

House Bill 3188

Sponsored by Representative HOLVEY

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**.

Enacts uniform sales and use tax administration provisions. Directs Department of Revenue to enter into Streamlined Sales and Use Tax Agreement with other states. Imposes sales tax on sales of tangible personal property or services. Imposes use tax on use of tangible personal property purchased out-of-state. Provides civil and criminal penalties for noncompliance.

Provides that sales and use tax provisions become operative on January 1, 2016, and apply to transactions occurring on or after January 1, 2016, but do not become operative if Streamlined Sales and Use Tax Agreement is not executed prior to January 1, 2016.

Takes effect only if constitutional amendment proposed by House Joint Resolution 30 (2013) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed by House Joint Resolution 30 (2013).

A BILL FOR AN ACT

Relating to taxation; creating new provisions; amending ORS 305.130, 305.265, 305.270, 305.280, 305.380, 305.565, 305.850, 305.895, 314.430, 731.840, 801.040, 802.110 and 803.585; appropriating money; and prescribing an effective date.

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

UNIFORM SALES AND USE TAX ADMINISTRATION ACT

SECTION 1. Sections 1 to 7 of this 2013 Act shall be known and may be cited as the **Uniform Sales and Use Tax Administration Act**.

SECTION 2. As used in sections 1 to 81 and 83 to 96 of this 2013 Act:

(1) "Certified automated system" means software certified jointly by the states that are signatories to the Streamlined Sales and Use Tax Agreement to compute the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

(2) "Certified service provider" means an agent certified jointly by the states that are signatories to the Streamlined Sales and Use Tax Agreement to perform all of the seller's sales and use tax functions other than the seller's obligation to remit tax on its own purchases.

(3) "Model 1 Seller" means a seller registered pursuant to section 19 of this 2013 Act that has contracted with a certified service provider as its agent.

(4) "Model 2 Seller" means a seller registered pursuant to section 19 of this 2013 Act that uses a certified automated system to perform part of the seller's sales and use tax functions, other than the seller's obligation to remit the taxes.

(5)(a) "Model 3 Seller" means a seller that:

(A) Is registered pursuant to section 19 of this 2013 Act;

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 (B) Has sales in at least five member states;

2 (C) Has total annual sales revenue of at least \$500,000,000;

3 (D) Has a proprietary system that calculates the amount of tax due to each jurisdiction;

4 and

5 (E) Has entered into a performance agreement with the member states that establishes
6 a tax performance standard for the seller.

7 (b) "Model 3 Seller" includes an affiliated group of sellers using the same proprietary
8 system.

9 (6) "Model 4 Seller" means a seller registered pursuant to section 19 of this 2013 Act
10 other than a Model 1 Seller, Model 2 Seller or Model 3 Seller.

11 (7) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability
12 company, limited liability partnership, corporation or any other legal entity.

13 (8) "Sales tax" means the tax imposed under section 11 of this 2013 Act.

14 (9) "Seller" means a person making sales, leases or rentals of tangible personal property
15 or services.

16 (10) "State" means any state of the United States or the District of Columbia.

17 (11) "Streamlined Sales and Use Tax Agreement" means the Streamlined Sales and Use
18 Tax Agreement adopted by the Streamlined Sales Tax Project on November 12, 2002, as
19 amended and in effect on the effective date of this 2013 Act.

20 (12) "Use tax" means the tax imposed under section 22 of this 2013 Act.

21 **SECTION 3.** The Legislative Assembly finds and declares that its purpose in entering into
22 the Streamlined Sales and Use Tax Agreement with one or more states is to simplify and
23 modernize sales and use tax administration in order to substantially reduce the burden of
24 tax compliance for all sellers and for all types of commerce.

25 **SECTION 4.** (1) The Department of Revenue shall enter into the Streamlined Sales and
26 Use Tax Agreement with one or more states.

27 (2) After entry into the agreement, the department may:

28 (a) Act jointly with other states that are members of the agreement to establish certif-
29 ication standards for a certified service provider and certified automated system and to es-
30 tablish performance standards for multistate sellers.

31 (b) Adopt rules to implement sections 1 to 7 of this 2013 Act.

32 (c) Procure jointly with other member states goods and services in furtherance of the
33 agreement.

34 (d) Take other actions reasonably necessary to implement the provisions of sections 1 to
35 7 of this 2013 Act.

36 (3) The department may represent this state before the other states that are signatories
37 to the agreement.

38 **SECTION 5.** (1) No provision of the Streamlined Sales and Use Tax Agreement entered
39 into pursuant to section 4 of this 2013 Act invalidates or amends, in whole or part, any pro-
40 vision of the law of this state.

41 (2) Adoption of the agreement by this state does not amend any law of this state.

42 (3) Implementation of any condition of the agreement in this state, whether adopted be-
43 fore, at the time of or after entry of this state into the agreement, must be by the action
44 of this state.

45 **SECTION 6.** (1) The Streamlined Sales and Use Tax Agreement authorized by sections 1

1 to 7 of this 2013 Act binds and inures only to the benefit of this state and the other member
 2 states. No person, other than a member state, is an intended beneficiary of the agreement.
 3 Any benefit to a person other than a state is established by the law of this state and the
 4 other member states and not by the terms of the agreement.

5 (2) A person has no cause of action or defense under the agreement or by virtue of the
 6 approval of the agreement by this state. A person may not challenge, in any action brought
 7 under any provision of law, any action or inaction by any department, agency or other
 8 instrumentality of this state, or any political subdivision of this state, on the ground that the
 9 action or inaction is inconsistent with the agreement.

10 (3) No law of this state or application of the law may be declared invalid as to any person
 11 or circumstance on the ground that the provision or application is inconsistent with the
 12 agreement.

13 **SECTION 7.** (1) A certified service provider is liable for sales and use tax due each
 14 member state on all sales transactions the certified service provider processes for a seller
 15 except as set out in this section.

16 (2)(a) A Model 1 Seller is not liable to this state for sales or use tax due on transactions
 17 processed by the seller’s certified service provider unless the seller misrepresented the type
 18 of items the seller sells or committed fraud. In the absence of probable cause to believe that
 19 the seller has committed fraud or made a material misrepresentation, the seller is not sub-
 20 ject to audit on transactions processed by the seller’s certified service provider. A seller is
 21 subject to audit for transactions not processed by the seller’s certified service provider.

22 (b) Member states acting jointly may perform a system check of a Model 1 Seller and
 23 review the seller’s procedures to determine if the system of the seller’s certified service
 24 provider is functioning properly and the extent to which the seller’s transactions are being
 25 processed by the certified service provider.

26 (3) A person that provides a certified automated system is responsible for the proper
 27 functioning of that system and is liable to the state for underpayments of tax attributable
 28 to errors in the functioning of the certified automated system. A Model 2 Seller remains li-
 29 able to the state for reporting and remitting tax processed by the seller’s certified automated
 30 system.

31 (4) A Model 3 Seller is liable for the failure of the seller’s proprietary system to meet the
 32 tax performance standard established in the seller’s performance agreement with the state.

33
 34 **THE SALES AND USE TAX LAW**
 35

36 **SECTION 8.** Sections 8 to 81 and 83 to 96 of this 2013 Act shall be known and may be cited
 37 as the Sales and Use Tax Law.

38 **SECTION 9.** As used in sections 8 to 81 and 83 to 96 of this 2013 Act:

39 (1) “Business” means any activity engaged in with the object of gain, benefit or advan-
 40 tage, either direct or indirect.

41 (2) “Delivery charge” means a charge by the seller of personal property or services for
 42 preparation and delivery to a location designated by the purchaser of personal property or
 43 services.

44 (3) “Engaged in business in this state,” with respect to a seller at retail, means:

45 (a) Maintaining, occupying or using, permanently or temporarily, directly or indirectly,

1 or through a subsidiary or other agent, by whatever name, an office, place of distribution,
2 sales or sample room or place, warehouse or storage place or other place of business;

3 (b) Having a representative, agent, salesperson, canvasser or solicitor operating in this
4 state under the authority of the seller or its subsidiary for the purpose of selling, delivering
5 or taking orders for tangible personal property; or

6 (c) Deriving rental income from a lease of tangible personal property located in this
7 state.

8 (4)(a) "Gross receipts" means the total amount of consideration, including cash, credit,
9 property and services, for which personal property or services are sold, leased or rented,
10 without any deduction for:

11 (A) The seller's cost of the property that is being sold;

12 (B) The cost of materials, labor, interest, losses, transportation to the seller, taxes im-
13 posed on the seller or other expense of the seller;

14 (C) Charges by the seller for any services necessary to complete the sale, other than
15 delivery and installation charges;

16 (D) Delivery charges;

17 (E) Installation charges;

18 (F) The value of exempt personal property given to the purchaser, if taxable and exempt
19 personal property have been sold by the seller as a single product; or

20 (G) Credit for a trade-in of property.

21 (b) "Gross receipts" does not mean:

22 (A) Discounts, including cash, term or coupons that are not reimbursed by a third party,
23 that are allowed by a seller and taken by a purchaser on a sale;

24 (B) Interest, financing or carrying charges from credit extended on the sale of personal
25 property or services, if the amount is separately stated on the invoice; or

26 (C) Taxes that are legally imposed directly on the purchaser and that are separately
27 stated on the invoice, bill of sale or similar document given to the purchaser.

28 (5) "In this state" or "within this state" means within the exterior limits of the State
29 of Oregon and includes all territory within these limits owned by or ceded to the United
30 States of America.

31 (6) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and
32 in effect on December 31, 2012.

33 (7)(a) "Lease" means a transfer of possession or control of tangible personal property for
34 a fixed or indeterminate term for consideration, or a future option to purchase or extend the
35 possession or control of the tangible personal property.

36 (b) "Lease" does not mean:

37 (A) A transfer of possession or control of tangible personal property under a security
38 agreement or deferred payment plan that requires the transfer of title upon completion of
39 the required payments.

40 (B) A transfer of possession or control of tangible personal property under an agreement
41 that requires the transfer of title upon completion of required payments and payment of an
42 option price that does not exceed the greater of \$100 or one percent of the total of required
43 payments.

44 (C) The provision of tangible personal property and an operator of the tangible personal
45 property for a fixed or indeterminate period of time, if the operator is necessary for the

1 equipment to perform as designed. For purposes of this subparagraph, an operator must do
 2 more than maintain, inspect or set up the tangible personal property.

3 (D) An agreement covering the rental of a motor vehicle, if the rental agreement con-
 4 tains a terminal rental adjustment clause as defined in section 7701(h)(3) of the Internal
 5 Revenue Code.

6 (E) A rental agreement that was executed prior to the date on which the Department
 7 of Revenue enters into the Streamlined Sales and Use Tax Agreement.

8 (8) "Motor vehicle" has the meaning given that term in ORS 801.360.

9 (9) "Nonresident" means an individual who is not a resident of this state.

10 (10) "Occasional sale" means:

11 (a) A sale of property not held or used by a seller in the course of activities for which
 12 the seller is required to register pursuant to section 19 of this 2013 Act or would be required
 13 to register if the activities were conducted in this state, but only if the sale is not one of a
 14 series of sales sufficient in number, scope and character to constitute an activity for which
 15 the seller is required to register or would be required to register if the activity were con-
 16 ducted in this state.

17 (b) A transfer of 80 percent or more, in terms of sales price, of the tangible personal
 18 property held or used by a person in the course of an activity requiring the transferor to
 19 register pursuant to section 19 of this 2013 Act, if, after the transfer, the real or ultimate
 20 ownership of the property is substantially similar to that which existed before the transfer.
 21 For the purposes of this paragraph, stockholders, bondholders, partners or other persons
 22 holding an interest in a corporation or other entity are regarded as having the real or ul-
 23 timate ownership of the property of the corporation or other entity.

