disclosed in any report, return, claim or other  
 17 document required in the administration of the Sales and Use Tax Law. It is unlawful for  
 18 any person or entity to whom information is disclosed or given by the department pursuant  
 19 to section 144 (2) of this 2009 Act or any other provision of state law to divulge or use such  
 20 information for any purpose other than that specified in the provisions of law authorizing  
 21 the use or disclosure. A subpoena or judicial order may not be issued compelling the De-  
 22 partment of Revenue, the Department of Transportation, the State Marine Board, the  
 23 Oregon Department of Aviation or any of their officers or employees, or any person who has  
 24 acquired information pursuant to section 144 (2) of this 2009 Act or any other provision of  
 25 state law to divulge or make known the amount of gross receipts or purchase price or any  
 26 particulars set forth or disclosed in any report, return, claim or other document required in  
 27 the administration of the Sales and Use Tax Law except where the taxpayer's liability for  
 28 sales or use tax is to be adjudicated by the court from which such process issues. As used  
 29 in this section, "officer," "employee" or "person" includes an authorized representative of  
 30 the officer, employee or person, or any former officer, employee or person, or an authorized  
 31 representative of the former officer, employee or person.

32 **SECTION 144. Persons to whom information may be furnished.** (1) The Department of  
 33 Revenue, the Department of Transportation, the State Marine Board and the Oregon De-  
 34 partment of Aviation may:

35 (a) Furnish any taxpayer or authorized representative of the taxpayer, upon request of  
 36 the taxpayer or representative, with a copy of the taxpayer's sales or use tax return filed for  
 37 any reporting period, with a copy of any report filed by the taxpayer in connection with the  
 38 return or with a copy of a sales tax refund claim filed under ORS 305.270.

39 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

40 (c) Publish statistics so classified as to prevent the identification of gross receipts or  
 41 purchase price or any particulars contained in any report or return.

42 (d) Publish lists of retailers or sellers to whom permits have been issued or whose per-  
 43 mits have been suspended or revoked under the Sales and Use Tax Law.

44 (2) The Department of Revenue, the Department of Transportation, the State Marine  
 45 Board and the Oregon Department of Aviation also may disclose and give access to infor-

1 **mation described in section 143 of this 2009 Act to:**

2 **(a) The Governor or the authorized representative of the Governor:**

3 **(A) With respect to an individual who is designated as being under consideration for ap-**  
 4 **pointment or reappointment to an office or for employment in the office of the Governor.**  
 5 **The information disclosed shall be used only for the purpose of making the appointment,**  
 6 **reappointment or decision to employ or not to employ the individual in the office of the**  
 7 **Governor and shall be confined to whether the individual:**

8 **(i) Has filed returns with respect to the taxes imposed by the Sales and Use Tax Law for**  
 9 **those of the not more than three immediately preceding years for which the individual was**  
 10 **required to file an Oregon sales or use tax return.**

11 **(ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice**  
 12 **or otherwise respond to a deficiency notice within 30 days of its mailing.**

13 **(iii) Has been assessed any penalty under the Sales and Use Tax Law and the nature of**  
 14 **the penalty.**

15 **(iv) Has been or is under investigation for possible criminal offenses under the Sales and**  
 16 **Use Tax Law.**

17 **(B) For use by an officer or employee of the Oregon Department of Administrative Ser-**  
 18 **vices duly authorized or employed to prepare revenue estimates, or a person contracting**  
 19 **with the Oregon Department of Administrative Services to prepare revenue estimates, in the**  
 20 **preparation of revenue estimates required for the Governor's budget under ORS 291.201 to**  
 21 **291.226, or required for submission to the Emergency Board or, if the Legislative Assembly**  
 22 **is in session, to the Joint Committee on Ways and Means and to the Legislative Revenue**  
 23 **Officer under ORS 291.342. Any officer, employee or person furnished or granted access to**  
 24 **information under this subparagraph may not remove the information from the premises of**  
 25 **the Department of Revenue, the Department of Transportation, the State Marine Board or**  
 26 **the Oregon Department of Aviation.**

27 **(b) The United States Commissioner of Internal Revenue or authorized representative,**  
 28 **for tax purposes only.**

29 **(c) The proper officer of any state or the District of Columbia, or their authorized rep-**  
 30 **resentatives, for tax purposes only, if the state or district has a provision of law that meets**  
 31 **the requirements of this section and section 143 of this 2009 Act as to confidentiality.**

32 **(d) The Multistate Tax Commission or its authorized representatives, for tax purposes**  
 33 **only. However, the Multistate Tax Commission may make the information available to the**  
 34 **United States Commissioner of Internal Revenue or the proper officer of any state or the**  
 35 **District of Columbia, or their authorized representatives, for tax purposes only, if the state**  
 36 **or district has a provision of law that meets the requirements of this section and section 143**  
 37 **of this 2009 Act as to confidentiality.**

38 **(e) The Attorney General, assistants and employees in the Department of Justice or**  
 39 **other legal representative of the State of Oregon, to the extent the Department of Revenue,**  
 40 **the Department of Transportation, the State Marine Board or the Oregon Department of**  
 41 **Aviation deems disclosure or access necessary for the performance of the duties of advising**  
 42 **or representing the Department of Revenue, the Department of Transportation, the State**  
 43 **Marine Board or the Oregon Department of Aviation pursuant to ORS 180.010 to 180.240 and**  
 44 **the tax laws of this state.**

45 **(f) Employees of the State of Oregon, to the extent the Department of Revenue, the De-**

1 department of Transportation, the State Marine Board or the Oregon Department of Aviation  
 2 deems disclosure or access necessary for the employees to perform their duties under con-  
 3 tracts or agreements between the Department of Revenue, the Department of Transporta-  
 4 tion, the State Marine Board or the Oregon Department of Aviation and any other  
 5 department, division, agency or subdivision of the State of Oregon, in the administration of  
 6 the tax laws.

7 (g) Other persons, partnerships, corporations and other legal entities, and their employ-  
 8 ees, to the extent the Department of Revenue, the Department of Transportation, the State  
 9 Marine Board or the Oregon Department of Aviation deems disclosure or access necessary  
 10 for the performance of the others' duties under contracts or agreements between the De-  
 11 partment of Revenue, the Department of Transportation, the State Marine Board or the  
 12 Oregon Department of Aviation and such legal entities, in the administration of the tax laws.

