

House Bill 2308

Sponsored by Representative READ (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**.

Reduces rate of tax on capital gains of personal income and corporate income and excise taxpayers if, after effective date of Act, amount equal to gain is invested as seed capital in emerging growth business during tax year.

Applies to tax years beginning on or after January 1, 2013, and before January 1, 2017.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to rate of tax on capital gains; creating new provisions; amending ORS 316.037, 316.122, 317.061 and 318.020; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 285C.

SECTION 2. (1) As used in this section, "emerging growth business" and "seed capital" have the meanings given those terms in ORS 348.701.

(2) The Oregon Business Development Commission shall by rule establish criteria governing the allowance of discounted tax rates under this section. The Oregon Business Development Department shall provide a process for certifying investments that are eligible for the rates allowed under this section.

(3) On or after the effective date of this 2013 Act, if an amount equal to the gain is invested as seed capital in an emerging growth business doing business in this state, according to industry sector as defined by the commission by rule, the rate allowed under this section shall be:

(a) For targeted sector industries, 90 percent.

(b) For key sector industries, 85 percent.

(c) For critical sector industries, 75 percent.

SECTION 3. ORS 316.037 is amended to read:

316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$2,000	5% of taxable income

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	Over \$2,000 but not	
2	over \$5,000	\$100 plus 7%
3		of the excess
4		over \$2,000
5		
6	Over \$5,000 but not	
7	over \$125,000	\$310 plus 9%
8		of the excess
9		over \$5,000
10		
11	Over \$125,000	\$11,110 plus 9.9%
12		of the excess
13		over \$125,000
14		

15
 16 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a
 17 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

18 (A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar
 19 amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjust-
 20 ment for the calendar year.

21 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-
 22 graph shall not be changed.

23 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the
 24 rate brackets, shall be adjusted.

25 (D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

26 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-
 27 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer
 28 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the
 29 monthly averaged index for the second quarter of the calendar year 1992.

30 (d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City
 31 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
 32 Labor Statistics of the United States Department of Labor.

33 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,
 34 the increase shall be rounded to the next lower multiple of \$50.

35 **(2) Notwithstanding subsection (1) of this section, any gain that is treated as net capital**
 36 **gain for federal tax purposes and that is included in taxable income in this state shall be**
 37 **taxed at the discounted rate provided in section 2 of this 2013 Act, if an amount equal to the**
 38 **gain is invested as seed capital in an emerging growth business during the tax year.**

39 [(2)] (3) A tax is imposed for each taxable year upon the entire taxable income of every part-year
 40 resident of this state. The amount of the tax shall be computed under [subsection (1)] **subsections**
 41 **(1) and (2)** of this section as if the part-year resident were a full-year resident and shall be multi-
 42 plied by the ratio provided under ORS 316.117 to determine the tax on income derived from sources
 43 within this state.

44 [(3)] (4) A tax is imposed for each taxable year on the taxable income of every full-year non-
 45 resident that is derived from sources within this state. The amount of the tax shall be determined

1 in accordance with [*the table set forth in subsection (1)*] **subsections (1) and (2)** of this section.

2 **SECTION 4.** ORS 316.122 is amended to read:

3 316.122. (1) If the federal taxable income of husband and wife (one being a part-year resident and
4 the other a nonresident) is determined on a joint federal return, their taxable income in this state
5 shall be separately determined, unless they elect to file a joint return, in which case their tax on
6 their joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

7 (2) If the federal taxable income of husband and wife (one being a full-year resident and the
8 other a part-year resident) is determined on a joint federal return, their taxable income in this state
9 shall be separately determined, unless they elect to file a joint return, in which case their tax on
10 their joint income shall be determined in this state pursuant to ORS 316.037 [(2)] (3).

11 (3) If the federal taxable income of husband and wife (one being a full-year resident and the
12 other a nonresident) is determined on a joint federal return, their taxable income in the state shall
13 be separately determined, unless they elect to file a joint return, in which case their tax on their
14 joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

15 (4) For purposes of computing the tax of a husband and wife under this section, if one of the
16 spouses is a full-year resident individual, then as used in ORS 316.037 [(2) or] (3) **or (4)**, that spouse's
17 taxable income derived from Oregon sources is that spouse's entire federal taxable income, defined
18 in the laws of the United States, with the modifications, additions and subtractions provided in this
19 chapter and other laws of this state applicable to personal income taxation.

20 (5) The provisions of ORS 316.367 with respect to joint returns apply if both husband and wife
21 are part-year residents or full-year nonresidents.

22 **SECTION 5.** ORS 317.061 is amended to read:

23 317.061. (1) The rate of the tax imposed by and computed under this chapter is:

24 [(1)] (a) Six and six-tenths percent of the first \$10 million of taxable income, or fraction thereof;
25 and

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

27 (2) **Notwithstanding subsection (1) of this section, any gain that is treated as net capital**
28 **gain for federal tax purposes and that is included in taxable income in this state shall be**
29 **taxed at the discounted rate provided in section 2 of this 2013 Act, if an amount equal to the**
30 **gain is invested as seed capital in an emerging growth business during the tax year.**

31 **SECTION 6.** ORS 318.020 is amended to read:

32 318.020. (1) There hereby is imposed upon every corporation for each taxable year a tax at the
33 rate provided in ORS 317.061 upon its Oregon taxable income derived from sources within this state,
34 other than income for which the corporation is subject to the tax imposed by ORS chapter 317 ac-
35 cording to or measured by its Oregon taxable income.

