

House Bill 2528

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim 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 **as introduced**.

Requires Department of Revenue to prepare quarterly list of all taxpayers, including name, address and type and amount of tax due, with delinquent tax liability that exceeds \$5,000 and that remains unpaid for at least 90 days after expiration of appeal rights, and separate list of 100 taxpayers with largest amounts due, and to publish lists through public Internet website.

A BILL FOR AN ACT

1
2 Relating to Internet publication of information about taxpayers with tax delinquencies; creating new
3 provisions; and amending ORS 314.840.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 305.**

6 **SECTION 2. (1) Before the end of each calendar quarter ending March 31, June 30, Sep-**
7 **tember 30 and December 31, the Department of Revenue shall prepare a list of all taxpayers**
8 **that have current total liability under the tax and revenue laws administered by the depart-**
9 **ment, including interest and penalties, that exceeds \$5,000 and that remains unpaid for at**
10 **least 90 days after any right of appeal to the Oregon Tax Court or to the Supreme Court**
11 **under this chapter has expired. The list shall include the name, address, type of tax due and**
12 **amount of tax due, including interest, penalties, fees and costs, for every taxpayer that**
13 **meets the criteria of this subsection.**

14 (2) At the close of each calendar quarter, the department shall make the list described
15 in subsection (1) of this section accessible to the public through a searchable public website
16 on the Internet. The site shall include a separate list of the 100 taxpayers with the largest
17 amounts due.

18 (3) Except as provided in subsection (4) of this section, the department shall maintain the
19 Internet website and on a quarterly basis shall update the lists described in subsections (1)
20 and (2) of this section and provide updated data to Internet search engines.

21 (4)(a) The department may not post on the Internet or distribute to Internet search en-
22 gines the name of any taxpayer that:

23 (A) Has reached an agreement with the department pursuant to ORS 305.890 and is in
24 compliance with that agreement regarding the payment of any tax; or

25 (B) That is protected by a stay that is in effect under the United States Bankruptcy Code
26 (11 U.S.C. 101 to 1330).

27 (b) The public Internet website and any information provided to Internet search engines
28 by the department shall be updated each business day to comply with the provisions of this
29 subsection.

30 **SECTION 3. ORS 314.840 is amended to read:**

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.

1 314.840. (1) The Department of Revenue may:

2 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
 3 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
 4 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
 5 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
 6 any other information the department considers necessary.

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

8 (c) Publish statistics so classified as to prevent the identification of income or any particulars
 9 contained in any report or return.

10 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
 11 Security number, employer identification number or other taxpayer identification number to the ex-
 12 tent necessary in connection with collection activities or the processing and mailing of correspond-
 13 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
 14 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
 15 come.

16 **(e) Publish through a public website lists of certain taxpayers with tax delinquencies in**
 17 **excess of \$5,000, as provided in section 2 of this 2011 Act.**

18 (2) The department also may disclose and give access to information described in ORS 314.835
 19 to:

20 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

21 (A) With respect to an individual who is designated as being under consideration for appoint-
 22 ment or reappointment to an office or for employment in the office of the Governor. The information
 23 disclosed shall be confined to whether the individual:

24 (i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more
 25 than the three immediately preceding years for which the individual was required to file an Oregon
 26 individual income tax return.

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

29 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
 30 of the penalty.

31 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
 32 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
 33 of making the appointment, reappointment or decision to employ or not to employ the individual in
 34 the office of the Governor.

35 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
 36 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
 37 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
 38 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-
 39 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
 40 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
 41 The Department of Revenue shall disclose and give access to the information described in ORS
 42 314.835 for the purposes of this subparagraph only if:

43 (i) The request for information is made in writing, specifies the purposes for which the request
 44 is made and is signed by an authorized representative of the Oregon Department of Administrative
 45 Services. The form for request for information shall be prescribed by the Oregon Department of

1 Administrative Services and approved by the Director of the Department of Revenue.

2 (ii) The officer, employee or person receiving the information does not remove from the premises
3 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
4 rate taxpayer.

5 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration
6 and compliance purposes only.

7 (c) For tax administration and compliance purposes, the proper officer or authorized represen-
8 tative of any of the following entities that has or is governed by a provision of law that meets the
9 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

10 (A) A state;

11 (B) A city, county or other political subdivision of a state;

12 (C) The District of Columbia; or

13 (D) An association established exclusively to provide services to federal, state or local taxing
14 authorities.

