

A-Engrossed
Senate Bill 180

Ordered by the Senate April 10
Including Senate Amendments dated April 10

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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.

[Requires corporation that files state return to include certain entities in consolidated state tax return if corporation owns at least 80 percent of stock of entity.]

Requires affiliated group that files consolidated state return to include certain corporations in return.

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

A BILL FOR AN ACT

1
2 Relating to consolidated state tax returns; creating new provisions; and amending ORS 317.710.

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

4 **SECTION 1.** ORS 317.710 is amended to read:

5 317.710. (1) A corporation shall make a return with respect to the tax imposed by this chapter
6 as provided in this section.

7 (2) If the corporation is a member of an affiliated group of corporations making a consolidated
8 federal return, it shall file a return and determine its Oregon taxable income as provided in ORS
9 317.715. The corporation's tax liability shall be joint and several with any other corporation that is
10 included in a consolidated state return with the corporation under subsection (5) of this section.

11 (3) If the corporation makes a separate return for federal income tax purposes, it shall file a
12 separate return under this chapter. The corporation shall determine its Oregon taxable income and
13 tax liability separately from any other corporation.

14 (4) For purposes of subsection (3) of this section, if the corporation is not subject to taxation
15 under the Internal Revenue Code a return for federal income tax purposes includes any form of re-
16 turn required to be made in lieu of an income tax return under the Internal Revenue Code or reg-
17 ulations thereunder.

18 (5)(a) If two or more corporations subject to taxation under this chapter are members of the
19 same affiliated group making a consolidated federal return and are members of the same unitary
20 group, they shall file a consolidated state return. *[The Department of Revenue shall prescribe by rule*
21 *the method by which a consolidated state return shall be filed.]*

22 (b) If any corporation that is a member of an affiliated group is permitted or required to deter-
23 mine its Oregon taxable income on a separate basis under ORS 314.670, or if any corporation is
24 permitted or required by statute or rule to use different apportionment factors than a corporation
25 with which it is affiliated, the corporation shall not be included in a consolidated state return under

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 paragraph (a) of this subsection.

2 (c) Whenever two or more corporations are required to file a consolidated state return under
3 paragraph (a) of this subsection, any reference in this chapter to a corporation for purposes of de-
4 riving Oregon taxable income shall be treated as a reference to all corporations that are included
5 in the consolidated state return.

6 **(d) A corporation that would not be a member of an affiliated group filing a consolidated**
7 **state return based solely on the application of section 1504(b)(6) of the Internal Revenue Code**
8 **must be included in the consolidated state return filed by the affiliated group.**

9 (6) If so directed by the department, by rule or instructions on the state tax return form, every
10 corporation required to make a return under this chapter shall also file with the return a true copy
11 of the corporation's federal income tax return for the same taxable year. For purposes of this sub-
12 section, the corporation's federal income tax return includes a consolidated federal return for an
13 affiliated group of which the corporation is a member. The department may, by rule or instructions,
14 permit a corporation to submit specified excerpts from its federal return in lieu of submitting a copy
15 of the entire federal return. The federal return or any part thereof required to be filed with the state
16 return is incorporated in and shall be a part of the state return.

17 (7) Each foreign or alien insurer and each domestic insurer owned and controlled, directly or
18 indirectly, by one or more foreign insurers shall determine its Oregon taxable income under ORS
19 317.650 to 317.665 and make a return of the tax imposed by this chapter on a separate basis. An
20 interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact
21 net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458,
22 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange may file a consolidated
23 return under the circumstances in the manner and subject to the rules adopted by the department.

24 **(8) The Department of Revenue may prescribe by rule the method by which a consol-**
25 **idated state return shall be filed under this section.**

26 **SECTION 2. The amendments to ORS 317.710 by section 1 of this 2009 Act apply to tax**
27 **years beginning on or after January 1, 2010.**

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