

## SENATE AMENDMENTS TO SENATE BILL 880

By COMMITTEE ON FINANCE AND REVENUE

May 18

1 On page 1 of the printed bill, line 2, delete “creating new provisions; amending ORS 316.189;  
2 appropriating money;”.

3 Delete lines 5 through 28 and delete pages 2 through 5 and insert:

4 **“SECTION 1. (1) The Department of Revenue shall develop and administer a tax amnesty  
5 program for taxpayers.**

6 **“(2) The tax amnesty program shall be conducted during the period beginning on the ef-  
7 fective date of this 2009 Act or October 1, 2009, whichever is later, and ending November 19,  
8 2009.**

9 **“(3) The tax amnesty program applies to tax years, reporting periods and estates for  
10 which the department could issue a notice of deficiency under ORS 305.265 or 314.410, as  
11 amended and in effect on the day before the effective date of this 2009 Act.**

12 **“(4) The department shall publicize the tax amnesty program through appropriate out-  
13 reach and media activities in order to maximize public awareness of and participation in the  
14 program.**

15 **“(5) The department may prescribe forms, issue instructions, conduct public meetings  
16 and undertake any other action necessary to maximize public participation in and compliance  
17 with the tax amnesty program and the collection of tax liabilities to which the program ap-  
18 plies.**

19 **“SECTION 2. (1) A taxpayer who meets all of the following requirements during the pe-  
20 riod described in section 1 (2) of this 2009 Act may participate in the tax amnesty program:**

21 **“(a) The taxpayer was required to:**

22 **“(A) File a tax return under ORS chapter 314, 316, 317 or 318 for a tax year that begins  
23 before January 1, 2008;**

24 **“(B) Pay personal income tax imposed under ORS chapter 316 for a tax year or reporting  
25 period that begins before January 1, 2008;**

26 **“(C) Pay tax imposed under ORS chapter 317 or 318 for a tax year or reporting period  
27 that begins before January 1, 2008;**

28 **“(D) File a return under ORS chapter 118 and pay any required tax, if the return was due  
29 prior to January 1, 2008; or**

30 **“(E) Pay any tax imposed on net earnings from self-employment pursuant to ORS 267.385,  
31 if required to do so prior to January 1, 2008;**

32 **“(b) The taxpayer files a completed amnesty application with the department, signed un-  
33 der penalty of perjury, to participate in the tax amnesty program; and**

34 **“(c) Within 60 days after the conclusion of the tax amnesty program, the taxpayer does  
35 all of the following:**

1       “(A) Files a completed tax return or report for all tax years or reporting periods de-  
2       scribed in paragraph (a) of this subsection for which the taxpayer had not previously done  
3       so;

4       “(B) Files a completed amended tax return or report for all tax years or reporting periods  
5       described in paragraph (a) of this subsection for which the taxpayer underreported or  
6       underpaid the tax liability of the taxpayer; and

7       “(C) Pays in full the taxes due, and 50 percent of the interest due, for all tax years or  
8       reporting periods described in paragraph (a) of this subsection or applies for an installment  
9       payment agreement under subsection (5) of this section that applies to the taxes and interest  
10      due for all tax years or reporting periods described in paragraph (a) of this subsection for  
11      which taxes remain unpaid.

12      “(2) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the  
13      tax amnesty program if, prior to the starting date of the period described in section 1 (2) of  
14      this 2009 Act, the department has issued a notice of deficiency to the taxpayer or has as-  
15      sessed a tax for a tax year for which the taxpayer could otherwise apply for amnesty under  
16      this section.

17      “(3) In addition to the other requirements in subsection (1) of this section, a taxpayer  
18      who has filed a petition for bankruptcy protection under Title 11 of the United States Code  
19      may participate in the tax amnesty program if the taxpayer submits an order from a United  
20      States Bankruptcy Court allowing the taxpayer to participate in the tax amnesty program.

21      “(4) A taxpayer who participates in the tax amnesty program described in this section  
22      may not request a refund with respect to any tax paid under the tax amnesty program and  
23      waives any right to appeal any tax reported on a tax return or report filed or paid under  
24      subsection (1) of this section or pursuant to an installment payment agreement entered into  
25      under subsection (5) of this section.