36 (2) Income from sources within this state includes income from tangible or intangible property
37 located or having a situs in this state and income from any activities carried on in this state, re-
38 gardless of whether carried on in intrastate, interstate or foreign commerce.

39 [(3) *Income that constitutes net long-term capital gain described in ORS 317.063 shall be taxed at*
40 *the rate imposed under ORS 317.063.*]

41 **SECTION 7. The amendments to ORS 316.037, 316.122, 317.061 and 318.020 by sections 3**
42 **to 6 of this 2013 Act apply to tax years beginning on or after January 1, 2013, and before**
43 **January 1, 2017.**

44 **SECTION 8.** ORS 316.037, as amended by section 3 of this 2013 Act, is amended to read:

45 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every

1 resident of this state. The amount of the tax shall be determined in accordance with the following
 2 table:

3	4	5	6
7	8	9	10
11	12	13	14
15	16	17	18
19	20	21	22
23	24	25	26
27	28	29	30
31	32	33	34
35	36	37	38
39	40	41	42
43	44	45	46

(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph shall not be changed.

(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 1992.

(d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50, the increase shall be rounded to the next lower multiple of \$50.

[(2) Notwithstanding subsection (1) of this section, any gain that is treated as net capital gain for

1 *federal tax purposes and that is included in taxable income in this state shall be taxed at the dis-*
 2 *counted rate provided in section 2 of this 2013 Act, if an amount equal to the gain is invested as seed*
 3 *capital in an emerging growth business during the tax year.]*

4 [(3)] (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year
 5 resident of this state. The amount of the tax shall be computed under [subsections (1) and (2)]
 6 **subsection (1)** of this section as if the part-year resident were a full-year resident and shall be
 7 multiplied by the ratio provided under ORS 316.117 to determine the tax on income derived from
 8 sources within this state.

9 [(4)] (3) A tax is imposed for each taxable year on the taxable income of every full-year non-
 10 resident that is derived from sources within this state. The amount of the tax shall be determined
 11 in accordance with [subsections (1) and (2)] **the table set forth in subsection (1)** of this section.

12 **SECTION 9.** ORS 316.122, as amended by section 4 of this 2013 Act, is amended to read:

13 316.122. (1) If the federal taxable income of husband and wife (one being a part-year resident and
 14 the other a nonresident) is determined on a joint federal return, their taxable income in this state
 15 shall be separately determined, unless they elect to file a joint return, in which case their tax on
 16 their joint income shall be determined in this state pursuant to ORS 316.037 [(4)] (3).

17 (2) If the federal taxable income of husband and wife (one being a full-year resident and the
 18 other a part-year resident) is determined on a joint federal return, their taxable income in this state
 19 shall be separately determined, unless they elect to file a joint return, in which case their tax on
 20 their joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (2).

21 (3) If the federal taxable income of husband and wife (one being a full-year resident and the
 22 other a nonresident) is determined on a joint federal return, their taxable income in the state shall
 23 be separately determined, unless they elect to file a joint return, in which case their tax on their
 24 joint income shall be determined in this state pursuant to ORS 316.037 [(4)] (3).

25 (4) For purposes of computing the tax of a husband and wife under this section, if one of the
 26 spouses is a full-year resident individual, then as used in ORS 316.037 (2) or (3) [or (4)], that spouse's
 27 taxable income derived from Oregon sources is that spouse's entire federal taxable income, defined
 28 in the laws of the United States, with the modifications, additions and subtractions provided in this
 29 chapter and other laws of this state applicable to personal income taxation.

30 (5) The provisions of ORS 316.367 with respect to joint returns apply if both husband and wife
 31 are part-year residents or full-year nonresidents.

32 **SECTION 10.** ORS 317.061, as amended by section 5 of this 2013 Act, is amended to read:

33 317.061. [(1)] The rate of the tax imposed by and computed under this chapter is:

34 [(a)] (1) Six and six-tenths percent of the first \$10 million of taxable income, or fraction thereof;
 35 and

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

37 [(2) Notwithstanding subsection (1) of this section, any gain that is treated as net capital gain for
 38 federal tax purposes and that is included in taxable income in this state shall be taxed at the dis-
 39 counted rate provided in section 2 of this 2013 Act, if an amount equal to the gain is invested as seed
 40 capital in an emerging growth business during the tax year.]

41 **SECTION 11.** ORS 318.020, as amended by section 6 of this 2013 Act, is amended to read:

42 318.020. (1) There hereby is imposed upon every corporation for each taxable year a tax at the
 43 rate provided in ORS 317.061 upon its Oregon taxable income derived from sources within this state,
 44 other than income for which the corporation is subject to the tax imposed by ORS chapter 317 ac-
 45 cording to or measured by its Oregon taxable income.

1 (2) Income from sources within this state includes income from tangible or intangible property
2 located or having a situs in this state and income from any activities carried on in this state, re-
3 gardless of whether carried on in intrastate, interstate or foreign commerce.

4 **(3) Income that constitutes net long-term capital gain described in ORS 317.063 shall be**
5 **taxed at the rate imposed under ORS 317.063.**

6 **SECTION 12. The amendments to ORS 316.037, 316.122, 317.061 and 318.020 by sections 8**
7 **to 11 of this 2013 Act apply to tax years beginning on or after January 1, 2017.**

8 **SECTION 13. This 2013 Act takes effect on the 91st day after the date on which the 2013**
9 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

10