

Senate Bill 8

Sponsored by Senator COURTNEY (Presession 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**.

Creates subtraction from taxable income for net capital gain that is invested in certain businesses. 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
2 Relating to investment of capital gains; and prescribing an effective date.

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

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 316.**

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

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

9 (b) **“Qualified business” means a sole proprietorship, partnership, company, cooperative,**
10 **corporation or other form of business entity that is organized or authorized to do business**
11 **under Oregon law for profit.**

12 (c) **“Qualified net capital gain” means net capital gain that is treated as net capital gain**
13 **for federal tax purposes for the tax year, that is includable in taxable income in this state**
14 **for the tax year and an amount equal to which is invested in a qualified business.**

15 (2) **There shall be subtracted from federal taxable income any qualified net capital gain,**
16 **not to exceed \$_____, for the tax year if the following conditions are met:**

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

19 (b) **The business operations of the qualified business have existed for at least 60 months;**
20 **and**

21 (c) **The investment continues for at least 24 months.**

22 (3) **If at any time the Department of Revenue determines that a taxpayer is not in com-**
23 **pliance with any of the provisions of this section, the department shall disallow the sub-**
24 **traction under this section. Upon this disallowance, the department shall determine the**
25 **amount of tax due absent the subtraction under this section and immediately shall collect**
26 **any taxes due by reason of the disallowance.**

27 (4) **The Oregon Business Development Department, in consultation with the Department**
28 **of Revenue, shall by rule establish criteria and policies for certifying net capital gain as**
29 **qualified net capital gain under this section.**

30 **SECTION 3. Section 4 of this 2011 Act is added to and made a part of ORS chapter 317.**

31 **SECTION 4. (1) As used in this section:**

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

4 (b) "Qualified business" means a sole proprietorship, partnership, company, cooperative,
5 corporation or other form of business entity that is organized or authorized to do business
6 under Oregon law for profit.

7 (c) "Qualified net capital gain" means net capital gain that is treated as net capital gain
8 for federal tax purposes for the tax year, that is includable in taxable income in this state
9 for the tax year and an amount equal to which is invested in a qualified business.

10 (2) There shall be subtracted from federal taxable income any qualified net capital gain,
11 not to exceed \$_____, for the tax year if the following conditions are met:

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

14 (b) The business operations of the qualified business have existed for at least 60 months;
15 and

16 (c) The investment continues for at least 24 months.

17 (3) If at any time the Department of Revenue determines that a taxpayer is not in com-
18 pliance with any of the provisions of this section, the department shall disallow the sub-
19 traction under this section. Upon this disallowance, the department shall determine the
20 amount of tax due absent the subtraction under this section and immediately shall collect
21 any taxes due by reason of the disallowance.

22 (4) The Oregon Business Development Department, in consultation with the Department
23 of Revenue, shall by rule establish criteria and policies for certifying net capital gain as
24 qualified net capital gain under this section.

25 **SECTION 5.** Sections 2 and 4 of this 2011 Act apply to tax years beginning on or after
26 January 1, 2011.

27 **SECTION 6.** This 2011 Act takes effect on the 91st day after the date on which the 2011
28 session of the Seventy-sixth Legislative Assembly adjourns sine die.

29 _____