13 (h) The Legislative Revenue Officer or authorized representatives upon compliance with  
 14 ORS 173.850. The officer or representative may not remove from the premises of the De-  
 15 partment of Revenue, the Department of Transportation, the State Marine Board or the  
 16 Oregon Department of Aviation any materials that would reveal the identity of any taxpayer  
 17 or any other person.

18 (i) The Secretary of State as Auditor of Public Accounts under section 2, Article VI of  
 19 the Oregon Constitution.

20 (3) Each officer or employee of the Department of Revenue, the Department of Trans-  
 21 portation, the State Marine Board or the Oregon Department of Aviation and each person  
 22 described or referred to in subsection (2)(a) or (e) to (i) of this section to whom disclosure  
 23 or access to the tax information is given under subsection (2) of this section or any other  
 24 provision of state law, prior to beginning employment or the performance of duties involving  
 25 the disclosure or access, shall be advised in writing of the provisions of sections 143 and 149  
 26 of this 2009 Act, relating to penalties for the violation of section 143 of this 2009 Act, and  
 27 shall as a condition of employment or performance of duties execute a certificate, in a form  
 28 prescribed by the Department of Revenue, stating in substance that the person has read  
 29 these provisions of law, that the person has had them explained and that the person is aware  
 30 of the penalties for the violation of section 143 of this 2009 Act.

31 **SECTION 145. Publication of statistics.** The Department of Revenue shall prepare and  
 32 publish statistics, reasonably available, with respect to the operation of the Sales and Use  
 33 Tax Law, including amounts collected, classification of taxpayers and other facts considered  
 34 by the department to be pertinent and valuable.

35  
 36 (Disposition of Proceeds)

37  
 38 **SECTION 146. Payments to Department of Revenue.** All fees, taxes, interest and penal-  
 39 ties imposed and all amounts of tax required to be paid to this state under the Sales and Use  
 40 Tax Law, except those collected by the Department of Transportation, shall be paid to the  
 41 Department of Revenue, and upon receipt by the Department of Revenue shall be turned over  
 42 to the State Treasurer, to be disposed of as provided in sections 147 and 148 of this 2009 Act.

43 **SECTION 147. Suspense account.** All moneys received by the Department of Revenue  
 44 under the Sales and Use Tax Law shall be deposited in the State Treasury and credited to a  
 45 suspense account established under ORS 293.445. Refunds, including refunds of erroneous

1 overpayments or refunds of other moneys received under the Sales and Use Tax Law in  
 2 which the department has no legal interest, shall be paid out of the suspense account. After  
 3 payments of refunds, the balance shall be deposited in the Sales Tax Fund established under  
 4 section 148 of this 2009 Act.

5 **SECTION 148. Sales Tax Fund.** (1) The Sales Tax Fund is established in the State Treas-  
 6 ury, separate and distinct from the General Fund. Interest earned by the Sales Tax Fund  
 7 shall be credited to the fund.

8 (2) Moneys in the Sales Tax Fund are dedicated to funding:

9 (a) Kindergarten through grade 12 public education in this state; and

10 (b) The Oregon Health Plan and other health care needs in this state. Moneys may be  
 11 appropriated under the dedication made in this paragraph only for purposes for which federal  
 12 financial participation is available.

13 (3) Notwithstanding subsection (2) of this section, moneys described in section 3a, Article  
 14 IX of the Oregon Constitution, shall be transferred to the State Highway Fund.

15  
 16 (Penalties)

17  
 18 **SECTION 149. Penalties; failure to file proper returns.** (1) If a person or an officer or  
 19 employee of a corporation or a member or employee of a partnership violates section 131  
 20 (1)(a) or (b) of this 2009 Act, the Department of Revenue shall assess against the person a  
 21 civil penalty of not more than \$1,000. The penalty shall be recovered as provided in subsection  
 22 (5) of this section.

23 (2) A person or an officer or employee of a corporation or a member or employee of a  
 24 partnership who violates section 131 (1)(c) or (2) of this 2009 Act is liable to a penalty of not  
 25 more than \$1,000, to be recovered in the manner provided in subsection (5) of this section,  
 26 and is also guilty of a Class C felony.

27 (3) Violation of section 143 of this 2009 Act is a Class C felony. If the offender is an officer  
 28 or employee of this state, the offender shall be dismissed from office and shall be incapable  
 29 of holding any public office in this state for a period of five years thereafter.

30 (4) If any person violates any provision of the Sales and Use Tax Law other than sections  
 31 131 and 143 of this 2009 Act, the department shall assess against the person a civil penalty  
 32 of not more than \$1,000, to be recovered as provided in subsection (5) of this section.

33 (5) Any person against whom a penalty is assessed under this section may appeal to the  
 34 Oregon Tax Court as provided in ORS 305.275. If the penalty is not paid within 10 days after  
 35 the order of the department becomes final, the department may record the order and collect  
 36 the amount assessed in the same manner as income tax deficiencies are recorded and col-  
 37 lected under ORS 314.430.

38 **SECTION 150. Penalties additional to all other penalties.** The penalties provided in section  
 39 149 of this 2009 Act are in addition to all other penalties provided under the Sales and Use  
 40 Tax Law.

41  
 42 MISCELLANEOUS PROVISIONS

43  
 44 **SECTION 151. Sales and use tax in addition to other taxes; local sales tax prohibited.** (1)  
 45 Unless otherwise specifically provided by law, the taxes imposed under the Sales and Use Tax

1 **Law are in addition to and not in lieu of any other taxes or excises imposed by the State of**  
 2 **Oregon or any county, city, district or other municipal corporation or political subdivision**  
 3 **of this state.**

4 (2) **No general retail sales and use tax upon the sale of or the storage, use or consump-**  
 5 **tion of tangible personal property shall be imposed by any county, city, district or other**  
 6 **municipal corporation or political subdivision of this state.**

7  
 8 (Conforming Changes)  
 9

10 **SECTION 152.** ORS 305.130 is amended to read:

11 305.130. (1) The Department of Revenue may be made a party in any action in any court of this  
 12 state or of the United States having jurisdiction of the subject matter to quiet title to, to remove  
 13 a cloud from the title to, or for the foreclosure of a mortgage or other lien upon, any real property  
 14 or personal property, or both, upon which the State of Oregon has or claims to have a lien under  
 15 ORS 311.673, 311.679, 311.771, 314.430 or 321.570 or ORS chapter 323 **or the Sales and Use Tax**  
 16 **Law**, and the judgment in such action shall be conclusive and binding upon the State of Oregon and  
 17 such department.