24 (11) "Purchase price" has the same meaning as "sales price."

25 (12) "Rental" has the same meaning as "lease."

26 (13) "Resident" and "resident of this state" have the meaning given those terms in ORS
 27 316.027.

28 (14) "Retail sale" or "sale at retail" means a sale or lease for any purpose other than for
 29 resale, sublease or subrent.

30 (15) "Sales price" means the total amount of gross receipts derived from the sale or lease
 31 of tangible personal property or services.

32 (16) "Sales tax reimbursement" means an amount equal to the sales tax that the seller
 33 is required to remit to the state and that is added by the seller to the purchase price payable
 34 by the purchaser.

35 (17) "Services" means all activities engaged in for the benefit of other persons for a fee,
 36 retainer, commission or other monetary charge, if the activities predominantly involve the
 37 performance of a service as distinguished from selling property.

38 (18)(a) "Storage" means keeping or retaining in this state tangible personal property
 39 purchased from a seller at retail, for any purpose other than sale of the property in the
 40 regular course of business or subsequent use of the property solely outside this state.

41 (b) "Storage" does not mean keeping, retaining or exercising any right or power over
 42 tangible personal property for the purpose of:

43 (A) Subsequently transporting the property outside this state for use solely outside this
 44 state; or

45 (B) Having the property processed, fabricated or manufactured into, attached to or in-

1 incorporated into, other tangible personal property to be subsequently transported outside this
2 state for use solely outside this state.

3 (19)(a) "Tangible personal property" means personal property that can be seen, weighed,
4 measured, felt or touched, or that is in any other manner perceptible to the senses.

5 (b) "Tangible personal property" includes electricity, water, gas, steam and prewritten
6 computer software.

7 (c) "Tangible personal property" does not mean a product that is transferred electron-
8 ically, other than telecommunications services or services ancillary to telecommunications
9 services.

10 (20)(a) "Use" means the exercise of any right or power over tangible personal property
11 incident to the ownership of the property, including the possession of, or the exercise of any
12 right or power over, tangible personal property by a lessee under a lease.

13 (b) "Use" does not mean the sale of tangible personal property in the regular course of
14 business.

15 (c) "Use" does not mean keeping, retaining or exercising any right or power over tangible
16 personal property for the purpose of:

17 (A) Subsequently transporting the property outside this state for use solely outside this
18 state; or

19 (B) Having the property processed, fabricated or manufactured into, attached to or in-
20 corporated into, other tangible personal property to be subsequently transported outside this
21 state for use solely outside this state.

22 **SECTION 10.** (1) The Department of Revenue shall adopt rules for sourcing the retail sale
23 of products and services. The rules must conform to the sourcing provisions of the Stream-
24 lined Sales and Use Tax Agreement.

25 (2) The department may adopt rules defining terms for purposes of imposing and admin-
26 istering the sales tax and the use tax, including rules defining categories of products or
27 services. The rules must conform to definitions set forth in the Streamlined Sales and Use
28 Tax Agreement.

29
30 **THE SALES TAX**

31
32 **SECTION 11.** (1) Pursuant to Article IX, section 15, of the Oregon Constitution, in addi-
33 tion to all other taxes of every kind, for the privilege of selling tangible personal property
34 or services at retail in this state, a tax payable by the seller is imposed upon all sales at
35 retail of tangible personal property or services at the rate of five percent of the gross re-
36 ceipts from the sale.

37 (2) A unit of local government may not impose a sales tax that is not approved by the
38 governing body of the local government on or before November 4, 2014.

39 **SECTION 12.** (1) Whether a seller may add sales tax reimbursement to the sales price
40 of tangible personal property or services sold at retail depends solely upon the terms of the
41 agreement of sale.

42 (2) It is presumed that the seller and purchaser agreed to the addition of sales tax re-
43 imbursement to the sales price of tangible personal property or services sold at retail to a
44 purchaser if:

45 (a) The agreement of sale expressly provides for the sales tax reimbursement;

1 (b) Sales tax reimbursement is shown on the sales check or other proof of sale; or

2 (c) The seller posts in the seller's premises in a location visible to purchasers, or includes
3 on a price tag or in an advertisement or other printed material directed to purchasers, a
4 notice to the effect that sales tax reimbursement will be added to the sales price of all ser-
5 vices, items or certain items, as applicable.

6 (3) It is presumed that the property or services, the gross receipts from the sale of which
7 are subject to the sales tax, are sold at a price that includes sales tax reimbursement if the
8 seller posts in the premises or includes on a price tag or in an advertisement, as applicable,
9 one of the following notices:

10 (a) "All prices of taxable items include sales tax reimbursement computed to the nearest
11 cent."

12 (b) "The price of this item includes sales tax reimbursement computed to the nearest
13 cent."

14 **SECTION 13.** (1) The Department of Revenue shall adopt a rounding algorithm that:

15 (a) Computes the sales tax and the sales tax reimbursement allowable under section 12
16 of this 2013 Act to the third decimal place; and

17 (b) Rounds the amount up to the next cent whenever the third decimal place is greater
18 than four.

19 (2) A seller may compute the sales tax due on a transaction on an item or an invoice
20 basis and may apply the rounding rule of subsection (1) of this section to aggregated state
21 and local taxes.

22 (3) A seller may not be required to collect tax based on a bracket system.

23 **SECTION 14.** (1) The Department of Revenue shall complete the taxability matrix that
24 is adopted by the Streamlined Sales Tax Governing Board.

25 (2) The department shall provide and maintain entries in the taxability matrix in a da-
26 tabase that is in a downloadable format that complies with the Streamlined Sales and Use
27 Tax Agreement.

28 (3) Purchasers, sellers and certified service providers are relieved from liability for sales
29 tax or use tax to the extent that the seller or certified service provider charged and collected
30 an incorrect amount of sales tax or use tax as a result of reliance on erroneous data pro-
31 vided by the department for the taxability matrix.

32 **SECTION 15.** (1)(a) The Department of Revenue may authorize a seller to pay the sales
33 tax upon sales made through vending machines and similar devices, or under conditions of
34 business that render the collection of the tax as a separate item impracticable, and to waive
35 sales tax reimbursement from the purchaser.

36 (b)(A) If sales are made by receipt of a coin or coins dropped into a receptacle that re-
37 sults in delivery of the merchandise in single purchases of smaller value than the minimum
38 sale upon which a one cent tax may be collected from the purchaser, and if the design of the
39 device is such that multiple sales of items are not possible or cannot be detected so as
40 practicably to assess a tax, then no tax shall be assessed or collected on the gross receipts
41 from such sales if adequate and complete records are kept by the vending machine operator,
42 readily available for inspection by the department.

43 (B) If adequate and complete records are not maintained as required under subparagraph
44 (A) of this paragraph, the gross receipts for the purposes of the sales tax are 50 percent of
45 the gross receipts of the vending machine through which the sales are made, determined by

1 the department according to the best of its information and belief, using such records as are
2 available.

3 (c) As used in this subsection, “adequate and complete records” means that the vending
4 machine operator regularly maintains records that would enable a department auditor to
5 accurately ascertain liability for sales taxes, showing the location or locations of each ma-
6 chine operated by the vending machine operator during each reporting period, the serial
7 number of the machine, purchases and inventories of merchandise bought for sale through
8 all vending machines and the gross receipts derived from the operation at each location
9 during each reporting period.

10 (2)(a) No authority under subsection (1) of this section may be granted except upon ap-
11 plication to the department for a permit and unless the department finds that the conditions
12 of the applicant’s business are such as to render the collection of the tax in the manner
13 otherwise provided impracticable.

14 (b) If required by the department, an applicant under this section must furnish a proper
15 bond sufficient to secure the payment of the tax. One permit is sufficient for all machines
16 of one operator. The operator shall affix in a conspicuous place on each vending machine a
17 statement that includes the operator’s name, place of business and permit number.

18 **SECTION 16.** (1)(a) When an amount represented by a seller at retail to a purchaser as
19 constituting sales tax reimbursement is computed upon an amount that is not taxable or is
20 in excess of the taxable amount and is actually paid by the purchaser to the seller, the excess
21 sales tax reimbursement paid shall be returned by the seller to the purchaser upon written
22 notification by the Department of Revenue or the purchaser.

23 (b) The written notification must contain information necessary to determine the validity
24 of the purchaser’s claim.

25 (2) If the seller does not return the excess sales tax reimbursement within 60 days after
26 mailing of the written notification required under subsection (1) of this section, the pur-
27 chaser may appeal to the Oregon Tax Court under ORS 305.275 for the amount of the excess
28 sales tax reimbursement.

29 (3)(a) Amounts validly claimed by a purchaser under this section but not returned to the
30 purchaser by the seller shall be remitted by the seller to the Department of Revenue.

31 (b) Amounts remitted to the department under this subsection shall be credited by the
32 department against any amounts of sales tax or use tax, as applicable, due and payable on
33 the same transaction from the seller that remitted the amount and the balance, if any, shall
34 constitute an obligation due from the seller to this state.

35 **SECTION 17.** (1)(a) A seller is relieved from liability for sales tax to the extent that the
36 tax is computed on accounts that, for federal income tax purposes, constitute deductible bad
37 debt under section 166 of the Internal Revenue Code.

38 (b) Notwithstanding paragraph (a) of this subsection, the amount of bad debt for which
39 liability is relieved under this section shall be reduced by:

40 (A) Interest or other financing charges;

41 (B) Sales or use taxes charged on the sale of the property or services from which the bad
42 debt is derived;

43 (C) Uncollectible amounts due on property that remains in the possession of the seller
44 until the full purchase price is paid;

45 (D) Expenses incurred in attempting to collect any debt; or

1 (E) The value of repossessed property.

2 (2) A deduction for bad debt allowed under this section may not include interest charged
3 by the seller on delinquent amounts.

4 (3) Bad debt may be deducted only on the tax return for the period during which the bad
5 debt is written off as uncollectible in the books and records of the taxpayer and is eligible
6 for deduction for federal tax purposes, or would be eligible for deduction if the taxpayer were
7 required to file a federal income tax return.

8 (4) If bad debt that is deducted under subsection (1) of this section is subsequently col-
9 lected, in whole or in part, the amount collected shall be added to amounts on which the
10 sales tax liability of the taxpayer is computed for the reporting period in which the amount
11 is collected.

12 (5) If the amount of bad debt that may be deducted exceeds the amount on which the
13 sales tax liability of the taxpayer is computed for the reporting period in which the bad debt
14 is written off, the taxpayer may file a claim for a refund within the time and in the manner
15 provided in ORS 305.270.

16 (6) If a seller's filing responsibilities have been assumed by a certified service provider,
17 the certified service provider may claim on behalf of the seller any bad debt allowance pro-
18 vided under this section. The certified service provider must credit or refund the full amount
19 of any bad debt allowance or refund received by the certified service provider to the seller.

20 (7) For purposes of reporting a payment received on a previously claimed bad debt, any
21 payments made on a debt or account must be applied first proportionally to the taxable sales
22 price of the property or service and the sales tax on the sales price, and then to interest,
23 service charges and any other charges.

24 (8) The Department of Revenue shall adopt rules for the allocation of bad debt between
25 Oregon and other states in cases in which the amount of bad debt for federal income tax
26 purposes is attributable to debt from both within and outside Oregon.

27
28 **SELLER REGISTRATION**
29

30 **SECTION 18.** (1) The Department of Revenue shall design and implement an online sales
31 tax registration system that complies with the Streamlined Sales and Use Tax Agreement.

32 (2) A seller may not be required to pay a fee in order to register for sales and use tax
33 purposes.

34 (3) The department may adopt any rules necessary to implement the registration system
35 or to facilitate registration or the operation of the registration system.

