

House Bill 2820

Sponsored by Representative THATCHER (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 **as introduced**.

Repeals Ballot Measure 67 (2010).

Decreases corporate minimum tax to \$10. Discontinues corporate minimum tax for C corporations based on amount of Oregon sales. Decreases rate of corporate excise tax imposed on C corporations. Repeals \$150 entity tax on partnerships. Applies to tax years beginning on or after January 1, 2012.

Decreases filing fee for specified documents and reports delivered to Secretary of State. Decreases maximum filing fee for financing statements and other records related to Uniform Commercial Code. Decreases application fee for appointment as notary public. Applies to documents and records filed, applications made and fees collected on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to state finance; creating new provisions; amending ORS 56.041, 56.140, 79.0525, 194.020,
3 317.061 and 317.090; repealing section 3, chapter 745, Oregon Laws 2009; and prescribing an ef-
4 fective date.

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

6 **SECTION 1.** ORS 317.090, as amended by section 1, chapter 745, Oregon Laws 2009, is amended
7 to read:

8 317.090. *[(1) As used in this section, "Oregon sales" means:]*

9 *[(a) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax*
10 *purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes*
11 *of ORS 314.665;]*

12 *[(b) If the corporation does not apportion business income for Oregon tax purposes, the total sales*
13 *in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the tax-*
14 *payer were required to apportion business income for Oregon tax purposes; or]*

15 *[(c) If the corporation apportions business income using a method different from the method pre-*
16 *scribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.]*

17 **[(2) Each corporation or affiliated group of corporations filing a return under ORS 317.710] **Each****
18 **taxpayer named in ORS 317.070** shall pay annually to the state, for the privilege of carrying on
19 or doing business by it within this state, a minimum tax **of \$10**. *[as follows:]*

20 *[(a) If Oregon sales properly reported on a return are:]*

21 *[(A) Less than \$500,000, the minimum tax is \$150.]*

22 *[(B) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.]*

23 *[(C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.]*

24 *[(D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.]*

25 *[(E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.]*

26 *[(F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.]*

27 *[(G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.]*

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 *[(H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.]*

2 *[(I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.]*

3 *[(J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.]*

4 *[(K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.]*

5 *[(L) \$100 million or more, the minimum tax is \$100,000.]*

6 *[(b) If a corporation is an S corporation, the minimum tax is \$150.]*

7 [(3)] The minimum tax is not apportionable (except in the case of a change of accounting peri-
8 ods), and is payable in full for any part of the year during which a corporation is subject to tax.

9 **SECTION 2.** ORS 317.061, as amended by sections 5 and 7, chapter 745, Oregon Laws 2009, is
10 amended to read:

11 317.061. The rate of the tax imposed by and computed under this chapter is[:]

12 *[(1)] six and six-tenths percent [of the first \$250,000 of taxable income, or fraction thereof; and]*

13 *[(2) Seven and six-tenths percent of any amount of taxable income in excess of \$250,000].*

14 **SECTION 3.** ORS 317.061, as amended by sections 5, 7 and 9, chapter 745, Oregon Laws 2009,
15 is amended to read:

16 317.061. The rate of the tax imposed by and computed under this chapter is[:]

17 *[(1)] six and six-tenths percent [of the first \$10 million of taxable income, or fraction thereof;
18 and]*

19 *[(2) Seven and six-tenths percent of any amount of taxable income in excess of \$10 million].*

20 **SECTION 4. The amendments to ORS 317.061 and 317.090 by sections 1 to 3 of this 2011
21 Act and the repeal of section 3, chapter 745, Oregon Laws 2009, by section 13 of this 2011 Act
22 apply to tax years beginning on or after January 1, 2012.**

23 **SECTION 5.** ORS 56.140, as amended by section 11, chapter 745, Oregon Laws 2009, is amended
24 to read:

25 56.140. *[(1) The Secretary of State shall collect a nonrefundable fee of \$100 for each of the following
26 documents delivered to the Secretary of State for filing:]*

27 *[(a) Articles of incorporation delivered for filing under ORS 58.085.]*

28 *[(b) Articles of incorporation delivered for filing under ORS 60.051.]*

29 *[(c) Articles of incorporation delivered for filing under ORS 62.511.]*

30 *[(d) Articles of organization delivered for filing under ORS 63.051.]*

31 *[(e) Applications for registration delivered for filing under ORS 67.590.]*

32 *[(f) Certificates of limited partnership delivered for filing under ORS 70.075.]*

33 *[(g) Trust documents delivered for filing under ORS 128.575.]*

34 *[(h) Articles of incorporation delivered for filing under ORS 554.020.]*

35 *[(2) The Secretary of State shall collect a nonrefundable fee of \$100 for annual reports delivered
36 for filing by an entity subject to a fee under subsection (1) of this section, and for any other related
37 document that the entity is allowed or required to file with the Secretary of State.]*

38 *[(3) The Secretary of State shall collect a nonrefundable fee of \$275 for each of the following doc-
39 uments delivered to the Secretary of State for filing:]*

40 *[(a) Applications for authority to transact business in this state delivered under ORS 58.134,
41 60.707, 63.707 or 67.710.]*

42 *[(b) Applications for registration under ORS 70.355.]*

43 *[(c) Annual reports delivered for filing by an entity subject to a fee under paragraph (a) or (b) of
44 this subsection, and for any other related document that the entity is allowed or required to file with
45 the Secretary of State.]*

1 [(4)] (1) [For documents other than those specified in subsections (1), (2) and (3) of this section,
 2 Except as provided in ORS 65.787 (6), the Secretary of State shall collect a nonrefundable fee of \$50
 3 for each document delivered for filing to the Secretary of State as part of the secretary’s business
 4 registry functions described in ORS 56.022.