18 (2) The complaint in such action shall set forth with particularity the nature of any such lien  
 19 had or claimed by the State of Oregon. The summons in such action, together with a copy of the  
 20 complaint therein, shall be served on such department in the manner prescribed by ORCP 7 D(3)(d),  
 21 and such summons shall require such department to appear and answer the complaint within 60 days  
 22 from the date of such service.

23 **SECTION 153.** ORS 305.140 is amended to read:

24 305.140. (1) Any person having an interest in or lien upon any real property may request the  
 25 Department of Revenue in writing to release such real property from a cloud on the title of or lien  
 26 on such property existing, created or continued under any one or more of the following:

27 (a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section 136 of this 2009 Act;**  
 28 or

29 (b) The provisions of ORS 311.673, 311.679, 311.689, 311.711 or 311.771.

30 (2) If, upon a request under subsection (1) of this section, the department finds that a sale of  
 31 such real property would not result in satisfaction in whole or in part of the taxes due, it shall ex-  
 32 ecute a release of such cloud or lien upon such property, and such release shall be conclusive evi-  
 33 dence of the removal and extinguishment of such cloud or lien in respect of such real property.

34 (3) In addition to the release of cloud or lien provided for in subsection (1) of this section, the  
 35 department may execute releases on part or all of any real property in the following cases, which  
 36 releases shall be conclusive evidence of the removal and extinguishment of such cloud or lien:

37 (a) If the department finds that liability for the amount assessed, together with all interest  
 38 thereon and penalties and costs in respect thereof, has been satisfied;

39 (b) If the department finds that the fair market value of that part of the property remaining  
 40 subject to the cloud or lien is at least double the amount of the liability remaining unsatisfied in  
 41 respect of such tax and the amount of all prior liens upon the property;

42 (c) If there is supplied to the department either an irrevocable letter of credit issued by an in-  
 43 sured institution as defined in ORS 706.008 or a bond, in such form and with such surety as the  
 44 department considers sufficient, conditioned upon the payment of the amount of the warrant, to-  
 45 gether with all interest in respect thereof, within 60 days after the issuance of the release; or

1 (d) If there is paid to the department in partial satisfaction of the amount of the warrant pro-  
 2 vided for in ORS 314.430, 321.570 or 323.610 **or section 136 of this 2009 Act** or the amount of any  
 3 lien under ORS 311.673, 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as  
 4 determined by the department, of the lien of the State of Oregon upon the part of the property so  
 5 to be released. In determining such value the department shall give consideration to the fair market  
 6 value of the part of the property so to be released and to such liens thereon as have priority to the  
 7 lien of the State of Oregon.

8 **SECTION 154.** ORS 305.265 is amended to read:

9 305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports  
 10 or returns of tax or tax liability including claims under ORS 310.630 to 310.706 **and the Sales and**  
 11 **Use Tax Law**, filed with the Department of Revenue under the revenue and tax laws administered  
 12 by it, except those filed under ORS 320.005 to 320.150.

13 (2) As soon as practicable after a report or return is filed, the department shall examine or audit  
 14 it, if required by law or the department deems such examination or audit practicable. If the de-  
 15 partment discovers from an examination or an audit of a report or return or otherwise that a defi-  
 16 ciency exists, it shall compute the tax and give notice to the person filing the return of the  
 17 deficiency and of the department's intention to assess the deficiency, plus interest and any appro-  
 18 priate penalty. Except as provided in subsection (3) of this section, the notice shall:

19 (a) State the reason for each adjustment;

20 (b) Give a reference to the statute, regulation or department ruling upon which the adjustment  
 21 is based; and

22 (c) Be certified by the department that the adjustments are made in good faith and not for the  
 23 purpose of extending the period of assessment.

24 (3) When the notice of deficiency described in subsection (2) of this section results from the  
 25 correction of a mathematical or clerical error and states what would have been the correct tax but  
 26 for the mathematical or clerical error, such notice need state only the reason for each adjustment  
 27 to the report or return.

28 (4) With respect to any tax return filed under ORS chapter 314, 316, 317 or 318, deficiencies  
 29 shall include but not be limited to the assertion of additional tax arising from:

30 (a) The failure to report properly items or amounts of income subject to or which are the  
 31 measure of the tax;

32 (b) The deduction of items or amounts not permitted by law;

33 (c) Mathematical errors in the return or the amount of tax shown due in the records of the de-  
 34 partment; or

35 (d) Improper credits or offsets against the tax claimed in the return.

36 (5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right  
 37 to make written objections, the person's right to request a conference and the procedure for re-  
 38 questing a conference. The statement, and an accompanying form, shall also explain that conference  
 39 determinations are routinely transmitted via regular mail and that a person desiring to have con-  
 40 ference determinations transmitted by certified mail may do so by indicating on the form the per-  
 41 son's preference for certified mail and by returning the form with the person's written objections  
 42 as described in paragraph (b) of this subsection.

43 (b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay  
 44 the deficiency with interest computed to the date of payment and any penalty proposed. Or within  
 45 that time the person shall advise the department in writing of objections to the deficiency, and may

1 request a conference with the department, which shall be held prior to the expiration of the one-year  
2 period set forth in subsection (7) of this section.

3 (6) If a request for a conference is made, the department shall notify the person of a time and  
4 place for conference and appoint a conference officer to meet with the person for an informal dis-  
5 cussion of the matter. After the conference, the conference officer shall send the determination of  
6 the issues to the person. The determination letter shall be sent by regular mail, or by certified mail  
7 if the person given notice has indicated a preference for transmission of the determination by cer-  
8 tified mail. The department shall assess any deficiency in the manner set forth in subsection (7) of  
9 this section. If no conference is requested and written objections are received, the department shall  
10 make a determination of the issues considering such objections, and shall assess any deficiency in  
11 the manner provided in subsection (7) of this section. The failure to request or have a conference  
12 shall not affect the rights of appeal otherwise provided by law.

13 (7) If neither payment nor written objection to the deficiency is received by the department  
14 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-  
15 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating  
16 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within  
17 one year from the date of the notice of deficiency unless an extension of time is agreed upon as  
18 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

19 (8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section  
20 for giving of notice of assessment, the department and the person consent in writing to the defi-  
21 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed  
22 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be  
23 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

24 (9) The failure to hold a requested conference within the one-year period prescribed in sub-  
25 section (5) of this section shall not invalidate any assessment of deficiency made within the one-year  
26 period pursuant to subsection (7) of this section or within any extension of time made pursuant to  
27 subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable  
28 to the deficiency. After an assessment has been made, the department and the person assessed may  
29 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day  
30 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-  
31 nation of the issues.

