

**A-Engrossed**  
**House Bill 2464**

Ordered by the House May 14  
Including House Amendments dated May 14

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

**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.

*[Directs Department of Revenue to report on use of out-of-state tax shelters to Legislative Assembly and make recommendations for addressing noncompliance attributable to out-of-state tax shelters.]*

**Requires person engaged in trade or business that makes payment for performance of construction services to make reports to payee and to Department of Revenue. Provides for penalties for failure to make required report.**

**Applies to payments made in tax years beginning on or after January 1, 2013.**

**Takes effect on 91st day following adjournment sine die.**

**A BILL FOR AN ACT**

1  
2 Relating to tax compliance; creating new provisions; amending ORS 305.217; and prescribing an ef-  
3 fective date.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 314.**

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

7 (a) **“Construction services” includes the erection, excavation, installation, alteration,**  
8 **addition, modification, repair, improvement, demolition, destruction, dismantling or removal**  
9 **of all or any part of a building, structure, dock, wharf, surface or subsurface construction**  
10 **on or attached to any real property.**

11 (b) **“Payee” means a person, corporation, partnership, association or limited liability**  
12 **company engaged in the performance of construction services.**

13 (c) **“Payment” does not include wages paid to an employee of the payor.**

14 (d) **“Payor” means a person engaged in a trade or business that makes payment, in the**  
15 **course of the trade or business, for the performance of construction services. “Payor” does**  
16 **not include a person that does not, in the ordinary course of the person’s business, engage**  
17 **in contracting for construction services.**

18 (2) **A payor that makes payment of \$600 or more during the tax year to a payee for the**  
19 **performance of construction services, or for the performance of construction services and**  
20 **for materials or equipment, shall make a report to the payee and to the Department of Re-**  
21 **venue. The payor shall make the report to the payee on or before the 31st of January fol-**  
22 **lowing the tax year in which the payment was made. The report must be made in the manner**  
23 **and on a form prescribed by the department and must include:**

24 (a) **The name and address of the payor;**

(b) **The name, address and tax identification number of the payee;**

**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 (c) The total amount that the payor paid to the payee during the tax year; and

2 (d) Any other information that the department requires.

3 (3) The Director of the Department of Revenue shall transmit the information contained  
4 in all reports received under this section to the Director of the Employment Department no  
5 later than the last day of the month following the calendar quarter in which the report was  
6 received. The Department of Revenue may share the reports required under this section,  
7 upon request, with any state or federal law enforcement agency.

8 (4)(a) A person who fails to file a report required under this section, or a return or report  
9 required under ORS 314.360 or 316.202, or who files an incomplete or incorrect return or re-  
10 port, shall be subject to a penalty of \$50 per information return after the date on which the  
11 return or report is due, up to a maximum penalty of \$2,500.

12 (b) A person who knowingly fails to file a report required under this section, or a return  
13 or report required under ORS 314.360 or 316.202, or who knowingly files an incomplete, false  
14 or misleading return or report, shall be subject to a penalty of \$250 per information return  
15 after the date on which the return or report is due, up to a maximum penalty of \$25,000.

16 (5) The Department of Revenue may by rule establish procedures for carrying out the  
17 provisions of this section. The department may further define by rule the terms defined in  
18 this section in a manner consistent with this section.

19 **SECTION 3.** ORS 305.217 is amended to read:

20 305.217. [No] A deduction [shall be] is **not** allowed under ORS chapter 316, 317 or 318 to an  
21 individual or entity for amounts paid as wages or as remuneration for personal services if that in-  
22 dividual or entity fails to report the payments as required by ORS 314.360 or 316.202 **or section 2**  
23 **of this 2013 Act** on the date prescribed therefor (determined with regard to any extension of time  
24 for filing) unless it is shown that the failure to report is due to reasonable cause and not done with  
25 the intent to evade payment of the tax imposed by ORS chapter 316 or to assist another in evading  
26 the payment of such tax.

27 **SECTION 4.** Section 2 of this 2013 Act and the amendments to ORS 305.217 by section 3  
28 of this 2013 Act apply to payments made in tax years beginning on or after January 1, 2013.

29 **SECTION 5.** This 2013 Act takes effect on the 91st day after the date on which the 2013  
30 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

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