

State of Oregon

2009–2011



# Tax Expenditure Report

Budget and Management Division  
Department of Administrative Services

Research Section  
Department of Revenue

### 1.312 OUT-OF-STATE FINANCIAL INSTITUTIONS

Oregon Statute: 317.057

Sunset Date: None

Year Enacted: 1999

	Corporation	Personal	Total
2007–09 Revenue Impact:	Less than \$50,000	Not Applicable	Less than \$50,000
2009–11 Revenue Impact:	Less than \$50,000	Not Applicable	Less than \$50,000

**DESCRIPTION:** This exclusion specifies that certain out-of-state financial institutions may engage in limited mortgage activities in Oregon without being subject to certain tax and corporation laws. The 1997 Legislature revised the Oregon Bank Act, but in doing so, inadvertently left out a couple provisions of law, which resulted in a change in the definition of which activities are taxable by Oregon. These provisions were added back into law through 1999 SB 26.

Any out-of-state bank, extranational institution or foreign association may take, acquire, hold, and enforce notes secured by mortgages or trust deeds and make commitments to purchase such notes; may foreclose the mortgages or trust deeds in the courts of this state; may acquire the mortgaged property, hold, own and operate the property for a period not exceeding five years and may dispose of the property. The activities do not constitute transacting business in this state for the purposes of ORS chapter 60.

However, if the out-of-state bank, extranational institution or foreign association acquires any property given as security for a mortgage or trust deed, all income accruing to the out-of-state bank, extranational institution or foreign association solely from the ownership, sale or other disposition of such property is subject to taxation in the same manner and on the same basis as income of corporations doing business in this state.

In other words, out-of-state entities can engage in activities that ordinarily would be considered "doing business" for tax purposes and thus subject them to the excise tax. Instead, if the entities limit themselves to what is described, they won't be considered to be "doing business" in Oregon and are not subject to the excise tax. However, if the entities actually do take property in this state, such as through foreclosure, then any income derived from the property will be subject to tax.

These out-of-state financial institutions are required to designate the director of the Department of Consumer and Business Services (DCBS) as attorney for purposes of service of process and pay a \$200 annual licensing fee.

**PURPOSE:** The statute that allows this expenditure does not explicitly state a purpose. Presumably, the purpose is to provide that out-of-state financial institutions that engage in limited activity in Oregon are not considered to be "doing business" in Oregon for purposes of imposing the excise tax.

**WHO BENEFITS:** Six out-of-state financial institutions were registered with DCBS as of July 2008.

**IN-LIEU:** Out-of-state banks shall pay an initial filing fee of \$200 and an annual fee of \$200.

**EVALUATION:** *by the Housing and Community Services Department*

This exclusion increases the available mortgage options to homebuyers. Homeownership has a significant economic benefit to Oregonians. Home sales lead to the development and construction of new homes.