32 (10)(a) In the case of a failure to file a report or return on the date prescribed therefor (deter-  
33 mined with regard to any extension for filing), the department shall determine the tax according to  
34 the best of its information and belief, assess the tax plus appropriate penalty and interest, and give  
35 written notice of the failure to file the report or return and of the determination and assessment to  
36 the person required to make the filing. The amount of tax shall be reduced by the amount of any  
37 part of the tax which is paid on or before the date prescribed for payment of the tax and by the  
38 amount of any credit against the tax which may be lawfully claimed upon the return.

39 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent al-  
40 lowed by rules adopted by the department, the department may accept the filing of a report or re-  
41 turn submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

42 (c) The department may reject a report or return:

43 (A) That is not verified as required by ORS 305.810;

44 (B) That the department determines is not true and correct as to every material matter as re-  
45 quired by ORS 305.815; or



1 (C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report  
2 or return.

3 (d) If the department rejects a report or return of a person assessed a tax under paragraph (a)  
4 of this subsection, the department shall issue a notice of rejection to the person. The person may  
5 appeal the rejection to the magistrate division of the Oregon Tax Court only if:

6 (A) The report or return was filed within 90 days of the date the department's assessment under  
7 paragraph (a) of this subsection was issued; and

8 (B) The appeal is filed within 90 days of the date shown on the notice of rejection.

9 (e) If the person assessed under paragraph (a) of this subsection submits a report or return to  
10 the department and appeals the assessment to the tax court, the department may request a stay of  
11 action from the court pending review of the report or return. If the department:

12 (A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

13 (B) Rejects the report or return, the stay of action on the appeal shall be lifted.

14 (f) If the department accepts the filing of a report or return, the department may reduce the  
15 assessment issued under paragraph (a) of this subsection. A report or return filed under this sub-  
16 section that is accepted by the department, whether or not the assessment has been reduced, shall  
17 be considered a report or return described in subsection (1) of this section and shall be subject to  
18 the provisions of this section, including but not limited to examination and adjustment pursuant to  
19 subsection (2) of this section.

20 (g) The department may refund payments made with respect to a report or return filed and ac-  
21 cepted pursuant to this subsection. If the report or return is filed within three years of the due date  
22 for filing the report or return, excluding extensions, the refund shall be made as provided by ORS  
23 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing  
24 the report or return, excluding extensions, the refund shall be limited to payments received within  
25 the two-year period ending on the date the report or return is received by the department and  
26 payments received after the date the report or return is received by the department. Interest shall  
27 be paid at the rate established under ORS 305.220 for each month or fraction of a month from the  
28 date the report or return is received by the department to the time the refund is made.

29 (11) Mailing of notice to the person at the person's last-known address shall constitute the giv-  
30 ing of notice as prescribed in this section.

31 (12) If a return is filed with the department accompanied by payment of less than the amount  
32 of tax shown on or from the information on the return as due, the difference between the tax and  
33 the amount submitted is considered as assessed on the due date of the report or return (determined  
34 with regard to any extension of time granted for the filing of the return) or the date the report or  
35 return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or  
36 from the information on the return as due shall be reduced by the amount of any part of the tax that  
37 is paid on or before the due date prescribed for payment of the tax, and by any credits against the  
38 tax that are claimed on the return. If the amount required to be shown as tax on a return is less  
39 than the amount shown as tax on the return, this subsection shall be applied by substituting the  
40 lesser amount.

41 (13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each  
42 month or fraction of a month computed from the due date of the return to date of payment. If the  
43 return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent  
44 of the deficiency shall be assessed and collected. All payments received shall be credited first to  
45 penalty, then to interest accrued, and then to tax due.

1 (14) If the deficiency is paid in full before a notice of assessment is issued, the department is  
 2 not required to send a notice of assessment, and the tax shall be considered as assessed as of the  
 3 date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid,  
 4 whichever is the later. A partial payment of the deficiency shall constitute only a credit to the ac-  
 5 count of the person assessed. Assessments and billings of taxes shall be final after the expiration  
 6 of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under  
 7 ORS 305.280 (3) following payment of the tax.

8 (15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this  
 9 chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest as-  
 10 sessed.

11 **SECTION 155.** ORS 305.270 is amended to read:

12 305.270. (1) If the amount of the tax shown as due on a report or return originally filed with the  
 13 Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314,  
 14 316, 317, 318 or 321 **or the Sales and Use Tax Law**, or collected pursuant to ORS 305.620, or as  
 15 corrected by the department, is less than the amount theretofore paid, or if a person files a claim  
 16 for refund of any tax paid to the department under such laws within the period specified in sub-  
 17 section (2) of this section, any excess tax paid shall be refunded by the department with interest as  
 18 provided in this section and ORS 314.415.

19 (2) The claim shall be made on a form prescribed by the department, except that an amended  
 20 report or return showing a refund due and filed within the time allowed by this subsection for the  
 21 filing of a claim for refund, shall constitute a claim for refund. The claim shall be filed within the  
 22 period specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310, 314, 316, 317 [*and*]  
 23 **or 318 or the Sales and Use Tax Law**, or collected pursuant to ORS 305.620 (except where any  
 24 applicable ordinance specifies another period), within the period specified in ORS 118.100 (2) for  
 25 taxes imposed under ORS chapter 118 and within two years of the payment of any tax under ORS  
 26 chapter 308, 308A or 321.

27 (3) Upon receipt of a claim for refund, or original report or return claiming a refund, the de-  
 28 partment shall either refund the amount requested or send to the claimant a notice of any proposed  
 29 adjustment to the refund claim, stating the basis upon which the adjustment is made. A proposed  
 30 adjustment may either increase or decrease the amount of the refund claim or result in the finding  
 31 of a deficiency. If the proposed adjustment results in a determination by the department that some  
 32 amount is refundable, the department may send the claimant the adjusted amount with the notice.

33 (4)(a) The notice of proposed adjustment shall be accompanied by a statement explaining the  
 34 claimant's right to make written objections to the refund adjustment, the claimant's right to request  
 35 a conference and the procedure for requesting a conference. The statement, and an accompanying  
 36 form, shall also explain that conference determinations are routinely transmitted via regular mail  
 37 and that a claimant desiring to have conference determinations transmitted by certified mail may  
 38 do so by indicating on the form the claimant's preference for certified mail and by returning the  
 39 form with the claimant's written objections as described in paragraph (b) of this subsection.

