

A-Engrossed House Bill 3405

Ordered by the House June 4
Including House Amendments dated June 4

Sponsored by COMMITTEE ON REVENUE

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.

[Establishes five tiers of corporate minimum tax on corporations that are not S corporations, based on level of Oregon sales. Prohibits Department of Revenue from disclosing information that is attributable to single corporation or group of fewer than 10 corporations. Establishes Multimodal Transportation and Economic Development Fund. Appropriates moneys to Department of Transportation. Directs corporate excise tax revenue to fund. Authorizes issuance of lottery bonds for transportation projects funded from fund. Specifies allocation of lottery bond proceeds.]

[Applies to tax years beginning on or after January 1, 2010, and to revenue collected for tax years beginning on or after January 1, 2010.]

Bases corporate minimum tax for C corporations on amount of Oregon sales. Increases rate of corporate excise tax imposed on C corporations for tax years beginning on or after January 1, 2009.

Imposes \$150 entity tax on partnerships.

Increases corporate minimum tax imposed on S corporations to \$150.

Increases filing fee for specified documents and reports delivered to Secretary of State. Increases filing fee for financing statements and other records related to Uniform Commercial Code. Increases application fee for appointment as notary public. Applies to documents, reports, records and applications filed or made on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to state finance; creating new provisions; amending ORS 56.041, 56.140, 79.0525, 194.020,
3 317.061 and 317.090; prescribing an effective date; and providing for revenue raising that re-
4 quires approval by a three-fifths majority.

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

CORPORATE EXCISE TAXATION

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9 **SECTION 1.** ORS 317.090 is amended to read:

10 317.090. (1) **As used in this section, "Oregon sales" means:**

11 (a) **If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon**
12 **tax purposes, the total sales of the taxpayer in this state during the tax year, as determined**
13 **for purposes of ORS 314.665;**

14 (b) **If the corporation does not apportion business income for Oregon tax purposes, the**
15 **total sales in this state that the taxpayer would have had, as determined for purposes of ORS**
16 **314.665, if the taxpayer were required to apportion business income for Oregon tax purposes;**
17 **or**

18 (c) **If the corporation apportions business income using a method different from the**
19 **method prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of**

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 **Revenue by rule.**

2 (2) Each [taxpayer named in ORS 317.056 or 317.070] **corporation or affiliated group of cor-**
3 **porations filing a return under ORS 317.710** shall pay annually to the state, for the privilege of
4 carrying on or doing business by it within this state, a minimum tax [of \$10.] **as follows:**

5 (a) **If Oregon sales properly reported on a return are:**

6 (A) **Less than \$500,000, the minimum tax is \$150.**

7 (B) **\$500,000 or more, but less than \$1 million, the minimum tax is \$500.**

8 (C) **\$1 million or more, but less than \$2 million, the minimum tax is \$1,000.**

9 (D) **\$2 million or more, but less than \$3 million, the minimum tax is \$1,500.**

10 (E) **\$3 million or more, but less than \$5 million, the minimum tax is \$2,000.**

11 (F) **\$5 million or more, but less than \$7 million, the minimum tax is \$4,000.**

12 (G) **\$7 million or more, but less than \$10 million, the minimum tax is \$7,500.**

13 (H) **\$10 million or more, but less than \$25 million, the minimum tax is \$15,000.**

14 (I) **\$25 million or more, but less than \$50 million, the minimum tax is \$30,000.**

15 (J) **\$50 million or more, but less than \$75 million, the minimum tax is \$50,000.**

16 (K) **\$75 million or more, but less than \$100 million, the minimum tax is \$75,000.**

17 (L) **\$100 million or more, the minimum tax is \$100,000.**

18 (b) **If a corporation is an S corporation, the minimum tax is \$150.**

19 (3) The minimum tax [shall not be] **is not** apportionable (except in the case of a change of ac-
20 counting periods), [but shall be] **and is** payable in full for any part of the year during which a cor-
21 poration is subject to tax.

22 **SECTION 2.** Section 3 of this 2009 Act is added to and made a part of ORS chapter 314.

23 **SECTION 3.** Each partnership transacting business in this state shall, for the privilege
24 of carrying on or doing business by it within this state, include with the filing of the return
25 required under ORS 314.724 payment of a minimum tax of \$150.

26 **SECTION 4.** Section 3 of this 2009 Act and the amendments to ORS 317.090 by section 1
27 of this 2009 Act apply to tax years beginning on or after January 1, 2009.