36 **SECTION 19.** (1) Each person seeking to conduct business in this state as a seller shall
37 register with the Department of Revenue through the online registration system operated
38 pursuant to section 18 of this 2013 Act.

39 (2) A certified service provider may register on behalf of a Model 1 Seller.

40 (3) A person may not conduct business as a seller in this state without registering under
41 this section.

42 (4) Each individual who bears any responsibility for the direction or management of an
43 entity of any kind that conducts business in violation of subsection (3) of this section is
44 guilty of violating that subsection.

45 **SECTION 20.** For purposes of the proper administration of the Sales and Use Tax Law

1 and to prevent evasion of the sales tax, all gross receipts are presumed subject to the sales
 2 tax until the contrary is established. The burden of proving that a sale of tangible personal
 3 property or services is not a sale at retail is upon the seller.

4 **SECTION 21.** (1) A seller that registers pursuant to section 19 of this 2013 Act shall re-
 5 ceive amnesty for uncollected or unpaid sales or use tax, provided that:

6 (a) The seller was not registered in this state in the 12-month period immediately pre-
 7 ceding the effective date of this state's participation in the Streamlined Sales and Use Tax
 8 Agreement; and

9 (b) The seller registers within 12 months after the effective date of this state's partic-
 10 ipation in the Streamlined Sales and Use Tax Agreement.

11 (2) The amnesty provided under this section precludes assessment for uncollected or
 12 unpaid sales or use tax, including any penalty or interest for sales made during the period
 13 the seller was not registered in this state.

14 (3) Notwithstanding subsections (1) and (2) of this section, amnesty is not available:

15 (a) To a seller with respect to any matter for which the seller has received notice of the
 16 commencement of an audit that is not finally resolved, including any related administrative
 17 and judicial proceedings.

18 (b) For sales or use taxes that have been paid or remitted to the state or collected by the
 19 seller.

20 (4)(a) Amnesty under this section is fully effective, absent the seller's fraud or inten-
 21 tional misrepresentation of a material fact, as long as the seller continues registration and
 22 continues payment or collection and remittance of applicable sales or use taxes for a period
 23 of at least 36 months.

24 (b) The statute of limitations for assessing a tax liability covered by the amnesty is tolled
 25 during the 36-month period described in paragraph (a) of this subsection.

26 (5) Amnesty under this section applies only to sales or use taxes due from a seller in its
 27 capacity as a seller and not in its capacity as a purchaser.

28 (6) The Department of Revenue shall adopt uniform rules for granting amnesty under
 29 this section.

30
 31 **THE USE TAX**
 32

33 **SECTION 22.** (1) Pursuant to Article IX, section 15, of the Oregon Constitution, a use tax
 34 is imposed on the storage, use or other consumption in this state of tangible personal prop-
 35 erty purchased from any seller for storage, use or other consumption in this state, at the
 36 rate of five percent of the purchase price of the property.

37 (2) A unit of local government may not impose a use tax that is not approved by the
 38 governing body of the local government on or before November 4, 2014.

39 **SECTION 23.** (1) Every purchaser storing, using or otherwise consuming in this state
 40 tangible personal property purchased from a seller is liable for the use tax.

41 (2) A purchaser's liability under subsection (1) of this section is not satisfied until the
 42 use tax has been paid to this state.

43 (3) Notwithstanding subsection (2) of this section, a purchaser's liability under subsection
 44 (1) of this section is satisfied by a valid receipt given to the purchaser pursuant to section
 45 24 of this 2013 Act by a seller that is:

1 (a) Engaged in business in this state; or

2 (b) Authorized by the Department of Revenue, pursuant to such rules as the department
3 adopts, to collect the tax and that, for purposes of the use tax, is regarded as a seller en-
4 gaged in business in this state.

5 **SECTION 24.** (1) Except as provided in section 42 of this 2013 Act, a seller shall collect
6 the use tax from a purchaser and give the purchaser a receipt for the tax in the manner and
7 form prescribed by the Department of Revenue if:

8 (a) The seller is:

9 (A) Engaged in business in this state;

10 (B) Required to collect the use tax; or

11 (C) Authorized to collect tax by the department; and

12 (b) The seller makes sales of tangible personal property for storage, use or other con-
13 sumption in this state that are not exempt for purposes of the Sales and Use Tax Law.

14 (2) A seller required to collect the use tax under this section shall collect the tax:

15 (a) At the time of making a taxable sale; or

16 (b) If the storage, use or other consumption of the tangible personal property is not
17 taxable at the time of sale, at the time the storage, use or other consumption becomes tax-
18 able.

19 (3) The following amounts constitute a debt owed by the seller to this state:

20 (a) Tax collected under subsection (1) of this section by the seller; and

21 (b) Any amount that is not returned to the purchaser and that is not tax but was col-
22 lected under representation by the seller that it was a tax.

23 (4) With respect to leases constituting sales of tangible personal property, the use tax
24 shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

25 (5) Unless the department otherwise provides by rule, the use tax required to be collected
26 by the seller from the purchaser under this section shall be displayed separately from the list
27 price, the price advertised on the seller's premises, the marked price or other price on the
28 sales check or other proof of sale.

29 **SECTION 25.** (1) The Director of the Department of Revenue may, upon application of a
30 seller, authorize collection of the use tax by the seller if the seller furnishes adequate secu-
31 rity to ensure collection and payment of the tax.

32 (2) Upon authorization under subsection (1) of this section, the Department of Revenue
33 shall issue to the seller, without charge, a permit to collect the use tax in the manner pre-
34 scribed by the director.

35 (3) When authorized, a seller shall collect the use tax upon all tangible personal property
36 sold by the seller for use, storage or other consumption within this state.

37 (4) The department may cancel a seller's permit if, at any time, the director considers
38 the security inadequate or determines that the tax can be collected more effectively from
39 purchasers of the tangible personal property.

40 (5) The department shall adopt rules necessary to administer this section.

41 **SECTION 26.** To ensure the proper administration of the Sales and Use Tax Law and to
42 prevent evasion of the use tax and the duty to collect the use tax, the following presumptions
43 are established:

44 (1)(a) Tangible personal property sold by any seller for delivery in this state was sold for
45 storage, use or other consumption in this state unless the contrary is proved.

1 (b) The burden of proving the contrary is on the seller unless the seller takes from the
 2 purchaser a resale certificate to the effect that the property is purchased for resale.

3 (2) Tangible personal property shipped or brought to this state by the purchaser was
 4 purchased from a seller on or after the operative date of section 22 of this 2013 Act for
 5 storage, use or other consumption in this state.

6 (3)(a) Tangible personal property delivered outside this state to a purchaser known by the
 7 seller to be a resident of this state was purchased from a seller for storage, use or other
 8 consumption in this state and stored, used or otherwise consumed in this state unless the
 9 contrary is established.

10 (b) The contrary may be proved by:

11 (A) A statement in writing, signed by the purchaser or an authorized agent of the pur-
 12 chaser, and retained by the seller, that the property was purchased for use at a designated
 13 point or points outside this state; or

14 (B) Other evidence satisfactory to the Department of Revenue that the property was not
 15 purchased for storage, use or other consumption in this state.

16 (4)(a) A motor vehicle purchased outside this state that is brought into this state on or
 17 before the 90th day after its purchase, was acquired for storage, use or other consumption
 18 in this state.

19 (b) The presumption established in paragraph (a) of this subsection does not apply to a
 20 member of the Armed Forces of the United States on active duty who purchases a motor
 21 vehicle prior to the member's effective date of discharge. The member is not considered to
 22 have purchased the motor vehicle for storage, use or other consumption in this state unless
 23 at the time of purchase the member intended to use it in this state, the intent resulting from
 24 the member's own determination rather than from official orders received as a member of
 25 the Armed Forces transferring the member to this state.

26 **SECTION 27.** (1) A credit against the use tax on tangible personal property in the amount
 27 of a general retail sales or use tax or sales tax reimbursement paid by a person to another
 28 state or political subdivision of the state with respect to the property prior to the storage,
 29 use or other consumption of the property in this state shall be allowed to the person.

30 (2) A credit otherwise permitted under subsection (1) of this section may not be allowed
 31 against taxes that are measured by periodic payments made under a lease, to the extent that
 32 the taxes imposed by the other state or political subdivision of the state were also measured
 33 by periodic payments made under a lease for a period prior to the storage, use or other
 34 consumption of the property in this state.

35 **SECTION 28.** A resale certificate relieves a seller from liability for the sales tax or the
 36 duty to collect the use tax only if the certificate is taken from a purchaser who is a seller
 37 registered under section 19 of this 2013 Act.

38 **SECTION 29.** (1) A valid resale certificate must:

39 (a) Be signed by and bear the name and address of the purchaser;

40 (b) Include information that identifies the purchaser as a seller registered pursuant to
 41 section 19 of this 2013 Act; and

42 (c) Indicate the general character of the tangible personal property sold by the purchaser
 43 in the regular course of business.

44 (2) A resale certificate must otherwise be substantially in such form as the Department
 45 of Revenue prescribes by rule.

1 **SECTION 30.** (1) If a purchaser who gives a resale certificate to a seller or who purchases
 2 tangible personal property for the purpose of reselling it stores or makes any use of the
 3 property other than retention, demonstration or display while holding it for sale in the reg-
 4 ular course of business, the storage or use is subject to the use tax as of the time the
 5 property is first stored or used by the purchaser and, except as provided in subsections (2)
 6 and (3) of this section, the sales price of the property paid by the purchaser is the measure
 7 of the tax.

8 (2) If the use is limited to the loan of the property to customers as an accommodation
 9 while awaiting delivery of property purchased or leased from the lender or while property is
 10 being repaired for customers by the lender, the measure of the tax is the fair rental value
 11 of the property for the duration of each loan.

12 (3) If the property is used frequently for purposes of demonstration or display while
 13 holding it for sale in the regular course of business and is used partly for other purposes,
 14 the measure of the tax is the fair rental value of the property for the period of the other
 15 uses.

16 **SECTION 31.** (1) If a purchaser acquires property in an occasional sale as defined in
 17 section 9 (10)(b) of this 2013 Act and leases the property, the purchaser may elect at the time
 18 the property is first leased to pay the use tax measured by the purchase price of the prop-
 19 erty.

20 (2) The purchase price paid by a transferee shall be the same as the purchase price paid
 21 by the original purchaser.

22 (3) For purposes of this section, “purchaser” includes a transferee who acquires property
 23 in a transaction that is an occasional sale as defined in section 9 (10)(b) of this 2013 Act.

24 **SECTION 32.** If a purchaser gives a resale certificate with respect to the purchase of
 25 fungible goods and thereafter commingles the goods with other fungible goods not so pur-
 26 chased but of such similarity that the identity of the constituent goods in the commingled
 27 mass cannot be determined, sales from the mass of commingled goods shall be deemed to
 28 be sales of the goods so purchased until a quantity of commingled goods equal to the quantity
 29 of purchased goods so commingled has been sold.

30 **SECTION 33.** A purchaser may not give, for the purpose of evading payment to the seller
 31 or other person selling the property of the amount of the tax applicable to the transaction,
 32 a resale certificate for property that the purchaser knows, at the time of purchase, is not
 33 to be resold by the purchaser in the regular course of business.

34 **SECTION 34.** (1)(a) The Department of Revenue may authorize a purchaser of substantial
 35 amounts of tangible personal property or services to pay the sales tax or use tax directly to
 36 the department and to waive the collection of the tax by the seller.

37 (b) The department shall design and implement a direct pay permit program that com-
 38 plies with the requirements of the Streamlined Sales and Use Tax Agreement.

39 (c) In order to make direct payments of the sales tax or use tax under paragraph (a) of
 40 this subsection, a purchaser must obtain a direct pay permit from the department in the
 41 time and manner prescribed by the department by rule.