40 (b) The claimant may, within 30 days of the date of the notice of proposed adjustment, advise  
 41 the department in writing of objections to the refund adjustment and may request a conference with  
 42 the department, which shall be held within one year of the date of the notice. The department shall  
 43 notify the claimant of a time and place for the conference, and appoint a conference officer to meet  
 44 with the claimant for an informal discussion of the claim. After the conference, the conference offi-  
 45 cer shall send a determination of the matter to the claimant. The determination letter shall be sent

1 by regular mail, or by certified mail if the claimant has indicated a preference for transmission of  
2 the determination by certified mail. The department shall issue either a notice of refund denial or  
3 payment of any amount found to be refundable, together with any applicable interest provided by  
4 this section. If the conference officer determines that a deficiency exists, the department shall issue  
5 a notice of assessment.

6 (5) If no conference is requested, and the adjustments have not resulted in the finding of a de-  
7 ficiency, the following shall apply:

8 (a) If written objections have been made by the claimant, the department shall consider the ob-  
9 jections, determine any issues raised and send the claimant a notice of refund denial or payment of  
10 any amount found to be refundable, together with any interest provided by this section.

11 (b) If no written objections are made, the notice of any proposed adjustment shall be final after  
12 the period for requesting a conference or filing written objections has expired.

13 (6) If no conference is requested, and the notice of proposed adjustment has asserted a defi-  
14 ciency, the department shall consider any objections made by the person denied the refund, make  
15 a determination of any issues raised, pay any refunds found due, with applicable interest, or assess  
16 any deficiency and mail a notice thereof within one year from the date of the notice of deficiency,  
17 unless an extension of time is agreed upon as described in subsection (7) of this section.

18 (7) If, prior to the expiration of any period of time prescribed in subsection (6) of this section  
19 for giving of notice of assessment, the department and the person consent in writing to the defi-  
20 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed  
21 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be  
22 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

23 (8) If the department refunds the amount requested as provided in subsection (3) of this section,  
24 without examination or audit of the refund claim, the department shall give notice of this to the  
25 claimant at the time of making the refund. Thereafter, the department shall have one year in which  
26 to examine or audit the refund claim, and send the notice of proposed adjustment provided for in  
27 subsection (3) of this section, in addition to any time permitted in ORS 314.410 or 314.415.

28 (9) The failure to hold a requested conference within the one-year period prescribed in sub-  
29 section (4) of this section shall not invalidate any assessment of deficiency made within the one-year  
30 period pursuant to subsection (8) of this section or within any extension of time made pursuant to  
31 subsection (7) of this section, but shall invalidate any assessment of interest or penalties attributable  
32 to the deficiency. After an assessment has been made, the department and the person assessed may  
33 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day  
34 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-  
35 nation of the issues.

36 (10) The claimant may appeal any notice of proposed adjustment, refund denial or notice of as-  
37 sessment in the manner provided in ORS 305.404 to 305.560. The failure to file written objections  
38 or to request or have a conference shall not affect the rights of appeal so provided. All notices and  
39 determinations shall set forth rights of appeal.

40 **SECTION 156.** ORS 305.280 is amended to read:

41 305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2)  
42 shall be filed within 90 days after the act, omission, order or determination becomes actually known  
43 to the person, but in no event later than one year after the act or omission has occurred, or the  
44 order or determination has been made. An appeal under ORS 308.505 to 308.665 shall be filed within  
45 90 days after the date the order is issued under ORS 308.584 (3). An appeal from a supervisory order

1 or other order or determination of the Department of Revenue shall be filed within 90 days after the  
 2 date a copy of the order or determination or notice of the order or determination has been served  
 3 upon the appealing party by mail as provided in ORS 306.805.

4 (2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial  
 5 issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308,  
 6 308A, 310, 314, 316, 317, 318, 321 or this chapter **or the Sales and Use Tax Law**, or collected pur-  
 7 suant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a  
 8 proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of  
 9 adjustment is final.

10 (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes  
 11 imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the  
 12 amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

13 (4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter  
 14 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of  
 15 property tax appeals shall be filed within 30 days after the date of the notice of the determination  
 16 made by the department or date of mailing of the order, date of publication of notice of the order  
 17 or date of mailing of the notice of the order to the taxpayer, whichever is applicable.

18 (5) If the tax court denies an appeal made pursuant to this section on the grounds that it does  
 19 not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a  
 20 written decision rejecting the petition and shall set forth in the decision the reasons the tax court  
 21 considered the appeal to be defective.

22 **SECTION 157.** ORS 305.565 is amended to read:

23 305.565. (1) Except as provided in subsection (2) of this section, proceedings for the collection  
 24 of any taxes, interest or penalties resulting from an assessment of additional taxes imposed by ORS  
 25 chapter 118, 310, 314, 316, 317, 318, 321 or this chapter **or the Sales and Use Tax Law** shall be  
 26 stayed by the taking or pendency of any appeal to the tax court.

27 (2) Notwithstanding subsection (1) of this section, the Department of Revenue may proceed to  
 28 collect any taxes, interest or penalties described in subsection (1) of this section if the department  
 29 determines that collection will be jeopardized if collection is delayed or that the taxpayer has taken  
 30 a frivolous position in the appeal. For purposes of this subsection:

31 (a) Collection of taxes, interest or penalties will be jeopardized if the taxpayer designs quickly  
 32 to depart from the state or to remove the taxpayer's property from the state, or to do any other act  
 33 tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax.

34 (b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS  
 35 316.992 (5).

36 (3) No proceeding for the apportionment, levy or collection of taxes on any property shall be  
 37 stayed by the taking or pendency of any appeal to the tax court, or from an order of the county  
 38 board of property tax appeals or the Oregon Tax Court, unless the assessor or tax collector either  
 39 as a party to the suit or an intervenor, requests a stay and it appears to the satisfaction of the court  
 40 that a substantial public interest requires the issuance of a stay.

41 (4) The tax court may, as a condition of a stay, require the posting of a bond sufficient to  
 42 guarantee payment of the tax. Payment of taxes while appeal is pending shall not operate as a  
 43 waiver of the appeal or of a right to refund of taxes found to be excessively charged or assessed.