5 [(5)] (2) The Secretary of State by rule may establish fees, in addition to those provided for in
 6 [subsections (1) to (4)] **subsection (1)** of this section, for:

7 (a) Copying any public record maintained by the secretary and relating to the secretary’s busi-
 8 ness registry functions, and for certifying the copy; and

9 (b) Certifying to other facts of record, including certificates of existence, relating to the
 10 secretary’s business registry functions.

11 [(6)] (3) The Secretary of State shall collect a nonrefundable fee of \$20 each time process that
 12 is related to the Secretary of State’s business registry functions is served on the Secretary of State.

13 [(7)] (4) The Secretary of State may waive collection of any fee, charge or interest or portion
 14 of a fee, charge or interest that is collectible by the Secretary of State as part of the secretary’s
 15 business registry functions.

16 [(8)] (5) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
 17 lowing services relating to the secretary’s business registry functions:

18 (a) Computer generated lists on electronic data processing media.

19 (b) Terminal access to the files of the office.

20 (c) Microfilm records of the files of the office.

21 (d) Microfilm processing and development services.

22 (e) Copies of the programs and files on paper or electronic data processing media.

23 **SECTION 6. The amendments to ORS 56.140 by section 5 of this 2011 Act apply only to**
 24 **documents filed with the Secretary of State on or after the effective date of this 2011 Act.**

25 **SECTION 7.** ORS 56.041, as amended by section 13, chapter 745, Oregon Laws 2009, is amended
 26 to read:

27 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

28 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
 29 penalties and miscellaneous revenues from all sources relating to business registry functions, and
 30 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
 31 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
 32 Treasurer and deposited at least monthly in the Operating Account.

33 (3) Moneys deposited to the credit of the Operating Account are continuously appropriated to
 34 the Secretary of State for the expenses of carrying out the functions and duties of the Secretary of
 35 State relating to business registry, and the functions and duties of the Secretary of State under ORS
 36 chapters 79 and 194 and ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831.

37 (4) At the end of each month, the Secretary of State shall determine the number of business
 38 registry filings during the month for which the Secretary of State collected the [fees] **fee** described
 39 in ORS 56.140 (1) [to (4)]. An amount equal to [\$20] **\$30** for each of those filings shall be [deposited
 40 by the Secretary of State in the Operating Account. The Secretary of State shall then deposit all other
 41 moneys from the fees collected during the month under ORS 56.140 (1) to (4) in the General Fund.
 42 Amounts deposited to the General Fund under this subsection are] **transferred to the General Fund**
 43 **and shall become** available for general governmental expenses.

44 (5) **As of July 1 of each year, any unexpended and unobligated balance in the Operating**
 45 **Account that is in excess of the amount that is necessary to administer the functions and**

1 **duties of the Secretary of State as described in subsection (3) of this section for two months,**
 2 **as certified by the Secretary of State, shall be transferred to the General Fund and shall**
 3 **become available for general governmental expenses.**

4 **SECTION 8. The amendments to ORS 56.041 by section 7 of this 2011 Act first apply to**
 5 **fees for business registry filings collected on or after the effective date of this 2011 Act.**

6 **SECTION 9. ORS 79.0525, as amended by section 15, chapter 745, Oregon Laws 2009, is**
 7 **amended to read:**

8 79.0525. (1) Except as otherwise provided in subsection (4) of this section, the nonrefundable fee
 9 for filing and indexing a record under ORS 79.0501 to 79.0528 may not exceed [~~\$15~~] **\$10.**

10 (2) The number of names required to be indexed does not affect the amount of the fee in sub-
 11 section (1) of this section.

12 (3) The nonrefundable fee for responding to a request for information from the filing office, in-
 13 cluding for communicating whether there is on file any financing statement naming a particular
 14 debtor, may not exceed:

15 (a) \$10 for each distinct debtor name to be searched;

16 (b) \$5 for copies of Uniform Commercial Code documents relating to each distinct debtor name
 17 to be searched, in addition to the fee in paragraph (a) of this subsection; and

18 (c) \$5 for each request by document number for copies of Uniform Commercial Code documents.

19 (4) This section does not require a fee with respect to a record filed or recorded in the filing
 20 office described in ORS 79.0501 (1)(a). However, the recording and satisfaction fees that otherwise
 21 would be applicable to the record apply.

22 (5) The Secretary of State shall adopt rules prescribing fees for providing summaries and com-
 23 pilations that are not debtor specific and for providing copies of records, as described in ORS
 24 79.0523 (6), that are not debtor specific.

25 **SECTION 10. The amendments to ORS 79.0525 by section 9 of this 2011 Act apply only to**
 26 **records filed under ORS 79.0501 to 79.0528 on or after the effective date of this 2011 Act.**

27 **SECTION 11. ORS 194.020, as amended by section 17, chapter 745, Oregon Laws 2009, is**
 28 **amended to read:**

29 194.020. (1) To defray costs incurred by the Secretary of State to process the application made
 30 under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the
 31 Secretary of State a nonrefundable application fee not to exceed [~~\$40~~] **\$20.**

32 (2) Any fee received by the Secretary of State under subsection (1) of this section shall be de-
 33 posited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in
 34 lieu of any fee charged under ORS 177.130.

35 **SECTION 12. The amendments to ORS 194.020 by section 11 of this 2011 Act apply only**
 36 **to applications made under ORS 194.014 on or after the effective date of this 2011 Act.**

37 **SECTION 13. Section 3, chapter 745, Oregon Laws 2009, is repealed.**

38 **SECTION 14. 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.**