42 (2)(a) The department may revoke a direct pay permit and the authority granted to a
 43 purchaser under a direct pay permit for failure to comply with the conditions under which
 44 the authority was granted or for any reason constituting misuse of the authority.

45 (b) The department shall adopt rules establishing an appeal process for revocations of

1 permits under this section.

2 (3)(a) As soon as practicable after the revocation of a direct pay permit, the purchaser
 3 shall give written notice of the revocation to each seller with whom the purchaser has
 4 transacted business using a direct pay permit, and shall supply the department with evidence
 5 that the notice has been given.

6 (b) Notwithstanding section 89 of this 2013 Act, if the purchaser fails to notify a seller
 7 of the revocation, the department may give notice of the revocation to the seller.

8 (4) Notwithstanding subsection (2) of this section, a direct pay permit may be revoked
 9 only to the extent that revocation is allowable under the Streamlined Sales and Use Tax
 10 Agreement.

11 **SECTION 35.** Except as otherwise provided by law or rule of the Department of Revenue,
 12 a seller may not advertise, hold out or state to the public or to any customer, directly or
 13 indirectly, that the sales tax or use tax on tangible personal property or services, in whole
 14 or in part:

- 15 (1) Will be assumed or absorbed by the seller;
- 16 (2) Will not be added to the sales price of the property or services sold; or
- 17 (3) If added, will be refunded, in whole or in part.

18 **SECTION 36.** (1) As used in sections 36 to 44 of this 2013 Act, unless the context requires
 19 otherwise:

20 (a) "Aircraft" means any powered contrivance used or designed for navigation of or flight
 21 in the air, except a rocket or missile.

22 (b)(A) "Vehicle" means a vehicle or motor vehicle for which registration or title is re-
 23 quired under ORS 803.025 or 803.300 or would be required if the vehicle were not exempt from
 24 registration or title requirements under ORS 803.030 or 803.305.

25 (B) "Vehicle" does not mean:

- 26 (i) A manufactured structure as defined in ORS 446.003.
- 27 (ii) A snowmobile as defined in ORS 801.490.
- 28 (iii) A school bus as defined in ORS 801.460.
- 29 (iv) An ambulance as defined in ORS 801.115, an emergency vehicle as defined in ORS
 30 801.260 or other fire apparatus or fire engine.
- 31 (v) A bicycle as defined in ORS 801.150.
- 32 (vi) A farm tractor as defined in ORS 801.265, a farm trailer as defined in ORS 801.270
 33 or other implements of husbandry as defined in ORS 801.310.
- 34 (vii) Fixed load vehicles as defined in ORS 801.285 that are subject to ad valorem property
 35 taxation.

36 (viii) Golf carts as defined in ORS 801.295 and similar vehicles described in ORS 803.030
 37 (13).

- 38 (ix) Road rollers.
- 39 (x) A trolley.
- 40 (xi) Well drilling machinery.
- 41 (xii) Wheelchairs.

42 (c) "Vessel" means any boat, ship, barge, craft or floating object designed for navigation
 43 in the water except:

- 44 (A) A seaplane;
- 45 (B) A watercraft specifically designed to operate on a permanently fixed course, the

1 movement of which is restricted to or guided on such permanently fixed course by means
 2 of a mechanical device on a fixed track or arm to which the watercraft is attached or by
 3 which the watercraft is controlled, or by means of a mechanical device attached to the
 4 watercraft itself;

5 (C) A watercraft of a type designed to be propelled solely by oars or paddles;

6 (D) A watercraft of eight feet or less in length of a type designed to be propelled by sail;

7 (E) A floating home as defined in ORS 830.700; or

8 (F) A boathouse as defined in ORS 830.700.

9 (2) A motor or other component part of a vessel, whether or not detachable, is considered
 10 to be a part of the vessel when sold with the vessel.

11 **SECTION 37.** A person making a retail sale of a vehicle, vessel or aircraft is the seller
 12 of the vehicle, vessel or aircraft for purposes of the Sales and Use Tax Law, regardless of
 13 whether the person is a seller for purposes of any other provision of the Sales and Use Tax
 14 Law, unless another person is the seller pursuant to section 38 of this 2013 Act.

15 **SECTION 38.** (1) A person holding a certificate as a vehicle dealer or a dismantler under
 16 ORS chapter 822 is the seller of a vehicle when a retail sale of the vehicle is made through
 17 the person and the person provides to the Department of Transportation a notice of transfer
 18 with respect to the vehicle.

19 (2) A person that is a seller under this section shall register pursuant to section 19 of
 20 this 2013 Act and remit tax to the Department of Revenue with respect to sales described in
 21 subsection (1) of this section in the same manner as a vehicle dealer or dismantler making
 22 sales on the dealer's or dismantler's own account.

23 (3) For purposes of this section, a sale does not include a lease transaction.

24 **SECTION 39.** (1)(a) Gross receipts from sales of vehicles required to be registered or ti-
 25 tled by the Department of Transportation are exempt from the sales tax if the seller is other
 26 than a person certified as a vehicle dealer or a dismantler under ORS chapter 822.

27 (b) The exemption under this subsection does not apply to:

28 (A) Rentals payable under a lease of tangible personal property.

29 (B) Gross receipts from sales of boat trailers by persons in the business of selling boats
 30 or boat trailers.

31 (2) Gross receipts from the sale of a vessel or aircraft are exempt from the sales tax if
 32 the seller is other than a person required to register pursuant to section 19 of this 2013 Act
 33 by reason of the number, scope and character of the sales by the person of vessels or air-
 34 craft.

35 **SECTION 40.** If a person is engaged in the business of selling vehicles, vessels or aircraft,
 36 the person is not excused from the requirements of section 19 of this 2013 Act, the collection
 37 and payment of sales tax or any other provision of the Sales and Use Tax Law by reason of
 38 the exemptions provided in section 39 of this 2013 Act.

39 **SECTION 41.** Gross receipts from the sale, and the storage, use or other consumption,
 40 in this state of a vehicle, vessel or aircraft are exempt from the sales tax and the use tax
 41 if:

42 (1) The person selling the property is either by blood, marriage or adoption the parent,
 43 grandparent, child or spouse of the purchaser and the person selling is not engaged in the
 44 business of selling the type of property for which the exemption is claimed.

45 (2) The property is included in any transfer that is an occasional sale as defined in sec-

tion 9 (10)(b) of this 2013 Act.

SECTION 42. (1) Notwithstanding sections 72 and 73 of this 2013 Act, except when the sale is by lease, the use taxes imposed with respect to the storage, use or other consumption in this state of vehicles, vessels and aircraft are due and payable by the purchaser at the time the storage, use or other consumption of the property first becomes taxable.

(2) The use taxes described in subsection (1) of this section are payable when due to the Department of Revenue or, as applicable:

(a) In the case of a vehicle required to be titled or registered, to the Department of Transportation before a certificate of title or registration may be issued to the purchaser by the Department of Transportation.

(b) In the case of a vessel that is subject to certification of title, or to registration if no certificate of title is to be issued, by the State Marine Board pursuant to ORS 830.700 to 830.870, to the Department of Revenue before the vessel may be certified or registered by the State Marine Board.

(c) In the case of aircraft subject to registration for the first time to the purchaser by the Oregon Department of Aviation pursuant to ORS 837.040 to 837.070, to the Department of Revenue before it may be registered by the Oregon Department of Aviation.

(3)(a) If the purchaser of a vehicle, vessel or aircraft described in subsection (2) of this section does not make application for registration or certification to the Department of Transportation, the Oregon Department of Aviation or the State Marine Board, as applicable, within 30 days after the date of purchase of the vehicle, vessel or aircraft, the purchaser is liable for a penalty as specified in section 74 (1) of this 2013 Act without interest.

(b) If the purchaser does not make application for certification or registration or does not pay the amount of use tax due within 90 days after the date of purchase, or files a return with the Department of Revenue that is not timely, the purchaser is liable for the penalties and interest as provided in section 74 of this 2013 Act, collectible by the Department of Revenue or the Department of Transportation in the same manner and subject to the same procedures as for other delinquent sales and use taxes.

(c) The Department of Transportation shall collect delinquent use taxes, penalties and interest as provided in this section and section 44 of this 2013 Act with respect to any delinquent application for certification of title or registration of a vehicle.

(4) Application to the Department of Transportation for certification of title or registration of a vehicle accompanied by payment of the use tax by the purchaser relieves the purchaser of the obligation to file a separate return with the Department of Revenue under section 73 of this 2013 Act.

SECTION 43. There is a presumption that a transfer of a vehicle to a lessee by a lessor was a sale for resale if the lessee transfers title and registration to a third party within 10 days from the date the lessee acquired title from the lessor at the expiration or termination of a lease. This presumption may be rebutted by evidence that the sale was not for resale prior to use.

SECTION 44. (1) Except when the sale is by lease, in the collection of the use tax on vehicles for which a certificate of title or registration is required, the Department of Transportation shall act as collecting agent.

(2) The Department of Transportation shall collect the use tax, and any penalty or interest due, at the time an applicant applies for the registration of, or certification or transfer

1 of title to, the vehicle, unless:

2 (a) The applicant exhibits a seller's receipt showing that the sales tax has been collected
3 by the seller;

4 (b) The application is for the renewal of registration;

5 (c) The applicant presents an exemption certificate provided by the Department of Re-
6 venue pursuant to section 71 of this 2013 Act; or

7 (d) The applicant presents satisfactory evidence showing that the sales tax or the use tax
8 has been paid on the vehicle in question.

9 (3)(a) Every applicant for registration or issuance or transfer of certificate of title who
10 is subject to payment of the use tax shall declare the value of the vehicle for which applica-
11 tion is made. The value of the vehicle is the purchase price.

12 (b) A person may not willfully misrepresent the value required to be declared under this
13 subsection.

14 (4)(a) The moneys collected by the Department of Transportation under this section shall
15 be deposited promptly in the suspense account created under ORS 802.100 (1).

16 (b) As much of the moneys collected as is necessary to pay the actual administrative
17 expenses of the Department of Transportation in collecting the use tax under this section is
18 continuously appropriated to the department.

19 (c) All moneys in excess of the administrative expenses retained by the Department of
20 Transportation pursuant to paragraph (b) of this subsection shall be transferred monthly to
21 the Sales and Use Tax Fund established under section 94 of this 2013 Act.

22 (d) At least once each month the Department of Transportation shall account to the
23 Department of Revenue for all use tax moneys collected and administrative expenses re-
24 tained under this section. The Department of Transportation shall turn over to the De-
25 partment of Revenue all reports, applications and other information required by the
26 Department of Revenue that have been obtained in the collection and administration of the
27 use tax on vehicles.

28 (5) An applicant who has paid a use tax under this section may apply to the Department
29 of Revenue for a refund within the time and in the manner provided under ORS 305.270 if the
30 applicant has reason to believe the use tax was not due and owing.

31 (6) The provisions of this section are in addition to any other methods prescribed in the
32 Sales and Use Tax Law for the collection of the use tax.

33
34 **EXEMPTIONS**

35
36 **SECTION 45.** (1) Transactions that this state is prohibited from taxing under the laws
37 or Constitution of the United States or under the Oregon Constitution, including but not
38 limited to gross receipts derived from contracts entered into before the effective date of this
39 2013 Act, are exempt from the sales tax and the use tax.

40 (2) Gross receipts from the sale of tangible personal property to, or the storage, use or
41 consumption of tangible personal property by, an Indian tribe or Indian enterprise within an
42 Indian reservation are exempt from the sales tax and the use tax.

43 **SECTION 46.** (1) Gross receipts from the sales, furnishing or service, and the storage,
44 use or other consumption, in this state of water are exempt from the sales tax and the use
45 tax.