44 **SECTION 158.** ORS 305.850 is amended to read:

45 305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 and 305.610, the Direc-

1 tor of the Department of Revenue may engage the services of a collection agency to collect any  
 2 taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by  
 3 ORS chapter 118, 310, 314, 316, 317, 318, 321 or 323 or ORS 320.005 to 320.150 **or the Sales and**  
 4 **Use Tax Law** and any other tax laws administered by the Department of Revenue. The director may  
 5 engage the services of a collection agency by entering into an agreement to pay reasonable charges  
 6 on a contingent fee or other basis.

7 (2) The director shall cause to be collected, in the same manner as provided in subsection (1)  
 8 of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected  
 9 pursuant to this subsection shall be credited as provided in ORS 293.250.

10 (3) The director may assign to the collection agency, for collection purposes only, any of the  
 11 taxes, penalties, interest and moneys due the state.

12 (4) The collection agency may bring such action or take such proceedings, including but not  
 13 limited to attachment and garnishment proceedings, as may be necessary.

14 **SECTION 159.** ORS 305.895 is amended to read:

15 305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the  
 16 Department of Revenue shall take no action against a taxpayer's real or personal property before  
 17 issuing a warrant for the collection of the tax as provided in ORS 314.430, 320.080, 321.570 and  
 18 324.190 **and section 136 of this 2009 Act.**

19 (2) Prior to issuing a warrant for collection of any tax collected by the department, the depart-  
 20 ment shall send the taxpayer a written notice and demand for payment. The notice shall:

21 (a) Be sent by mail, addressed to the taxpayer at the taxpayer's last-known address.

22 (b) Inform the taxpayer that if the tax or any portion of the tax is not paid within 30 days after  
 23 the date of the notice and demand for payment, a warrant may be issued and recorded as provided  
 24 in ORS 314.430, 320.080, 321.570 and 324.190 **and section 136 of this 2009 Act.**

25 (c) Describe in clear nontechnical terms the legal authority for the warrant.

26 (d) Contain the name, office mailing address and office telephone number of the person issuing  
 27 the warrant and advise the taxpayer that questions or complaints concerning the warrant, other  
 28 than liability for the underlying tax, may be directed to that person.

29 (e) Include alternatives available to the taxpayer which would prevent issuance of the warrant.

30 **SECTION 160.** ORS 731.840 is amended to read:

31 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and  
 32 731.859, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter 317,  
 33 is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes  
 34 measured by income that might otherwise be imposed upon the foreign or alien insurer except the  
 35 fire insurance premiums tax imposed under ORS 731.820 and the tax imposed upon wet marine and  
 36 transportation insurers under ORS 731.824 and 731.828. However, all real and personal property, if  
 37 any, of the insurer shall be listed, assessed and taxed the same as real and personal property of like  
 38 character of noninsurers. Nothing in this subsection shall be construed to preclude the imposition  
 39 of the assessments imposed under ORS 656.612 upon a foreign or alien insurer.

40 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity  
 41 as such.

42 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien  
 43 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS  
 44 731.824 and 731.828.

45 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,

1 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers  
 2 and their insurance producers and other representatives as such, and:

3 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-  
 4 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any  
 5 such tax, license or fee; except that whenever a county, city, district or other political subdivision  
 6 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing  
 7 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or  
 8 imposed upon domestic insurers; and

9 (b) No county, city, district, political subdivision or agency in this state shall require of any  
 10 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-  
 11 ance Code, any additional authorization, license, or permit of any kind for conducting therein  
 12 transactions otherwise lawful under the authority or license granted under this code.

13 **(5) Every foreign, alien or domestic insurer or health or legal care service contractor not**  
 14 **subject to the tax upon its premiums as required by ORS 731.808 to 731.828 or who issues**  
 15 **policies the premiums from which are not subject to the gross premiums tax and every for-**  
 16 **foreign, alien or domestic insurer or health or legal care service contractor subject to the gross**  
 17 **premiums tax is not subject to the taxes imposed by sections 60 and 69 of this 2009 Act with**  
 18 **respect to its sales or purchases of insurance. However, this subsection does not exempt an**  
 19 **insurer or health or legal care service contractor from the taxes imposed by section 60 or**  
 20 **69 of this 2009 Act upon its retail sales or purchases of tangible personal property.**

21 **SECTION 161.** ORS 801.040 is amended to read:

22 801.040. This section describes circumstances where special provisions are made concerning the  
 23 authority of cities, counties or other political subdivisions in relation to some portion of the vehicle  
 24 code. This section is not the only section of the vehicle code that applies to such authority and shall  
 25 not be interpreted to affect the vehicle code except as specifically provided in this section. The  
 26 following limits are partial or complete as described:

27 (1) No county, municipal or other local body with authority to adopt and administer local police  
 28 regulations under the Constitution and laws of this state shall enact or enforce any rule or regu-  
 29 lation in conflict with the provisions of the vehicle code described in this subsection except as spe-  
 30 cifically authorized in the vehicle code. This subsection applies to the provisions of the vehicle code  
 31 relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the  
 32 manner of operation of vehicles and use of roads by persons, animals and vehicles.

33 (2) Except as provided in ORS 822.230 and this subsection, no city, county or other political  
 34 subdivisions shall regulate or require or issue any registration, licenses, permits or surety bonds or  
 35 charge any fee for the regulatory or surety registration of any person required to obtain a certif-  
 36 icate from the Department of Transportation under ORS 822.205. This subsection does not:

37 (a) Limit any authority of a city or county to license and collect a general and  
 38 nondiscriminatory license fee levied upon all businesses or to levy a tax based upon business con-  
 39 ducted by any person within the city or county.

40 (b) Limit the authority of any city or county to impose any requirements or conditions as part  
 41 of any contract to perform towing or recovering services for the city or county.

42 (c) Limit the authority of any city or county to impose requirements and conditions that govern  
 43 the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and  
 44 conditions are consistent with the provisions of ORS 822.230.

45 (3) No city, county or other political subdivision of this state, nor any state agency, may adopt

1 a regulation or ordinance that imposes a special fee for the use of public lands or waters by  
2 snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by  
3 or under the jurisdiction of either the United States, this state or any such city, county or other  
4 political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal  
5 property [or excise] tax imposed on snowmobiles by this state or any political subdivision. No city,  
6 county or other municipality, and no state agency shall impose any other registration or license fee  
7 on any snowmobile in this state. This subsection does not prohibit any city, county or other political  
8 subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain  
9 vehicles on public lands, waters and other properties under its jurisdiction and on streets or high-  
10 ways within its boundaries by adopting regulations or ordinances of its governing body if such reg-  
11 ulations are not inconsistent with ORS 821.150 to 821.292.