28 **SECTION 5.** ORS 317.061 is amended to read:

29 317.061. The rate of the tax imposed by and computed under this chapter is:

30 (1) Six and six-tenths percent of the first \$250,000 of taxable income, or fraction thereof;
31 **and**

32 (2) Seven and nine-tenths percent of any amount of taxable income in excess of
33 \$250,000.

34 **SECTION 6.** The amendments to ORS 317.061 by section 5 of this 2009 Act apply to tax
35 years beginning on or after January 1, 2009, and before January 1, 2011.

36 **SECTION 7.** ORS 317.061, as amended by section 5 of this 2009 Act, is amended to read:

37 317.061. The rate of the tax imposed by and computed under this chapter is:

38 (1) Six and six-tenths percent of the first \$250,000 of taxable income, or fraction thereof; and

39 (2) Seven and [nine-tenths] **six-tenths** percent of any amount of taxable income in excess of
40 \$250,000.

41 **SECTION 8.** The amendments to ORS 317.061 by section 7 of this 2009 Act apply to tax
42 years beginning on or after January 1, 2011, and before January 1, 2013.

43 **SECTION 9.** ORS 317.061, as amended by sections 5 and 7 of this 2009 Act, is amended to read:

44 317.061. The rate of the tax imposed by and computed under this chapter is:

45 (1) Six and six-tenths percent of the first [\$250,000] **\$10 million** of taxable income, or fraction

1 thereof; and

2 (2) Seven and six-tenths percent of any amount of taxable income in excess of [\$250,000] **\$10**
3 **million.**

4 **SECTION 10. The amendments to ORS 317.061 by section 9 of this 2009 Act apply to tax**
5 **years beginning on or after January 1, 2013.**

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7 **BUSINESS REGISTRY FILINGS**

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9 **SECTION 11.** ORS 56.140 is amended to read:

10 56.140. (1) **The Secretary of State shall collect a nonrefundable fee of \$100 for each of the**
11 **following documents delivered to the Secretary of State for filing:**

12 (a) **Articles of incorporation delivered for filing under ORS 58.085.**

13 (b) **Articles of incorporation delivered for filing under ORS 60.051.**

14 (c) **Articles of incorporation delivered for filing under ORS 62.511.**

15 (d) **Articles of organization delivered for filing under ORS 63.051.**

16 (e) **Applications for registration delivered for filing under ORS 67.590.**

17 (f) **Certificates of limited partnership delivered for filing under ORS 70.075.**

18 (g) **Trust documents delivered for filing under ORS 128.575.**

19 (h) **Articles of incorporation delivered for filing under ORS 554.020.**

20 (2) **The Secretary of State shall collect a nonrefundable fee of \$100 for annual reports**
21 **delivered for filing by an entity subject to a fee under subsection (1) of this section, and for**
22 **any other related document that the entity is allowed or required to file with the Secretary**
23 **of State.**

24 (3) **The Secretary of State shall collect a nonrefundable fee of \$275 for each of the fol-**
25 **lowing documents delivered to the Secretary of State for filing:**

26 (a) **Applications for authority to transact business in this state delivered under ORS**
27 **58.134, 60.707, 63.707 or 67.710.**

28 (b) **Applications for registration under ORS 70.355.**

29 (c) **Annual reports delivered for filing by an entity subject to a fee under paragraph (a)**
30 **or (b) of this subsection, and for any other related document that the entity is allowed or**
31 **required to file with the Secretary of State.**

32 [(1)] (4) **For documents other than those specified in subsections (1), (2) and (3) of this**
33 **section,** the Secretary of State shall collect a nonrefundable fee of \$50 for each document delivered
34 for filing to the Secretary of State as part of the secretary's business registry functions described
35 in ORS 56.022.

36 [(2)] (5) The Secretary of State by rule may establish fees, in addition to those provided for in
37 [subsection (1)] **subsections (1) to (4)** of this section, for:

38 (a) Copying any public record maintained by the secretary and relating to the secretary's busi-
39 ness registry functions, and for certifying the copy; and

40 (b) Certifying to other facts of record, including certificates of existence, relating to the secre-
41 tary's business registry functions.

42 [(3)] (6) The Secretary of State shall collect a nonrefundable fee of \$20 each time process **that**
43 **is related to the Secretary of State's business registry functions** is served on the Secretary of
44 State [and the process relates to the secretary's business registry functions].

45 [(4)] (7) The Secretary of State may waive collection of any fee, charge or interest[,] or portion

1 of a fee, charge or interest[,] that is collectible by the Secretary of State as part of the secretary's
2 business registry functions.

