

# House Bill 4113

Sponsored by Representative BERGER (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**.

Provides that corporate minimum tax may be reduced by allowance of tax credits. Applies to tax years beginning on or after January 1, 2009.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to corporate taxation; creating new provisions; amending ORS 317.090 and 317.151; and  
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 317.090 is amended to read:

6 317.090. (1) As used in this section:

7 (a) "Oregon sales" means:

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

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

14 (C) If the corporation apportions business income using a method different from the method  
15 prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by  
16 rule.

17 (b) If the corporation is an agricultural cooperative that is a cooperative organization described  
18 in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales representing  
19 business done with or for members of the agricultural cooperative.

20 (2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall  
21 pay annually to the state, for the privilege of carrying on or doing business by it within this state,  
22 a minimum tax as follows:

23 (a) If Oregon sales properly reported on a return are:

24 (A) Less than \$500,000, the minimum tax is \$150.

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

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

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

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

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

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

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

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

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

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

4 (L) \$100 million or more, the minimum tax is \$100,000.

5 (b) If a corporation is an S corporation, the minimum tax is \$150.

6 (3) The minimum tax is not apportionable (except in the case of a change of accounting periods),  
 7 and is payable in full for any part of the year during which a corporation is subject to tax. **The  
 8 minimum tax may be reduced by the application of credits allowed under this chapter or ORS  
 9 chapter 315.**

10 **SECTION 2.** ORS 317.151 is amended to read:

11 317.151. (1) A credit is allowed against the taxes otherwise due under this chapter. The amount  
 12 of the credit shall equal 10 percent of the fair market value of certain qualified charitable contri-  
 13 butions, as described in this section.

14 (2) To qualify for the credit allowed under subsection (1) of this section, the charitable contri-  
 15 bution must:

16 (a) Be a charitable contribution of tangible personal property described in section 1221(a)(1) of  
 17 the Internal Revenue Code that has as its original use, use by the donee for education of students  
 18 in this state, and that is a computer or other scientific equipment or apparatus; and

19 (b) Be a charitable contribution made during the tax year for which the credit is claimed to an  
 20 educational organization that is located in this state and that is:

21 (A) An institution of higher education described in section 170 (b)(1)(A)(ii) of the Internal Re-  
 22 venue Code; or

23 (B) A public educational institution offering instruction in prekindergarten through grade 12 or  
 24 any portion of that instruction.

25 (3) Notwithstanding subsection (2) of this section, a charitable contribution shall qualify for the  
 26 credit allowed under subsection (1) of this section, if:

27 (a) The charitable contribution would otherwise qualify for the credit under subsection (2) of  
 28 this section except that the charitable contribution is of a contract or agreement for the mainte-  
 29 nance of the computer or other scientific equipment or apparatus; or

30 (b) The charitable contribution is a contribution of moneys made under a contract or agreement  
 31 during the tax year for scientific or engineering research to an educational organization that is lo-  
 32 cated in this state and that is:

33 (A) An institution of higher education described in section 170 (b)(1)(A)(ii) of the Internal Re-  
 34 venue Code; or

35 (B) A public educational institution offering instruction in prekindergarten through grade 12 or  
 36 any portion of that instruction.

37 (4) The credit allowed under this section is in lieu of any deduction otherwise allowable under  
 38 this chapter. No deduction shall be allowed under this chapter for any amount upon which the credit  
 39 allowed under this section is based. However, nothing in this section shall affect the basis of the  
 40 property in the hands of the donee or any other taxpayer. The basis of the property in the hands  
 41 of the donee or other person shall be determined as if this section did not exist.

42 (5)(a) Except as provided in paragraph (b) of this subsection, the credit allowed under this sec-  
 43 tion shall not exceed the tax liability of the taxpayer [*and shall not be allowed against the tax im-  
 44 posed under ORS 317.090*]. To qualify for a credit under this section, the charitable contribution  
 45 must be made without consideration and be accepted by the donee institution or school.

1 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
 2 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
 3 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
 4 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
 5 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
 6 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
 7 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
 8 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
 9 thereafter.

10 (6) For purposes of this section, "fair market value" shall be determined at the time the property  
 11 or services are contributed and shall be substantiated by whatever information the Department of  
 12 Revenue requires. A requirement for substantiation may be waived partially, conditionally or abso-  
 13 lutely, as provided under ORS 315.063.

14 **SECTION 3. The amendments to ORS 317.090 and 317.151 by sections 1 and 2 of this 2012**  
 15 **Act apply to tax years beginning on or after January 1, 2009.**

16 **SECTION 4. This 2012 Act takes effect on the 91st day after the date on which the 2012**  
 17 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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