12 (4) The provisions of ORS 819.100, 819.120, 819.150, 819.160, 819.210 to 819.260 and 819.480 re-  
13 lating to removal of vehicles that are abandoned establish minimum requirements subject to the  
14 following:

15 (a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may super-  
16 sede such provisions by ordinance or charter provision.

17 (b) Any road authority described under ORS 810.010 may adopt rules or procedures that do not  
18 conflict with such provisions to provide for additional protection for the owner or person with an  
19 interest in a vehicle subject to such provisions or that more quickly accomplish the procedures es-  
20 tablished under such provisions.

21 (5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an  
22 accident file with a designated city department a copy of any report required to be filed under ORS  
23 811.725. All such reports shall be for the confidential use of the city department but subject to the  
24 same requirements for release of such reports as provided for the release of such reports by the  
25 department under ORS 802.220 and 802.240.

26 (6) Except as otherwise specifically provided in this section, in accordance with the provisions  
27 of ORS 801.041, the governing body of a county may establish by ordinance registration fees for  
28 vehicles registered at a residence or business address within the county.

29 (7) Except as otherwise specifically provided in this section, in accordance with the provisions  
30 of ORS 801.042, the governing body of a district may establish by ordinance registration fees for  
31 vehicles registered at a residence or business address within the district.

32 **SECTION 162.** ORS 802.110 is amended to read:

33 802.110. Any procedures the Department of Transportation establishes for financial adminis-  
34 tration of those functions of the department dealing with driver and motor vehicle services and for  
35 the disposition and payment of moneys it receives from the provision of driver and motor vehicle  
36 services shall comply with all of the following:

37 (1) The department shall deposit all moneys it receives related to driver and motor vehicle ser-  
38 vices in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved  
39 expenses and disbursements before payment of general administrative expenses of the department related  
40 to the provision of driver and motor vehicle services. Notwithstanding this subsection, the depart-  
41 ment may return a bank check or money order when received in incorrect or incomplete form or  
42 when not accompanied by the proper application, **unless the check or money order is presented**  
43 **in partial or complete payment of the use tax, as defined in section 57 of this 2009 Act. Any**  
44 **bank check or money order received by the department that is in any part presented for**  
45 **payment of sales or use tax liability pursuant to section 95, 97 or 108 of this 2009 Act shall**

1 **be retained by the department. A receipt shall be given for the retained check or money or-**  
 2 **der.**

3 (2) The department shall pay the following approved expenses and disbursements from the Depart-  
 4 ment of Transportation Driver and Motor Vehicle Suspense Account before payment of the general  
 5 administrative expenses of the department related to driver and motor vehicle services:

6 (a) Refunds authorized by any statute administered by the department when such refunds are  
 7 approved by the department.

8 (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carry-  
 9 ing out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and  
 10 Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417  
 11 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

12 (c) After deduction of expenses of collection, transfer and administration, the department shall  
 13 pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040,  
 14 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The  
 15 moneys deposited in the Student Driver Training Fund under this paragraph are continuously ap-  
 16 propriated to the department for the following purposes:

17 (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver  
 18 Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805,  
 19 336.810 (2) and 336.815.

20 (B) The remaining moneys, for reimbursing school districts as provided under ORS 336.805.

21 (d) After deduction of expenses of collection, transfer and administration, the department shall  
 22 pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treas-  
 23 urer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys  
 24 paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

25 (e) After deduction of expenses for the administration of the issuance of customized registration  
 26 plates under ORS 805.240, the department shall place moneys received from the sale of customized  
 27 registration plates in the Passenger Rail Transportation Account. The moneys placed in the account  
 28 are continuously appropriated to the department and shall be used for the payment of expenses in-  
 29 curred in administering passenger rail programs.

30 (f) After deduction of expenses of collection, transfer and administration, the department shall  
 31 pay moneys from any registration fees established by the governing bodies of counties or a district,  
 32 as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts.  
 33 The department shall make the payments on at least a monthly basis unless another basis is estab-  
 34 lished by the intergovernmental agreements required by ORS 801.041 and 801.042 between the de-  
 35 partment and the governing bodies of a county or a district.

36 (g) After deducting the expenses of the department in collecting and transferring the moneys,  
 37 the department shall make disbursements and payments of moneys collected for or dedicated to any  
 38 other purpose or fund except the State Highway Fund, including but not limited to, payments to the  
 39 Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

40 **(h) After deducting the expenses of the department in collecting the use tax, as defined**  
 41 **in section 57 of this 2009 Act, the department shall transfer the use tax moneys collected**  
 42 **under section 97 of this 2009 Act to the State Highway Fund.**

43 (3) The department shall refund from the Department of Transportation Driver and Motor Ve-  
 44 hicle Suspense Account any excess or erroneous payment to a person who made the payment or to  
 45 the person's legal representative when the department determines that money has been received by



1 it in excess of the amount legally due and payable or that it has received money in which it has  
 2 no legal interest. Refunds payable under this subsection are continuously appropriated for such  
 3 purposes in the manner for payment of refunds under this section. If the department determines that  
 4 a refund is due, the department may refund the amount of excess or erroneous payment without a  
 5 claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a  
 6 refund from the department must be filed within 12 months after the date payment is received by  
 7 the department.

8 (4) After payment of those expenses and disbursements approved for payment before general admin-  
 9 istrative expenses related to the provision of driver and motor vehicle services, the department shall  
 10 pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Ac-  
 11 count its general administrative expenses incurred in the administration of any law related to driver  
 12 and motor vehicle services that the department is charged with administering and any other ex-  
 13 penses the department is permitted by law to pay from moneys held by the department before  
 14 transfer of the moneys to the State Highway Fund. The following limitations apply to payments of  
 15 administrative expenses under this subsection:

16 (a) The department shall make payment of the expenses of administering the issuance of winter  
 17 recreation parking permits under ORS 811.595 from those moneys received from issuing the permits  
 18 or from moneys received under ORS 153.630 from violation of the requirement to have the permit.

19 (b) The department shall pay its expenses for administering the registration and titling of  
 20 snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those  
 21 sections. The department shall also pay its expenses for the administration of the snowmobile driver  
 22 permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

23 (c) The department shall pay its expenses for determining the amount of money to be withheld  
 24 under ORS 802.120 from the fees collected for administering the registration and titling of  
 25 snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary  
 26 but shall not exceed \$10,000 during each biennium.

27 (d) The department shall retain not more than \$15,000 in any biennium for the expenses of col-  
 28 lecting and transferring moneys to the Student Driver Training Fund under this section and for the  
 29 administration of ORS 336.810 (3).

