

A-Engrossed
House Bill 3627

Ordered by the House February 15
Including House Amendments dated February 15

Sponsored by Representative READ; Representatives BAILEY, BENTZ, CLEM, EDWARDS, GARRETT, MATTHEWS, STIEGLER, Senators HASS, JOHNSON (Pre-session filed.)

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.

Creates personal income tax subtraction for investment of severance pay in small business if certain requirements are met.

Applies to tax years beginning on or after January 1, 2010, and before January 1, 2014.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to subtraction for investment of severance pay in small business; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2010 Act is added to and made a part of ORS chapter 316.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Invest” means to exchange cash for equity, debt, convertible debt or management responsibilities, accompanied by terms that substantiate ownership or control of an interest in a business. “Invest” does not mean to make a loan to a business.**

8 (b) **“Material participation” has the meaning given that term in section 469 of the Internal Revenue Code.**

9 (c) **“Severance pay” means funds paid to an employee upon termination of employment, other than back wages, vacation pay or sick pay.**

10 (d) **“Small business” has the meaning given that term in ORS 183.310.**

11 (2) **There shall be subtracted from federal taxable income an amount equal to severance pay that a taxpayer receives during the tax year and invests in a new or existing small business in this state if:**

12 (a) **The investment occurs on or before the due date for the return for the tax year or the expiration of the extension period for filing that return, if any;**

13 (b) **The investment continues for at least 24 months following termination of employment;**

14 (c) **The taxpayer materially participates in the small business;**

15 (d) **The taxpayer has not previously claimed a subtraction under this section; and**

16 (e) **The small business is not the employer that paid the severance pay and does not have any owner in common with the employer that paid the severance pay.**

17 (3) **The subtraction under this section may not exceed the lesser of:**

18
19
20
21
22
23
24
25
26
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 **(a) The minimum balance of principal that remains invested by the taxpayer in the small**
2 **business at the close of any month during the 24 months following termination of employ-**
3 **ment; or**

4 **(b) \$500,000.**

5 **(4) If at any time the Department of Revenue determines that a taxpayer is not in com-**
6 **pliance with any of the provisions of this section, the department shall disallow the sub-**
7 **traction under this section. Upon this disallowance, the department shall determine the**
8 **amount of tax due absent the subtraction under this section and immediately shall collect**
9 **any taxes due by reason of the disallowance.**

10 **(5) The Department of Revenue shall establish by rule procedures for administering this**
11 **section, including procedures for verifying the receipt of severance pay by the taxpayer.**

12 **SECTION 3. No later than February 1, 2015, the Department of Revenue, in conjunction**
13 **with the Oregon Business Development Department and the Legislative Revenue Officer,**
14 **shall prepare a report regarding the economic impact of section 2 of this 2010 Act and shall**
15 **present the report to the revenue committees of the Seventy-eighth Legislative Assembly.**
16 **The purpose of the report is to analyze the job creation and tax implications of section 2 of**
17 **this 2010 Act.**

18 **SECTION 4. Section 2 of this 2010 Act applies to tax years beginning on or after January**
19 **1, 2010, and before January 1, 2014.**

20 **SECTION 5. This 2010 Act takes effect on the 91st day after the date on which the special**
21 **session of the Seventy-fifth Legislative Assembly adjourns sine die.**

22