1 (2) As used in this section, “water” does not include ice.

2 **SECTION 47.** (1) Gross receipts from the sale, and the storage, use or other consumption,
3 in this state of food and food ingredients are exempt from the sales tax and the use tax.

4 (2) The exemption under this section does not apply to prepared food.

5 (3) As used in this section:

6 (a) “Food and food ingredients”:

7 (A) Means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated
8 form, that are sold for ingestion or chewing by humans and are consumed for their taste or
9 nutritional value.

10 (B) Does not mean alcoholic beverages or tobacco.

11 (b) “Prepared food”:

12 (A) Means:

13 (i) Food sold in a heated state by the seller;

14 (ii) Two or more food ingredients mixed or combined by the seller for sale as a single
15 item; or

16 (iii) Food sold with eating utensils provided by the seller, including plates, knives, forks,
17 spoons, glasses, cups, napkins or straws, but not a container or packaging used to transport
18 the food.

19 (B) Does not mean:

20 (i) Food that is only cut, repackaged or pasteurized by the seller; or

21 (ii) Eggs, fish, meat, poultry and food containing these raw ingredients requiring cooking
22 by the consumer as recommended by the federal Food and Drug Administration to prevent
23 food-borne illnesses.

24 **SECTION 48.** (1) Gross receipts from the sale, and the storage, use or other consumption,
25 in this state of clothing, clothing accessories and equipment, protective equipment and sport
26 or recreational equipment are exempt from the sales tax and the use tax.

27 (2) As used in this section:

28 (a) “Clothing” means all human wearing apparel suitable for general use.

29 (b) “Clothing accessories and equipment”:

30 (A) Means incidental items worn on the person in conjunction with clothing or carried
31 by the person in public.

32 (B) Does not mean electronic, computing or telecommunications devices carried by the
33 person in public.

34 (c) “Protective equipment” means items for human wear that are designed to protect the
35 wearer against injury or disease or to protect other persons or property against damage or
36 injury but that are not suitable for general use.

37 (d) “Sport or recreational equipment” means items designed for human use and worn in
38 conjunction with athletic or recreational activity that are not suitable for general use.

39 **SECTION 49.** (1) Notwithstanding ORS 471.725, 471.730 or 471.745 or any other provision
40 of law to the contrary, the sales tax and the use tax apply to the gross receipts from the
41 sale, or the storage, use or other consumption, in this state of alcoholic beverages.

42 (2) As used in this section, “alcoholic beverages” means beverages that are suitable for
43 human consumption and contain one-half of one percent or more of alcohol by volume.

44 **SECTION 50.** Gross receipts from the sale, or the storage, use or other consumption, in
45 this state of machinery and equipment used in manufacturing are exempt from the sales tax

1 and the use tax.

2 **SECTION 51.** (1) Gross receipts from the sale, or the storage, use or other consumption,
 3 in this state of drugs, durable medical equipment for home use, mobility enhancing equip-
 4 ment and prosthetic devices are exempt from the sales tax and the use tax.

5 (2) As used in this section:

6 (a) "Drug":

7 (A) Means a compound, substance or preparation, and any component of a compound,
 8 substance or preparation, that is:

9 (i) Recognized in the United States Pharmacopoeia, the Homeopathic Pharmacopoeia of
 10 the United States or the National Formulary, or any supplement to them;

11 (ii) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-
 12 ease; or

13 (iii) Intended to affect the structure or any function of the body.

14 (B) Does not mean alcoholic beverages as defined in section 49 of this 2013 Act, dietary
 15 supplements or food and food ingredients as defined in section 47 of this 2013 Act.

16 (b) "Durable medical equipment" means equipment, including repair of and replacement
 17 parts for the equipment, that:

18 (A) Can withstand repeated use;

19 (B) Is primarily and customarily used to serve a medical purpose;

20 (C) Is generally not useful to a person in the absence of illness or injury; and

21 (D) Is not worn in or on the body.

22 (c) "Mobility enhancing equipment" means equipment, including repair of and replace-
 23 ment parts for the equipment, that:

24 (A) Is primarily and customarily used to provide or increase the ability to move from one
 25 place to another;

26 (B) Is appropriate for use in a home or a motor vehicle;

27 (C) Is not generally used by individuals with normal mobility; and

28 (D) Does not include a motor vehicle or equipment on a motor vehicle that is normally
 29 provided by the motor vehicle manufacturer.

30 (d) "Prosthetic device" means a replacement, corrective or supportive device, including
 31 repair and replacement parts for the device, worn on or in the body that:

32 (A) Replaces a missing portion of the body;

33 (B) Prevents or corrects physical deformity or malfunction; or

34 (C) Supports a weak or deformed portion of the body.

35 **SECTION 52.** Gross receipts from the sale of goods and services related to the provision
 36 of utilities in this state are exempt from the sales tax and the use tax.

37 **SECTION 53.** Gross receipts from the sale, and the storage, use or other consumption,
 38 in this state of the following items are exempt from the sales tax and the use tax:

39 (1) Animals, feed, seed, plants, fertilizer and pesticides that, or the products of which,
 40 are ordinarily used or for use in commercial, agricultural, horticultural or silvicultural ac-
 41 tivities.

42 (2) Equipment, machinery and implements for use in conducting a farming activity.

43 **SECTION 54.** (1) Gross receipts from the sale, and the storage, use or other consumption,
 44 in this state of tobacco are exempt from the sales tax and the use tax.

45 (2) As used in this section, "tobacco" means cigarettes as defined in ORS 323.010 and

1 tobacco products as defined in 323.500.

2 **SECTION 55.** (1) Gross receipts from the sale or distribution and the storage, use or
 3 other consumption in this state of motor vehicle fuel, fuel or aircraft fuel are exempt from
 4 the sales tax and the use tax if the sale, use or other consumption of the fuel in this state
 5 is:

6 (a) Subject to tax under ORS 319.010 to 319.430 or 319.510 to 319.880, and not subject to
 7 refund; or

8 (b) Exempt from the tax imposed under ORS 319.510 to 319.880 by ORS 825.484 (2).

9 (2)(a) For the purpose of establishing gross receipts upon which the sales tax is com-
 10 puted, the Department of Transportation shall use estimated average fuel sales prices.

11 (b) At the request of a refund claimant, the department may adjust the sales tax upon
 12 presentation by the claimant of information showing the exact amount paid for the fuel upon
 13 which a refund is claimed.

14 (c) The department shall transfer the amount of the sales tax refunds from the appro-
 15 priate General Fund account from which refunds are made under ORS chapter 319.

16 (d) The moneys transferred by the department under this subsection shall be deposited
 17 promptly in the suspense account created under ORS 802.100 (1).

18 (e) As much of the moneys collected as is necessary to pay the actual administrative
 19 expenses of the department in collecting the sales tax under this subsection and to pay re-
 20 funds of the tax is continuously appropriated to the department.

21 (f) All moneys in excess of the administrative expenses retained by the department and
 22 refunds paid by the department pursuant to this subsection shall be transferred monthly to
 23 the State Highway Fund.

24 (g) At least once each month the department shall account to the Department of Re-
 25 venue for all sales tax moneys collected under this subsection.

26 (3) The Department of Revenue, the Public Utility Commission and the Department of
 27 Transportation shall adopt rules providing that:

28 (a) Sales taxes collected on fuel exempt from the tax imposed under ORS 319.510 to
 29 319.880 by ORS 825.484 (2) may be offset against taxes imposed under ORS chapter 825 in
 30 returns made under that chapter. On the 15th day of each month, the Public Utility Com-
 31 mission shall certify to the Department of Revenue and the State Treasurer the amount
 32 offset, and the State Treasurer shall cause that amount to be transferred from the Sales and
 33 Use Tax Fund established under section 94 of this 2013 Act to the Motor Carrier Account in
 34 the General Fund.

35 (b) Sales tax collected on fuel subject to tax under ORS 319.010 to 319.430 or 319.510 to
 36 319.880, and not subject to refund, may be offset against taxes imposed under ORS 319.010
 37 to 319.430 or 319.510 to 319.880 in returns made under those statutes. On the 15th day of each
 38 month, the Department of Transportation shall certify to the Department of Revenue and
 39 the State Treasurer the amount offset, and the State Treasurer shall cause that amount to
 40 be transferred from the Sales and Use Tax Fund established under section 94 of this 2013
 41 Act to the State Highway Fund.

42 **SECTION 56.** (1) Gross receipts from the sale, furnishing or service, and the storage, use
 43 or other consumption, in this state of the following items are exempt from the sales tax and
 44 the use tax:

45 (a) Fuel oil, natural gas, liquefied petroleum gas, electricity or geothermal resources

1 when delivered to consumers through mains, lines or pipes or by tank truck or for purposes
2 of residential heating and of exhaust steam, waste steam, heat or resultant energy, produced
3 in connection with cogeneration technology.

4 (b) Coal.

5 (c) Firewood.

6 (d) Organic products grown expressly for fuel purposes.

7 (e) Waste by-products from agricultural or forest products operations, municipal refuse
8 or manufacturing that are delivered in bulk and are used in an industrial facility as a fuel
9 source in lieu of the use of either oil, natural gas or coal.

10 (f) Nuclear fuel.

11 (2) As used in this section:

12 (a) "Cogeneration" means the sequential use of energy for the production of electrical
13 and useful thermal energy, whether the sequence is thermal use followed by power pro-
14 duction or the reverse, provided:

15 (A) At least five percent of the cogeneration project's total annual energy output is in
16 the form of useful thermal energy; and

17 (B) If useful thermal energy production follows power production, the useful annual
18 power output plus one-half of the useful annual thermal energy output equals not less than
19 42.5 percent of any natural gas or oil energy input.

20 (b) "Nuclear fuel" means special nuclear material and source material used for fueling
21 or refueling nuclear reactors.

22 SECTION 57. (1) Gross receipts from the sale, lease or rental, and the storage, use or
23 other consumption, in this state of a manufactured structure or a floating home are exempt
24 from the sales tax and the use tax.

25 (2) As used in this section:

26 (a) "Floating home" has the meaning given that term in ORS 830.700.

27 (b) "Manufactured structure" has the meaning given that term in ORS 446.561.

28 SECTION 58. (1) Gross receipts from the sale of any tangible personal property to the
29 following entities are exempt from the sales tax and the use tax:

30 (a) The United States and its unincorporated agencies and instrumentalities.

31 (b) Any incorporated agency or instrumentality of the United States wholly owned by the
32 United States or by a corporation wholly owned by the United States.

33 (c) The American Red Cross and its chapters and branches.

34 (2) The exemption provided under this section does not apply to:

35 (a) Rentals payable under a lease of tangible personal property.

36 (b) A sale of tangible personal property to a contractor that purchases the property as
37 the agent of the United States or for the contractor's own account and subsequent resale
38 to the United States for use in the performance of a contract with the United States for the
39 construction of improvements on or to real property in this state.

40 SECTION 59. (1) If a cargo container is purchased for use outside this state and is de-
41 livered by an in-state manufacturer to the purchaser within this state, and the purchaser
42 moves the cargo container to any point outside this state within 30 days after the date of
43 delivery, gross receipts from the sale, and the storage, use or other consumption, of the
44 cargo container within this state are exempt from the sales tax and the use tax, provided
45 that the purchaser furnishes to the manufacturer the purchaser's affidavits attesting that:

1 (a) The purchaser purchased the cargo container at a specified location for use exclu-
2 sively outside this state or exclusively in interstate commerce; and

3 (b) The cargo container has been moved to a point outside this state within 30 days of
4 the date of the delivery of the cargo container to the purchaser.

