

# House Bill 2540

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**.

Temporarily reduces tax subtraction for dividends received by corporations. Applies to tax years beginning on or after January 1, 2011, and before January 1, 2014.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax subtraction for dividends received; creating new provisions; amending ORS 317.267;  
3 prescribing an effective date; and providing for revenue raising that requires approval by a  
4 three-fifths majority.

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

6 **SECTION 1.** ORS 317.267 is amended to read:

7 317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income  
8 amounts received as dividends from corporations deducted for federal purposes pursuant to section  
9 243 or 245 of the Internal Revenue Code, except section 245(c) of the Internal Revenue Code,  
10 amounts paid as dividends by a public utility or telecommunications utility and deducted for federal  
11 purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under  
12 Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by  
13 members of an affiliated group that are eliminated from a consolidated federal return pursuant to  
14 ORS 317.715 (2).

15 (2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of  
16 this section, there shall be subtracted from federal taxable income an amount equal to  
17 [70] \_\_\_\_\_ percent of dividends (determined without regard to section 78 of the Internal Revenue  
18 Code) received or deemed received from corporations if such dividends are included in federal tax-  
19 able income. However:

20 (a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of  
21 the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the  
22 same conditions and in same amount as the dividends received deduction otherwise allowable for  
23 federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

24 (b) In the case of any dividend received from a 20 percent owned corporation, as defined in  
25 section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting [*80*  
26 *percent*] for [*70 percent*]. "\_\_\_\_\_ percent" for "\_\_\_\_\_ percent."

27 (c) A dividend that is not treated as a dividend under section 243(d) or 965(c)(3) of the Internal  
28 Revenue Code may not be treated as a dividend for purposes of this subsection.

29 (d) If a dividends received deduction is not allowed for federal tax purposes because of section  
30 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for

**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 received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

2 (3) There shall be excluded from the sales factor of any apportionment formula employed to at-  
 3 tribute income to this state any amount subtracted from federal taxable income under subsection (2)  
 4 of this section.

5 **SECTION 2.** ORS 317.267, as amended by section 1 of this 2011 Act, is amended to read:

6 317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income  
 7 amounts received as dividends from corporations deducted for federal purposes pursuant to section  
 8 243 or 245 of the Internal Revenue Code, except section 245(c) of the Internal Revenue Code,  
 9 amounts paid as dividends by a public utility or telecommunications utility and deducted for federal  
 10 purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under  
 11 Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by  
 12 members of an affiliated group that are eliminated from a consolidated federal return pursuant to  
 13 ORS 317.715 (2).

14 (2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of  
 15 this section, there shall be subtracted from federal taxable income an amount equal to [\_\_\_\_\_] **70**  
 16 percent of dividends (determined without regard to section 78 of the Internal Revenue Code) re-  
 17 ceived or deemed received from corporations if such dividends are included in federal taxable in-  
 18 come. However:

19 (a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of  
 20 the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the  
 21 same conditions and in same amount as the dividends received deduction otherwise allowable for  
 22 federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

23 (b) In the case of any dividend received from a 20 percent owned corporation, as defined in  
 24 section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting  
 25 ["\_\_\_\_\_ percent" for "\_\_\_\_\_ percent."] **"80 percent" for "70 percent."**

26 (c) A dividend that is not treated as a dividend under section 243(d) or 965(c)(3) of the Internal  
 27 Revenue Code may not be treated as a dividend for purposes of this subsection.

28 (d) If a dividends received deduction is not allowed for federal tax purposes because of section  
 29 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for  
 30 received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

31 (3) There shall be excluded from the sales factor of any apportionment formula employed to at-  
 32 tribute income to this state any amount subtracted from federal taxable income under subsection (2)  
 33 of this section.

34 **SECTION 3. (1) The amendments to ORS 317.267 by section 1 of this 2011 Act apply to tax**  
 35 **years beginning on or after January 1, 2011.**

36 **(2) The amendments to ORS 317.267 by section 2 of this 2011 Act apply to tax years be-**  
 37 **ginning on or after January 1, 2014.**

38 **SECTION 4. This 2011 Act takes effect on the 91st day after the date on which the 2011**  
 39 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**