3 [(5)] (8) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
4 lowing services relating to the secretary's business registry functions:

5 (a) Computer generated lists on electronic data processing media.

6 (b) Terminal access to the files of the office.

7 (c) Microfilm records of the files of the office.

8 (d) Microfilm processing and development services.

9 (e) Copies of the programs and files on paper or electronic data processing media.

10 **SECTION 12. The amendments to ORS 56.140 by section 11 of this 2009 Act apply only to**
11 **documents filed with the Secretary of State on or after the effective date of this 2009 Act.**

12 **SECTION 13.** ORS 56.041 is amended to read:

13 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

14 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
15 penalties and miscellaneous revenues from all sources relating to business registry functions, and
16 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
17 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
18 Treasurer and deposited at least monthly in the Operating Account.

19 (3) Moneys deposited to the credit of the Operating Account are continuously appropriated to
20 **the Secretary of State** for the expenses of carrying out the functions and duties of the Secretary
21 of State relating to business registry, and the functions and duties of the Secretary of State under
22 ORS chapters 79 and 194 and ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831.

23 (4) **At the end of each month, the Secretary of State shall determine the number of**
24 **business registry filings during the month for which the Secretary of State collected the fees**
25 **described in ORS 56.140 (1) to (4). An amount equal to \$20 for each of those filings shall be**
26 **deposited by the Secretary of State in the Operating Account. The Secretary of State shall**
27 **then deposit all other moneys from the fees collected during the month under ORS 56.140 (1)**
28 **to (4) in the General Fund. Amounts deposited to the General Fund under this subsection**
29 **are available for general governmental expenses.**

30 [(4) *At the end of each month:*]

31 [(a) *The Secretary of State shall determine for that month the number of business registry filings*
32 *for which the Secretary of State collected the fee described in ORS 56.140; and]*

33 [(b) *An amount equal to \$30 for each business registry filing described in paragraph (a) of this*
34 *subsection shall be transferred to the General Fund and shall become available for general govern-*
35 *mental expenses.*]

36 [(5) *As of July 1 of each year, any unexpended and unobligated balance in the Operating Account*
37 *that is in excess of the amount that is necessary to administer the functions and duties of the Secretary*
38 *of State as described in subsection (3) of this section for two months, as certified by the Secretary of*
39 *State, shall be transferred to the General Fund and shall become available for general governmental*
40 *expenses.*]

41 **SECTION 14. The amendments to ORS 56.041 by section 13 of this 2009 Act first apply to**
42 **fees for business registry filings collected on or after the effective date of this 2009 Act.**

43
44 **UNIFORM COMMERCIAL CODE FILINGS**

SECTION 15. ORS 79.0525 is amended to read:

79.0525. (1) Except as otherwise provided in subsection (4) of this section, the nonrefundable fee for filing and indexing a record under ORS 79.0501 to 79.0528 may not exceed [~~\$10~~] **\$15.**

(2) The number of names required to be indexed does not affect the amount of the fee in subsection (1) of this section.

(3) The nonrefundable fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, may not exceed:

(a) \$10 for each distinct debtor name to be searched;

(b) \$5 for copies of Uniform Commercial Code documents relating to each distinct debtor name to be searched, in addition to the fee in paragraph (a) of this subsection; and

(c) \$5 for each request by document number for copies of Uniform Commercial Code documents.

(4) This section does not require a fee with respect to a record filed or recorded in the filing office described in ORS 79.0501 (1)(a). However, the recording and satisfaction fees that otherwise would be applicable to the record apply.

(5) The Secretary of State shall adopt rules prescribing fees for providing summaries and compilations that are not debtor specific and for providing copies of records, as described in ORS 79.0523 (6), that are not debtor specific.

SECTION 16. The amendments to ORS 79.0525 by section 15 of this 2009 Act apply only to records filed under ORS 79.0501 to 79.0528 on or after the effective date of this 2009 Act.

NOTARY COMMISSION APPLICATIONS

SECTION 17. ORS 194.020 is amended to read:

194.020. (1) To defray costs incurred by the Secretary of State to process the application made under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the Secretary of State a nonrefundable application fee not to exceed [~~\$20~~] **\$40.**

(2) Any fee received by the Secretary of State under subsection (1) of this section shall be deposited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in lieu of any fee charged under ORS 177.130.

SECTION 18. The amendments to ORS 194.020 by section 17 of this 2009 Act apply only to applications made under ORS 194.014 on or after the effective date of this 2009 Act.

MISCELLANEOUS

SECTION 19. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

SECTION 20. This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.