5 (2) As used in this section, "cargo container" means a receptacle that:

6 (a) Is of a permanent character and accordingly strong enough to be suitable for repeated
7 use;

8 (b) Is specially designed to facilitate the carriage of goods, by one or more modes of
9 transport, one of which shall be by vessel, without intermediate reloading;

10 (c) Is fitted with devices permitting its ready handling, particularly the transfer from one
11 mode of transport to another;

12 (d) Is designed to be easy to fill and empty; and

13 (e) Has a displacement of 1,000 cubic feet or more.

14 **SECTION 60.** (1) Gross receipts from sales of tangible personal property to a common
15 carrier are exempt from the sales tax if the property is shipped by the seller via the pur-
16 chasing carrier under a bill of lading, whether the freight is paid in advance or the shipment
17 is made freight charges collect, to a point outside this state and the property is actually
18 transported to the out-of-state destination for use by the carrier in the conduct of its busi-
19 ness as a common carrier.

20 (2)(a) Gross receipts from sales of tangible personal property, other than aircraft fuel and
21 petroleum products, are exempt from the sales tax if the property is purchased by a foreign
22 air carrier and transported by the foreign air carrier to a foreign destination for use by the
23 air carrier in the conduct of its business as a common carrier by air of persons or property.

24 (b) To qualify for the exemption under this subsection, the foreign air carrier must
25 timely furnish to the seller a certificate in writing that the property will be transported and
26 used in the manner described in this subsection. Such certificate must be substantially in the
27 form prescribed by the Department of Revenue. Acceptance in good faith of such a certif-
28 icate shall relieve the seller from liability for the sales tax. The foreign air carrier shall
29 maintain records in this state, such as a copy of a bill of lading, an air waybill or cargo
30 manifest, documenting its transportation of the tangible personal property to a foreign des-
31 tination.

32 (c) Any use of the property by the purchasing foreign air carrier, other than use incident
33 to delivery of the property to the foreign air carrier and the transportation of the property
34 by the carrier to a foreign destination and subsequent use in the conduct of its business as
35 a common carrier, or a failure of the foreign air carrier to document its transporting the
36 property to a foreign destination, shall subject the carrier to liability for payment of sales
37 tax as if it were a retailer making a retail sale of the property at the time of such use or
38 failure, and the cost of the property to it shall be deemed to be the gross receipts from such
39 retail sale.

40 (3) As used in this section:

41 (a) With respect to water transportation, "common carrier" means a person that engages
42 in the business of transporting persons or property for hire or compensation and that offers
43 such services indiscriminately to the public or some portion of the public, and includes any
44 vessel engaged for compensation in transporting persons or property in interstate or foreign
45 commerce.

1 (4) “Foreign air carrier” means a foreign air carrier as defined in 49 U.S.C. 40102, as
 2 amended and in effect on December 31, 2013.

3 **SECTION 61.** (1) Gross receipts from sales of tangible personal property are exempt from
 4 the sales tax if the property is purchased for use by the purchaser in connection with the
 5 business of operating as a private or common carrier by water, air or rail in interstate or
 6 foreign commerce.

7 (2) Notwithstanding subsection (1) of this section:

8 (a) Actual use of the property in this state shall be subject to the use tax at the time
 9 of the actual use; and

10 (b) Charges made by one railroad to another railroad for maintenance and repair of
 11 jointly owned and used, or singly owned and jointly used, railroad facilities do not constitute
 12 a sale.

13 **SECTION 62.** (1) Gross receipts from occasional sales of tangible personal property are
 14 exempt from the sales tax.

15 (2) The exemption under this section does not apply to gross receipts from the sale, or
 16 the storage, use or other consumption, in this state of a vehicle, vessel or aircraft as defined
 17 in section 36 of this 2013 Act.

18 **SECTION 63.** Gross receipts from sales of tangible personal property purchased for use
 19 outside the United States are exempt from the sales tax if the property is delivered to a
 20 forwarding agent, export packer or other person engaged in the business of preparing goods
 21 for export or arranging for their exportation, and is actually delivered to a port outside the
 22 United States prior to any use of the property.

23 **SECTION 64.** (1) Gross receipts from the sale in this state of tangible personal property
 24 to a purchaser that is a seller registered under section 19 of this 2013 Act are exempt from
 25 the sales tax if the property is used by the purchaser outside this state in the performance
 26 of a contract to improve real property and, as a result of the use, the property is incorpo-
 27 rated into and becomes a part of real property located outside this state.

28 (2) The exemption under this section applies only if the purchaser certifies in writing to
 29 the seller, in such form as the Department of Revenue may prescribe, that the property will
 30 be used in the manner and for the purpose described in subsection (1) of this section.

31 **SECTION 65.** Rentals payable under a lease of tangible personal property are exempt
 32 from the sales tax if the rentals are required to be included in the measure of the use tax
 33 or if the property is situated outside this state.

34 **SECTION 66.** (1) Gross receipts from the sale of tangible personal property are exempt
 35 from the sales tax if, pursuant to the contract of sale, the property is required to be shipped
 36 and is shipped to a point outside this state by the retailer by means of:

37 (a) Facilities operated by the retailer; or

38 (b) Delivery by the retailer to a carrier, customs broker or forwarding agent, whether
 39 hired by the purchaser or not, for shipment to the point outside this state.

40 (2) As used in this section:

41 (a) “Carrier” means a person engaged in the business of transporting for compensation
 42 tangible personal property owned by other persons, and includes both common and contract
 43 carriers.

44 (b) “Forwarding agent” means a person or firm engaged in the business of preparing
 45 property for shipment or arranging for its shipment.

1 **SECTION 67.** (1) The storage, use or other consumption in this state of tangible personal
 2 property is exempt from the use tax if the gross receipts from the sale of the property are
 3 required to be included in the measure of the sales tax.

4 (2) The exemption under this section does not extend to the possession, or the exercise,
 5 of any right or power over tangible personal property by a lessee under a lease.

6 (3) No credit or refund of any amount of use tax paid may be allowed on the ground that
 7 the storage, use or other consumption of the property was exempt under subsection (1) of
 8 this section, unless the person that paid the amount reimburses the seller for the amount
 9 of the sales tax imposed on the sale of the property and remitted by the seller to this state.

10 **SECTION 68.** (1) The storage, use or other consumption in this state of tangible personal
 11 property is exempt from the use tax if:

12 (a) The sales price of the tangible personal property does not exceed the threshold
 13 amount of \$500 and the purchase is for personal use or consumption and not for use or
 14 consumption in carrying on a trade, occupation, business or profession; or

15 (b) The transfer is an occasional sale.

16 (2) The exemption under this section does not apply to the gross receipts from the sale,
 17 or the storage, use or other consumption, in this state of a vehicle, vessel or aircraft as
 18 defined in section 36 of this 2013 Act.

19 (3)(a) For each tax year beginning on or after July 1, 2014, the Department of Revenue
 20 shall recompute the threshold amount under subsection (1) of this section as follows:

21 (A) Divide the average U.S. City Average Consumer Price Index for the first six months
 22 of the current calendar year by the average U.S. City Average Consumer Price Index for the
 23 first six months of 2014.

24 (B) Recompute the threshold amount by multiplying \$500 by the appropriate indexing
 25 factor determined under subparagraph (A) of this paragraph.

26 (b) Any change in the threshold amount determined under paragraph (a) of this sub-
 27 section shall be rounded to the nearest multiple of \$50.

28 (4) As used in this section “U.S. City Average Consumer Price Index” means the U.S. City
 29 Average Consumer Price Index for All Urban Consumers (All Items) as published by the
 30 Bureau of Labor Statistics of the United States Department of Labor.

31 **SECTION 69.** (1) The storage, use or other consumption in this state of tangible personal
 32 property brought into this state by a nonresident for the nonresident’s use or enjoyment
 33 while temporarily within this state is exempt from the use tax unless the tangible personal
 34 property is used in conducting a nontransitory business activity within this state.

35 (2) The use in this state, by a nonresident, of a motor vehicle that is registered or li-
 36 censed under the laws of the state of the nonresident’s residence, and that is not required
 37 to be registered or titled under the laws of this state, is exempt from the use tax.

38 **SECTION 70.** (1) The storage, use or other consumption in this state of tangible personal
 39 property by a resident of this state is exempt from the use tax if the tangible personal
 40 property was acquired by the person in another state while a resident of the other state
 41 primarily for use outside this state and if the use was actual and substantial.

42 (2) If the tangible personal property was acquired by the person less than three months
 43 before the person entered this state, it is presumed that the tangible personal property was
 44 acquired for use in this state and that its use outside this state was not actual and sub-
 45 stantial.

1 **SECTION 71.** (1) The Department of Revenue shall adopt rules establishing procedures
2 for claiming exemption from the sales tax and the use tax, and may prescribe forms, ex-
3 emption certificates or other documentation required to claim exemptions.

4 (2) Procedures, forms, certificates and other requirements prescribed under subsection
5 (1) of this section shall comply with the Streamlined Sales and Use Tax Agreement.

6
7 **RETURNS AND PAYMENTS**
8

9 **SECTION 72.** (1) Except as otherwise provided in the Sales and Use Tax Law, all sales
10 taxes and use taxes are due and payable to the Department of Revenue as follows:

11 (a) If the taxes may reasonably be expected to be \$500 or less for the calendar year, the
12 taxes are due and payable to the department not later than the January 31 following the end
13 of the calendar year.

14 (b) If the taxes may reasonably be expected to be more than \$500, but \$5,000 or less for
15 the calendar year, the taxes are due and payable to the department semiannually not later
16 than the last day of the calendar month next following June 30 and December 31.

17 (c) Except for estimated taxes that may be required to be paid under section 73 of this
18 2013 Act, if the taxes may reasonably be expected to exceed \$5,000 for the calendar year, the
19 taxes are due and payable quarterly not later than the 15th day of the calendar month next
20 following the end of the calendar quarter.

21 (2)(a) For each tax year beginning on or after July 1, 2014, the Department of Revenue
22 shall recompute the threshold amounts under subsection (1) of this section as follows:

23 (A) Divide the average U.S. City Average Consumer Price Index for the first six months
24 of the current calendar year by the average U.S. City Average Consumer Price Index for the
25 first six months of 2014.

26 (B) Recompute each threshold amount by multiplying the threshold amount by the ap-
27 propriate indexing factor determined under subparagraph (A) of this paragraph.

28 (b) Any change in the threshold amount determined under paragraph (a) of this sub-
29 section shall be rounded to the nearest multiple of \$100.

30 (3) As used in this section “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
32 Bureau of Labor Statistics of the United States Department of Labor.

33 **SECTION 73.** (1) The Department of Revenue shall prescribe by rule:

34 (a) Methods for the remittance of the sales tax and the use tax, including but not limited
35 to the remittance of estimated taxes.

36 (b) Sales tax and use tax forms and procedures for the filing of sales tax and use tax
37 returns.

38 (c) Compensation that sellers are allowed to retain out of sales taxes and use taxes
39 remitted to this state, in an amount that is computed as a percentage of taxes due and that
40 is not less than the actual expenses incurred by the seller in administering, collecting and
41 remitting sales taxes and use taxes.

42 (2) Rules adopted pursuant to subsection (1) of this section must be in compliance with
43 the Streamlined Sales and Use Tax Agreement.

44 (3) Compensation under subsection (1)(c) of this section:

45 (a) May be allowed to a seller for a period only if:

1 (A) All required returns for the period are timely filed and fully paid; and

2 (B) A certified service provider is not compensated on the seller's behalf for the period.

3 (b) May not be computed on a base that includes taxes paid on goods and services pur-
4 chased for consumption by the seller.

5 **SECTION 74.** (1) If a person fails to file a sales tax or use tax return at the time pre-
6 scribed for filing, there shall be added to the amount of tax required to be shown on the re-
7 turn a delinquency penalty of five percent of the amount of the tax.