15 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and
16 compliance purposes only. The Multistate Tax Commission may make the information available to
17 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
18 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

19 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
20 representative of the State of Oregon, to the extent the department deems disclosure or access
21 necessary for the performance of the duties of advising or representing the department pursuant to
22 ORS 180.010 to 180.240 and the tax laws of this state.

23 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
24 of Justice, to the extent the department deems disclosure or access necessary for such employees
25 to perform their duties under contracts or agreements between the department and any other de-
26 partment, agency or subdivision of the State of Oregon, in the department's administration of the
27 tax laws.

28 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
29 the extent the department deems disclosure or access necessary for the performance of such others'
30 duties under contracts or agreements between the department and such legal entities, in the
31 department's administration of the tax laws.

32 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
33 173.850. Such officer or representative shall not remove from the premises of the department any
34 materials that would reveal the identity of any taxpayer or any other person.

35 (i) The Department of Consumer and Business Services, to the extent the department requires
36 such information to determine whether it is appropriate to adjust those workers' compensation
37 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
38 earned income received by an individual.

39 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
40 or person to whom disclosure or access is given by state law and not otherwise referred to in this
41 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
42 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
43 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
44 attorney regarding cases for which they are providing support enforcement services under ORS
45 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of

1 Accountancy, pursuant to ORS 673.415.

2 (k) The Director of the Department of Consumer and Business Services to determine that a
 3 person complies with ORS chapter 656 and the Director of the Employment Department to determine
 4 that a person complies with ORS chapter 657, the following employer information:

5 (A) Identification numbers.

6 (B) Names and addresses.

7 (C) Inception date as employer.

8 (D) Nature of business.

9 (E) Entity changes.

10 (F) Date of last payroll.

11 (L) The Director of Human Services to determine that a person has the ability to pay for care
 12 that includes services provided by the Eastern Oregon Training Center or the Department of Human
 13 Services to collect any unpaid cost of care as provided by ORS chapter 179.

14 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
 15 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon
 16 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by
 17 ORS chapter 179.

18 (n) Employees of the Employment Department to the extent the Department of Revenue deems
 19 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
 20 to performance of their duties in administering the tax imposed by ORS chapter 657.

21 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
 22 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
 23 standard industrial classification, if available.

24 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
 25 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
 26 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
 27 refund amount.

28 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
 29 agencies to assist in the investigation or prosecution of the following criminal activities:

30 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
 31 to the stolen document, the name, address and taxpayer identification number of the payee, the
 32 amount of the check and the date printed on the check.

33 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
 34 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
 35 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
 36 dress and taxpayer identification number of the payee, the amount of the check, the date printed
 37 on the check and the altered name and address.

38 (r) The United States Postal Inspection Service or a federal law enforcement agency, including
 39 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
 40 lowing criminal activities:

41 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
 42 to the stolen document, the name, address and taxpayer identification number of the payee, the
 43 amount of the check and the date printed on the check.

44 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
 45 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information

1 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
 2 dress and taxpayer identification number of the payee, the amount of the check, the date printed
 3 on the check and the altered name and address.

4 (s) The United States Financial Management Service, for purposes of facilitating the reciprocal
 5 offsets described in ORS 305.612.

6 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
 7 the administration of a tax of the municipal corporation that is imposed on or measured by income,
 8 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
 9 pursuant to a written agreement between the Department of Revenue and the municipal corporation
 10 that ensures the confidentiality of the information disclosed.

11 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
 12 314.843.

13 (3)(a) Each officer or employee of the department and each person described or referred to in
 14 subsection (2)(a), (e) to (k) or (n) to (q) of this section to whom disclosure or access to the tax in-
 15 formation is given under subsection (2) of this section or any other provision of state law, prior to
 16 beginning employment or the performance of duties involving such disclosure or access, shall be
 17 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
 18 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
 19 certificate for the department, in a form prescribed by the department, stating in substance that the
 20 person has read these provisions of law, that the person has had them explained and that the person
 21 is aware of the penalties for the violation of ORS 314.835.

22 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
 23 written agreement has been entered into between the Department of Revenue and the person de-
 24 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
 25 given, providing that:

26 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
 27 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-
 28 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
 29 this section;

30 (B) The information shall be protected as confidential under applicable federal and state laws;
 31 and

32 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
 33 give notice to the Department of Revenue of any request received under the federal Freedom of In-
 34 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

35 (4) The Department of Revenue may recover the costs of furnishing the information described
 36 in subsection (2)(k) to (m) and (o) to (q) of this section from the respective agencies.

37