26      “(5)(a) A taxpayer may apply for an installment payment agreement for the payment of  
27      taxes reported and due under subsection (1) of this section. The application shall be made  
28      on a form prescribed by the department and shall be due at the time the taxpayer applies for  
29      amnesty under subsection (1) of this section.

30      “(b) The department shall enter into an installment payment agreement with a taxpayer  
31      who has applied under paragraph (a) of this subsection and shall establish a payment sched-  
32      ule if the department concludes that the agreement will facilitate the efficient collection of  
33      the outstanding tax liability.

34      “(c) Any interest that remains unpaid upon a taxpayer’s entering an installment payment  
35      agreement shall be reduced by 50 percent.

36      “(d) Under any installment payment agreement entered into under this subsection, all  
37      outstanding taxes and interest must be paid on or before May 31, 2011.

38      “SECTION 3. (1) For any taxpayer who fully complies with the tax amnesty program de-  
39      scribed in section 2 of this 2009 Act, the Department of Revenue shall waive all applicable  
40      penalties, including criminal penalties that would otherwise apply under ORS 314.075 and  
41      314.991 (1), that would otherwise apply to the taxes being reported and paid under section 2  
42      of this 2009 Act, and shall waive 50 percent of any interest otherwise due.

43      “(2)(a) If the department has entered into an installment payment agreement with the  
44      taxpayer, the failure of the taxpayer to fully comply with the terms of the installment pay-  
45      ment agreement renders the waiver of penalties under subsection (1) of this section and the

1 installment payment agreement void. The total amount of tax, interest and all applicable  
2 penalties becomes immediately due and payable. The reduced interest rate applicable under  
3 section 2 (5)(c) of this 2009 Act is voided and replaced by the rate established under ORS  
4 305.220, which is applicable to any amount that remains unpaid by the taxpayer.

5 “(b) This subsection does not apply if the department determines that the failure to fully  
6 comply with the terms of the installment payment agreement is due to reasonable causes.

7 “SECTION 4. (1) For any tax that was due for a tax year or reporting period for which  
8 amnesty could be sought under section 2 of this 2009 Act and for which the taxpayer failed  
9 to file a return or report and failed to apply for amnesty, an amount equal to 25 percent of  
10 the total amount of unpaid tax that is otherwise due is added to the amount of outstanding  
11 tax liability.

12 “(2) If, following the closure of the amnesty period specified in section 1 (2) of this 2009  
13 Act, the Department of Revenue issues a notice of deficiency with respect to an unreported  
14 or underreported tax liability, as shown on an original or amended tax return or report filed  
15 in conjunction with an amnesty application filed under section 2 of this 2009 Act, an amount  
16 equal to 25 percent of the total amount of unpaid tax that is otherwise due is added to the  
17 amount of outstanding tax liability.

18 “(3) The penalties imposed under this section are in addition to and not in lieu of any  
19 other penalty.

20 “SECTION 5. Sections 1 to 4 of this 2009 Act are repealed on January 2, 2014.

21 “SECTION 6. Sections 1 to 4 of this 2009 Act are added to and made a part of ORS  
22 chapter 314.

23 “SECTION 7. (1) The Tax Amnesty Fund is established in the State Treasury, separate  
24 and distinct from the General Fund. Interest earned by the Tax Amnesty Fund shall be  
25 credited to the fund.

26 “(2) All moneys received by the Department of Revenue under sections 1 to 4 of this 2009  
27 Act shall be deposited in the Tax Amnesty Fund. The department shall be reimbursed from  
28 the fund for costs incurred under contracts established for purposes of sections 1 to 4 of this  
29 2009 Act. The total amount of costs paid under this subsection may not exceed \$1 million.

30 “(3) The department shall certify to the Emergency Board, or to the Legislative Assembly  
31 if it is in session, the costs that are incurred by the department in carrying out the purposes  
32 of sections 1 to 4 of this 2009 Act.

33 “SECTION 8. This 2009 Act takes effect on the 91st day after the date on which the  
34 regular session of the Seventy-fifth Legislative Assembly adjourns sine die.”.