30 (5) Except as otherwise provided in this subsection, the department shall transfer to the State  
 31 Highway Fund the moneys not used for payment of the general administrative expenses or for ap-  
 32 proved expenses and disbursements before payment of general administrative expenses. The following  
 33 apply to this subsection:

34 (a) If the Director of Transportation certifies the amount of principal or interest of highway  
 35 bonds due on any particular date, the department may make available for the payment of such in-  
 36 terest or principal any sums that may be necessary to the extent of moneys on hand available for  
 37 the State Highway Fund regardless of the dates otherwise specified under this section.

38 (b) Notwithstanding paragraph (a) of this subsection the department shall not make available for  
 39 purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when  
 40 there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds  
 41 issued under ORS 367.615.

42 (6) Notwithstanding any other provision of this section, the following moneys shall be trans-  
 43 ferred to the State Highway Fund at the times described:

44 (a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses  
 45 of the department shall be transferred before July 31 of each year.

1 (b) Moneys received from the registration of snowmobiles that is not to be used for payment of  
 2 administrative expenses of the department shall be transferred within 30 days after the end of the  
 3 quarter.

4 (c) Moneys received from the issuance of winter recreation parking permits or under ORS  
 5 153.630 from violation of the requirement to have a winter recreation parking permit and that is not  
 6 used for payment of administrative expenses of the department shall be transferred within 30 days  
 7 after the end of the quarter.

8 (7) The following moneys transferred to the State Highway Fund under this section may be used  
 9 only for the purposes described as follows:

10 (a) Moneys collected from the issuance of winter recreation parking permits or under ORS  
 11 153.630 for violation of the requirement to have a winter recreation parking permit, and the interest  
 12 on such moneys, shall be used to enforce the requirement for winter recreation parking permits and  
 13 to remove snow from winter recreation parking locations designated under ORS 810.170. Any re-  
 14 maining moneys shall, upon approval by the Winter Recreation Advisory Committee:

15 (A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170  
 16 and snowmobile facilities that are parking lots developed with moneys as provided under this sec-  
 17 tion;

18 (B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

19 (C) Be carried over to be used in subsequent years for the purposes and in the manner described  
 20 in this paragraph.

21 (b) Moneys received from the registration of snowmobiles or under ORS 802.120 shall be used  
 22 for the development and maintenance of snowmobile facilities, including the acquisition of land  
 23 therefor by any means other than the exercise of eminent domain. Moneys received under ORS  
 24 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150,  
 25 821.190, 821.210 and 821.240 to 821.290.

26 (8) The department shall maintain the Revolving Account for Emergency Cash Advances sepa-  
 27 rate from other moneys described in this section. From the account, the department may pay for the  
 28 taking up of dishonored remittances returned by banks or the State Treasurer and for emergency  
 29 cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund.  
 30 The department shall at all times be accountable for the amount of the account, either in cash or  
 31 unreimbursed items and advances. The moneys in the account are continuously appropriated for the  
 32 purposes of this subsection. The amount of the account under this subsection shall not exceed  
 33 \$40,000 from moneys received by the department in the performance of its driver and motor vehicle  
 34 services functions and moneys otherwise appropriated for purposes of this subsection. The account  
 35 under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is au-  
 36 thorized to honor and pay all properly signed and indorsed checks or warrants drawn against the  
 37 account.

38 **SECTION 163.** ORS 803.585 is amended to read:

39 803.585. (1) Except as otherwise provided in this section or ORS 801.041 or 801.042, the regis-  
 40 tration fees under the vehicle code are in lieu of all other taxes and licenses, except **taxes imposed**  
 41 **under the Sales and Use Tax Law** or municipal license fees under regulatory ordinances, to which  
 42 such vehicles or the owners thereof may be subject. Fixed load vehicles are not exempt from ad  
 43 valorem taxation by this section.

44 (2) Travel trailers subject to registration and titling under the vehicle code are not subject to  
 45 ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxa-

1 tion as provided in ORS 308.880.

2  
3 (Short Title)

4  
5 **SECTION 164. Short title.** Sections 36 to 151 of this 2009 Act shall be known and may be  
6 cited as the Sales and Use Tax Law.

7  
8 **APPLICATION; OPERATIVE DATE;**  
9 **CAPTIONS; EFFECTIVE DATE**

10  
11 **SECTION 165. Application.** (1) The sales tax imposed by section 60 of this 2009 Act applies  
12 only to sales occurring on or after the operative date of this section.

13 (2) The sales tax does not apply to sales occurring on or after the operative date of this  
14 section under contracts, leases or rental agreements that were made before the operative  
15 date of this section. However, under a contract, lease or rental agreement that was made  
16 before the operative date of this section, the sales tax does apply to sales made after the date  
17 of any extension or renewal of the contract, lease or rental agreement occurring after the  
18 operative date of this section.

19 (3) The use tax imposed by section 69 of this 2009 Act applies only to tangible personal  
20 property purchased on or after the operative date of this section.

21 (4) The use tax does not apply to storage, consumption or use on or after the operative  
22 date of this section under contracts, leases or rental agreements that were made before the  
23 operative date of this section. However, under a contract, lease or rental agreement entered  
24 into before the operative date of this section, the use tax does apply to storage, consumption  
25 and use made after the date of any extension or renewal of the contract, lease or rental  
26 agreement occurring after the operative date of this section. A lessee, upon extension or  
27 renewal, shall have the right to make the election under section 81 of this 2009 Act.

28 **SECTION 166. Captions.** The unit and section captions used in this 2009 Act are provided  
29 only for the convenience of the reader in locating provisions of this 2009 Act and do not be-  
30 come part of the statutory law of this state or express any legislative intent in the  
31 enactment of this 2009 Act.

32 **SECTION 167. Operative date.** (1) Sections 36 to 151 and 165 of this 2009 Act and the  
33 amendments to statutes by sections 152 to 163 of this 2009 Act become operative on January  
34 1, 2010.

35 (2) Notwithstanding subsection (1) of this section, sections 36 to 151 and 165 of this 2009  
36 Act and the amendments to statutes by sections 152 to 163 of this 2009 Act do not become  
37 operative if this state has not entered into the Streamlined Sales and Use Tax Agreement,  
38 as defined in section 28 of this 2009 Act, by January 1, 2010.

39 **SECTION 168. Effective Date.** This 2009 Act takes effect on the 91st day after the date  
40 on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.