8 (2) If the failure to file a return continues for a period in excess of 90 days after the due
9 date:

10 (a) There shall be added to the amount of tax required to be shown on the return a
11 failure-to-file penalty of 20 percent of the amount of the tax; and

12 (b) The Department of Revenue may send a notice to the person demanding that the
13 person file a return within 30 days of the mailing of the notice.

14 (3) If, after the notice and demand sent pursuant to subsection (2) of this section, no
15 return is filed within 30 days, the department may determine the tax according to the best
16 of its information and belief, assess the tax with appropriate penalty and interest, plus an
17 additional penalty of 25 percent of the tax deficiency determined by the department, and give
18 written notice of the determination and assessment to the person required to make the fil-
19 ing.

20 (4) A penalty equal to 100 percent of any deficiency determined by the department shall
21 be assessed and collected if:

22 (a) There is a failure to file a return with intent to evade the tax; or

23 (b) A return was falsely prepared and filed with intent to evade the tax.

24 (5) Interest shall be collected on the unpaid tax at the rate established under ORS 305.220
25 for each month or fraction of a month, computed from the time the tax became due, during
26 which the tax remains unpaid.

27 (6)(a) Each penalty imposed under this section is in addition to any other penalty imposed
28 under this section.

29 (b) Notwithstanding paragraph (a) of this subsection, the total amount of penalty imposed
30 under this section with respect to any deficiency may not exceed 100 percent of the defi-
31 ciency.

32 (7) A penalty may not be imposed under this section to the extent that, as determined
33 under rules adopted by the department, the purchaser, seller or certified service provider
34 relied on erroneous data provided by the department with respect to tax rates, boundaries
35 or taxing jurisdiction assignments.

36 **SECTION 75.** (1) If a person fails to file a report or return required under the Sales and
37 Use Tax Law within 150 days of the time prescribed by law, the Department of Revenue may
38 petition the Oregon Tax Court for an order requiring the person to show cause why the
39 person is not required to file the report or return.

40 (2) Within 10 days after the filing of the petition, the tax court shall enter an order di-
41 recting the person to appear and show cause why no report or return is required to be filed.
42 The petition and order shall be served upon the person in the manner provided by law.

43 (3) Not later than 20 days after service pursuant to subsection (2) of this section, the
44 person shall:

45 (a) File the requested report or return with the department;

1 (b) Request from the tax court an order granting reasonable time within which to file the
2 requested report or return with the department; or

3 (c) File with the tax court an answer to the petition showing cause why the report or
4 return is not required to be filed.

5 (4) If an answer is filed, the tax court shall set the matter for hearing within 20 days
6 after the filing of the answer, and shall determine the matter in an expeditious manner,
7 consistent with the rights of the parties.

8 (5) An appeal may be taken to the Supreme Court as provided in ORS 305.445 from an
9 order of the tax court made and entered after a hearing and determination under subsection
10 (4) of this section.

11 (6) Reasonable attorney fees and expenses shall be awarded to the prevailing party.

12 **SECTION 76.** Notwithstanding sections 73 and 74 of this 2013 Act, a penalty for late filing
13 of a return with respect to the sales tax or use tax or for late payment of sales taxes or use
14 taxes due may not be assessed, and the right of a seller to retain as compensation a per-
15 centage of taxes due may not be denied, during the six-month period beginning on the oper-
16 ative date of this section.

17 **SECTION 77.** (1) A person may not:

18 (a) Fail to furnish any return required to be made pursuant to the Sales and Use Tax
19 Law;

20 (b) Fail to furnish a supplemental return or other data required by the Department of
21 Revenue; or

22 (c) Render a false or fraudulent return, report or claim for refund.

23 (2) A person required to make, render, sign or verify any return under the Sales and Use
24 Tax Law may not make a false or fraudulent return or fail to furnish a return with intent
25 to defeat or evade the determination of an amount due required by law.

26
27 **DETERMINATIONS, DEFICIENCIES AND COLLECTION**

28
29 **SECTION 78.** Except as otherwise provided in the Sales and Use Tax Law, the provisions
30 of ORS chapters 305 and 314 relating to audits and examinations of returns, periods of limi-
31 tations, determinations of deficiencies, assessments, liens, delinquencies, claims for refund,
32 conferences and appeals to the Oregon Tax Court, and the procedures relating thereto, apply
33 to the determinations of taxes, penalties and interest under the Sales and Use Tax Law.

34 **SECTION 79.** (1) If the Department of Revenue is not satisfied with a tax return or the
35 amount of tax paid to this state by any person under the Sales and Use Tax Law, the de-
36 partment may compute and determine the amount required to be paid upon the basis of the
37 facts contained in the return or upon the basis of any information in the department's pos-
38 session or that comes into the department's possession.

39 (2) One or more deficiency determinations may be made of the amount due for one or
40 more periods.

41 (3) Notices of deficiency shall be given within the time for giving notices of deficiencies
42 under the circumstances described under ORS 314.410.

43 (4) Notices of deficiency shall be given and interest on deficiencies shall be computed as
44 provided in ORS 305.265.

45 (5) Subject to ORS 314.421 and 314.423, liens for taxes or deficiencies shall arise at the

1 **time of assessment, shall continue until the taxes, interest and penalties are fully satisfied**
 2 **and may be recorded and collected in the manner provided for the collection of delinquent**
 3 **income taxes.**

4 **SECTION 80. All taxes, interest and penalties due and unpaid under the Sales and Use**
 5 **Tax Law are, from the time liability is incurred, a personal debt, due the State of Oregon,**
 6 **from the persons liable for the taxes, interest and penalties.**

7 **SECTION 81. (1) If the Department of Revenue believes that any determination or col-**
 8 **lection of any sales or use tax or any amount of sales or use tax required to be collected and**
 9 **paid to the state will be jeopardized by delay, the department may make a determination of**
 10 **the tax or amount of tax required to be collected, noting that fact upon the determination.**

11 **(2) The amount determined under subsection (1) of this section is immediately due and**
 12 **payable, and the department may assess the tax, notify the person and proceed to collect the**
 13 **tax in the same manner and using the same procedures as for the collection of income taxes**
 14 **under ORS 314.440.**

15 **SECTION 82. ORS 314.430 is amended to read:**

16 314.430. (1) If any tax imposed under ORS chapter 118, 316, 317 or 318 **or the Sales and Use**
 17 **Tax Law** or any portion of the tax is not paid within 30 days after the date that the written notice
 18 and demand for payment required under ORS 305.895 is mailed (or within five days after the tax
 19 becomes due, in the case of the termination of the tax year by the Department of Revenue under the
 20 provisions of ORS 314.440), or any amount payable by a transferee under ORS 311.695 is not paid
 21 as required under ORS 311.686, and no provision is made to secure the payment thereof by bond,
 22 deposit or otherwise, pursuant to regulations promulgated by the department, the department may
 23 issue a warrant for the payment of the amount of the tax or amount payable under ORS 311.695,
 24 with the added penalties, interest and any collection charge incurred. A copy of the warrant shall
 25 be mailed or delivered to the taxpayer or transferee by the department at the taxpayer's or
 26 transferee's last-known address.

27 (2) At any time after issuing a warrant under this section, the department may record the war-
 28 rant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the
 29 effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff
 30 for the county in which the warrant is recorded to levy upon and sell the real and personal property
 31 of the taxpayer or transferee found within that county, and to levy upon any currency of the tax-
 32 payer or transferee found within that county, for the application of the proceeds or currency against
 33 the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall
 34 proceed on the warrant in the same manner prescribed by law for executions issued against property
 35 pursuant to a judgment, and is entitled to the same fees as provided for executions issued against
 36 property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part
 37 of the warrant liability.

38 (3) In the discretion of the department a warrant under this section may be directed to any
 39 agent authorized by the department to collect taxes, and in the execution of the warrant the agent
 40 has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in
 41 excess of actual expenses paid in the performance of such duty.

42 (4) Until a warrant issued under this section is satisfied in full, the department has the same
 43 remedies to enforce the claim for taxes against the taxpayer or for amounts payable by the
 44 transferee as if the state had recovered judgment against the taxpayer for the amount of the tax or
 45 against the transferee for the amount payable under ORS 311.695.

1 (5) As used in this section, “taxpayer” includes any person required under the Sales and
2 Use Tax Law to remit taxes to the department.

3 **SECTION 83.** (1) The Director of the Department of Revenue may enter into a sales tax
4 and use tax refund agreement with the governing body of any Indian reservation in Oregon.

5 (2) An agreement entered into under this section may provide for a mutually agreed upon
6 amount as a refund to the governing body of any sales tax or use tax collected in connection
7 with the sale, use, storage or consumption of tangible personal property on the Indian res-
8 ervation. This provision is in addition to other laws allowing tax refunds.

9 (3) There is annually appropriated to the department, from the suspense account estab-
10 lished pursuant to section 93 of this 2013 Act, the amounts necessary to make refunds pur-
11 suant to this section.

12 **SECTION 84.** (1) The Department of Revenue may require any person subject to the Sales
13 and Use Tax Law to deposit with the department a security in an amount the department
14 considers necessary to ensure the person’s compliance with the Sales and Use Tax Law.

15 (2) Notwithstanding subsection (1) of this section, the amount of the security may not
16 be greater than twice the estimated tax liability of the person for the reporting period.

17 (3) The amount of the security may be increased or decreased as the department con-
18 siders necessary, subject to the limitations provided under this section.

19
20 **ADMINISTRATION**

21
22 **SECTION 85.** (1) The Department of Revenue shall administer and enforce the Sales and
23 Use Tax Law and may adopt rules to achieve these purposes.

24 (2) Notwithstanding any provision of law to the contrary, the Sales and Use Tax Law
25 must be administered in a manner consistent with mandatory provisions of the Streamlined
26 Sales and Use Tax Agreement.

27 **SECTION 86.** Every seller, every person required to register under section 19 of this 2013
28 Act and every person storing, using or otherwise consuming in this state tangible personal
29 property purchased from a seller shall keep records, receipts, invoices and other pertinent
30 papers in a form that the Department of Revenue may require, consistent with the Stream-
31 lined Sales and Use Tax Agreement.

32 **SECTION 87.** (1) The Department of Revenue or a person authorized in writing by the
33 department may examine, during reasonable business hours, the books, papers, records and
34 equipment of any person selling tangible personal property and any person liable for the use
35 tax. The department may investigate the character of the business of the person in order to
36 verify the accuracy of any return made, or, if no return is made by the person, to ascertain
37 and determine the amount required to be paid.

38 (2) The department may require the attendance of a person described in subsection (1)
39 of this section and any other person having knowledge of the person’s premises, and may
40 take testimony and require proof material for the information, with power to administer
41 oaths to such persons.

42 (3) The department may, by order or subpoena, to be served with the same force and
43 effect and in the same manner that a subpoena is served in a civil action in the circuit court,
44 require the production, at any time and place it designates, of any books, papers, accounts
45 or other information necessary to administer and enforce the Sales and Use Tax Law.

1 (4)(a) If a person fails to comply with a subpoena or order of the department or to
 2 produce or permit the examination or inspection of any books, papers, records or equipment
 3 pertinent to any investigation or inquiry under this section, or to testify to any matter re-
 4 garding which the person may be lawfully interrogated, the department may apply to the
 5 Oregon Tax Court, or to the circuit court for the county in which the person resides, for an
 6 order to require the person to attend and testify or otherwise comply with the demand or
 7 request of the department.

8 (b) The application to the court under this subsection shall be by ex parte motion, upon
 9 which the court shall make an order requiring the person against whom it is directed to
 10 comply with the request or demand of the department within 10 days after service of the
 11 order, or such further time as the court may grant, or to justify the failure within that time.

