

House Bill 3221

Sponsored by Representative PARRISH; Representatives BOONE, CONGER, FREEMAN, KENNEMER, MCLANE, SCHAUFLER, SHEEHAN, WEIDNER

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**.

Permits taxpayer to defer recognition of long-term capital gain if taxpayer invests in business entity in Oregon during tax year.

Applies to tax years beginning on or after January 1, 2011.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1 Relating to tax deferrals for investments in certain businesses; and prescribing an effective date.

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

3 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 314.**

4 **SECTION 2. (1) As used in this section, "business entity" has the meaning given that**
5 **term in ORS 60.470.**

6 **(2) A taxpayer that has income for federal income tax purposes from the sale or other**
7 **disposition of a capital asset may defer recognition of all or part of long-term capital gain in**
8 **determining the taxes imposed under this chapter or ORS chapter 316, 317 or 318, if an**
9 **amount equal to the gain is invested in a business entity doing business in Oregon during the**
10 **tax year. The deferral may be continued for up to four succeeding tax years if the investment**
11 **is continuously maintained. An investment under this section includes:**

12 **(a) Creating a new business entity;**

13 **(b) Expanding an existing business entity;**

14 **(c) Use of capital by a business entity to hire employees;**

15 **(d) Paying for the operations of a business entity; or**

16 **(e) Investing in another business entity that otherwise meets the requirements of this**
17 **section.**

18 **(3) A taxpayer that meets the requirements of this section and seeks a deferral shall file**
19 **an application for the deferral with the Department of Revenue at the time the taxpayer files**
20 **the tax return for the tax year for which the deferral is sought.**

21 **(4) The department may require the taxpayer to provide proof of eligibility for a deferral**
22 **allowed by this section.**

23 **(5) A deferral may be granted under this section only if the taxpayer:**

24 **(a) Has timely filed the taxpayer's return for the tax year; and**

25 **(b) Has paid any amount of tax due that is not eligible for deferral under this section for**
26 **the tax year.**

27 **(6) If the taxpayer meets the requirements for deferral under this section, the depart-**
28 **ment shall grant the deferral.**

29 **(7)(a) Recognition of gain may be deferred under this section for a maximum period of**
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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 five years. Following the end of the deferral period, the deferred taxes are immediately due
2 and payable. The taxpayer may elect to pay the deferred taxes in equal annual payments over
3 the 10-year period immediately following the end of the deferral period, but if the gain ceases
4 to be invested as required under this section, the taxpayer's election of annual payments
5 shall be revoked and the taxpayer shall immediately pay all deferred taxes.

6 (b) Payments made in any year may exceed the minimum payment amount described in
7 paragraph (a) of this subsection.

8 (8) During the 10-year repayment period prescribed in subsection (7) of this section, the
9 taxpayer may reinvest all or a portion of gain and may obtain a subsequent deferral under
10 this section.

11 (9) The basis of the taxpayer in the business entity shall be reduced by the amount of
12 gain deferred under this section.

13 (10) The department may adopt rules and prescribe forms necessary to administer the
14 deferral allowed under this section.

15 **SECTION 3.** Section 2 of this 2011 Act applies to tax years beginning on or after January
16 1, 2011.

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