12 (c) An order made pursuant to this subsection shall be served upon the person to whom
 13 it is directed in the manner required by this state for service of process, the service of which
 14 shall be required to confer jurisdiction upon the court.

15 (5) The remedy provided by section 95 of this 2013 Act for failure to obey an order issued
 16 by the court under this section is in addition to other remedies, civil or criminal, existing
 17 under the tax laws or other laws of this state.

18 **SECTION 88.** (1) In the administration of the use tax, the Department of Revenue may
 19 require the filing of reports by any person or class of persons having in their possession or
 20 custody information relating to sales of tangible personal property, the storage, use or other
 21 consumption of which may be subject to the use tax.

22 (2) The reports shall be filed when the department requires and must set forth:

- 23 (a) The names and addresses of purchasers of the tangible personal property;
- 24 (b) The sales price of the property;
- 25 (c) The date of sale; and
- 26 (d) Such other information as the department requires.

27 (3) The department may require reports under this section only if the reports may be
 28 required under the Streamlined Sales and Use Tax Agreement.

29 **SECTION 89.** (1) Except as otherwise specifically provided by law, it is unlawful for the
 30 Department of Revenue or any officer or employee of the department or other person having
 31 administrative duty under the Sales and Use Tax Law to divulge or make known in any
 32 manner the amount of gross receipts or purchase price or any particulars set forth or dis-
 33 closed in any report, return, claim or other document required in the administration of the
 34 Sales and Use Tax Law.

35 (2) It is unlawful for any person or entity to whom information is disclosed or given by
 36 the department pursuant to section 90 (2) of this 2013 Act or any other provision of state law
 37 to divulge or use such information for any purpose other than that specified in the provisions
 38 of law authorizing the use or disclosure.

39 (3) A subpoena or judicial order may not be issued compelling the Department of Re-
 40 venue, the Department of Transportation, the State Marine Board, the Oregon Department
 41 of Aviation or any of their officers or employees, or any person who has acquired information
 42 pursuant to section 90 (2) of this 2013 Act or any other provision of state law, to divulge or
 43 make known the amount of gross receipts or purchase price or any particulars set forth or
 44 disclosed in any report, return, claim or other document required in the administration of
 45 the Sales and Use Tax Law except where the taxpayer's liability for sales or use tax is to be

1 adjudicated by the court from which such process issues.

2 (4) As used in this section, "officer," "employee" or "person" includes an authorized
 3 representative of the officer, employee or person, or any former officer, employee or person,
 4 or an authorized representative of the former officer, employee or person.

5 **SECTION 90.** (1) The Department of Revenue, the Department of Transportation, the
 6 State Marine Board and the Oregon Department of Aviation may:

7 (a) Furnish any taxpayer or authorized representative of the taxpayer, upon request of
 8 the taxpayer or representative, with a copy of the taxpayer's sales tax or use tax return filed
 9 for any reporting period, with a copy of any report filed by the taxpayer in connection with
 10 the return or with a copy of a sales tax or use tax refund claim filed under ORS 305.270.

11 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

12 (c) Publish statistics so classified as to prevent the identification of gross receipts or
 13 purchase price or any particulars contained in any report or return.

14 (d) Publish lists of sellers to whom permits have been issued or whose permits have been
 15 suspended or revoked under the Sales and Use Tax Law.

16 (2) The Department of Revenue, the Department of Transportation, the State Marine
 17 Board and the Oregon Department of Aviation may disclose and give access to information
 18 described in section 89 of this 2013 Act to:

19 (a) The Governor or the authorized representative of the Governor:

20 (A) With respect to an individual who is designated as being under consideration for ap-
 21 pointment or reappointment to an office or for employment in the office of the Governor,
 22 only for the purpose of making the appointment, reappointment or decision to employ the
 23 individual in the office of the Governor. The information disclosed shall be confined to
 24 whether the individual has:

25 (i) Filed returns with respect to the taxes imposed by the Sales and Use Tax Law for
 26 those of the not more than three immediately preceding years for which the individual was
 27 required to file an Oregon sales tax or use tax return.

28 (ii) Failed to pay any tax within 30 days from the date of mailing of a deficiency notice
 29 or otherwise respond to a deficiency notice within 30 days of its mailing.

30 (iii) Been assessed any penalty under the Sales and Use Tax Law and what the nature
 31 of the penalty is.

32 (iv) Been or is under investigation for possible criminal offenses under the Sales and Use
 33 Tax Law.

34 (B) For use by an officer or employee of the Oregon Department of Administrative Ser-
 35 vices authorized to prepare revenue estimates, or a person contracting with the Oregon De-
 36 partment of Administrative Services to prepare revenue estimates, in the preparation of
 37 revenue estimates required for the Governor's budget under ORS 291.201 to 291.226, or re-
 38 quired for submission to the Emergency Board or, if the Legislative Assembly is in session,
 39 to the Joint Committee on Ways and Means and to the Legislative Revenue Officer under
 40 ORS 291.342. Any officer, employee or person furnished or granted access to information
 41 under this subparagraph shall not remove the information from the premises of the De-
 42 partment of Revenue, the Department of Transportation, the State Marine Board or the
 43 Oregon Department of Aviation.

44 (b) The United States Commissioner of Internal Revenue or authorized representative,
 45 for tax purposes only.

1 (c) The proper officer of any state or the District of Columbia, or their authorized rep-
 2 resentatives, for tax purposes only, if the state or district has a provision of law that sub-
 3 stantially conforms to the requirements of section 89 of this 2013 Act and this section as to
 4 confidentiality.

5 (d)(A) The Multistate Tax Commission or its authorized representatives, for tax purposes
 6 only.

7 (B) Notwithstanding subparagraph (A) of this paragraph, the Multistate Tax Commission
 8 may make the information available to the United States Commissioner of Internal Revenue
 9 or the proper officer of any state or the District of Columbia, or their authorized represen-
 10 tatives, for tax purposes only, if the state or district has a provision of law that substantially
 11 conforms to the requirements of section 89 of this 2013 Act and this section as to
 12 confidentiality.

13 (e) The Attorney General, assistants and employees in the Department of Justice or
 14 other legal representative of the State of Oregon, to the extent the Department of Revenue,
 15 the Department of Transportation, the State Marine Board or the Oregon Department of
 16 Aviation deems disclosure or access necessary for the performance of the duties of advising
 17 or representing the Department of Revenue, the Department of Transportation, the State
 18 Marine Board or the Oregon Department of Aviation pursuant to ORS 180.010 to 180.240 and
 19 the tax laws of this state.

20 (f) Employees of the State of Oregon, to the extent the Department of Revenue, the De-
 21 partment of Transportation, the State Marine Board or the Oregon Department of Aviation
 22 deems disclosure or access necessary for the employees to perform their duties under con-
 23 tracts or agreements between the Department of Revenue, the Department of Transporta-
 24 tion, the State Marine Board or the Oregon Department of Aviation and any other
 25 department, division, agency or subdivision of the State of Oregon, in the administration of
 26 the tax laws.

27 (g) Other persons, and their employees, to the extent the Department of Revenue, the
 28 Department of Transportation, the State Marine Board or the Oregon Department of Avi-
 29 ation deems disclosure or access necessary for the performance of the persons' duties under
 30 agreements between the Department of Revenue, the Department of Transportation, the
 31 State Marine Board or the Oregon Department of Aviation and such persons, in the admin-
 32 istration of the tax laws.

33 (h) The Legislative Revenue Officer or authorized representatives upon compliance with
 34 ORS 173.850. The officer or representative shall not remove from the premises of the De-
 35 partment of Revenue, the Department of Transportation, the State Marine Board or the
 36 Oregon Department of Aviation any materials that would reveal the identity of any taxpayer
 37 or other person.

38 (i) The Secretary of State as Auditor of Public Accounts under Article VI, section 2, of
 39 the Oregon Constitution.

40 (3) Each officer or employee of the Department of Revenue, the Department of Trans-
 41 portation, the State Marine Board or the Oregon Department of Aviation and each person
 42 described or referred to in subsection (2)(a) and (e) to (i) of this section to whom disclosure
 43 or access to the tax information is given under subsection (2) of this section or any other
 44 provision of state law, prior to beginning employment or the performance of duties involving
 45 the disclosure or access, shall be advised in writing of the provisions of sections 89 and 95

1 of this 2013 Act, relating to penalties for the violation of section 89 of this 2013 Act, and shall
 2 as a condition of employment or performance of duties execute a certificate, in a form pre-
 3 scribed by the Department of Revenue, stating in substance that the person has read these
 4 provisions of law, that the person has had them explained and that the person is aware of
 5 the penalties for the violation of section 89 of this 2013 Act.

6 **SECTION 91.** The Department of Revenue shall prepare and make available to the public
 7 statistics, in a manner determined by the department, with respect to the operation of the
 8 Sales and Use Tax Law, including amounts collected, classification of taxpayers and other
 9 facts considered by the department to be of public interest.

10
 11 **DISPOSITION OF PROCEEDS**
 12

13 **SECTION 92.** All fees, taxes, interest and penalties imposed and all amounts of tax re-
 14 quired to be paid to this state under the Sales and Use Tax Law, except those collected by
 15 the Department of Transportation, shall be paid to the Department of Revenue, and upon
 16 receipt by the Department of Revenue shall be paid over to the State Treasurer to be dis-
 17 posed of as provided in sections 93 and 94 of this 2013 Act.

18 **SECTION 93.** (1) All moneys received by the Department of Revenue under the Sales and
 19 Use Tax Law shall be deposited in the State Treasury and credited to a suspense account
 20 established under ORS 293.445.

21 (2) Refunds, including refunds of overpayments or of other moneys received under the
 22 Sales and Use Tax Law in which the department has no legal interest, shall be paid out of
 23 the suspense account.

24 (3) After the payment of refunds pursuant to subsection (2) of this section, the balance
 25 in the suspense fund shall be deposited in the Sales and Use Tax Fund established under
 26 section 94 of this 2013 Act.

27 **SECTION 94.** (1) The Sales and Use Tax Fund is established in the State Treasury, sepa-
 28 rate and distinct from the General Fund. Interest earned by the Sales and Use Tax Fund
 29 shall be credited to the fund.

30 (2) Moneys in the Sales and Use Tax Fund shall be distributed as follows:

31 (a) Seventy-five percent of the annual revenue credited to the fund must be expended to
 32 fund education in this state through the post-secondary level.

33 (b) Twenty-five percent of the annual revenue credited to the fund must be expended to
 34 provide:

35 (A) Progressive property tax relief for senior citizens based on the value of the taxable
 36 property of the senior citizens as assessed for property tax purposes; and

37 (B) Income tax relief for individuals with taxable income below annual maximum
 38 amounts established by law for separate and joint returns.

39 (3) Notwithstanding subsection (2) of this section, moneys described in Article IX, section
 40 3a, of the Oregon Constitution, shall be transferred to the State Highway Fund.

41
 42 **PENALTIES**
 43

44 **SECTION 95.** (1) If a person violates any provision of the Sales and Use Tax Law, the
 45 Department of Revenue may assess a civil penalty of not more than \$1,000 against the per-

1 son.

2 (2) A person who violates section 77 (1)(c) or (2) of this 2013 Act is guilty of a Class C
3 felony.

4 (3) A person who violates section 89 of this 2013 Act is guilty of a Class C felony. If the
5 person is an officer or employee of this state, the person shall be dismissed from office and
6 shall be incapable of holding any public office in this state for a period of five years after
7 dismissal.

8 (4) A person may appeal a civil penalty assessed under this section to the Oregon Tax
9 Court as provided in ORS 305.275. If the penalty is not paid within 10 days after the order
10 of the department becomes final, the department may record the order and collect the
11 amount assessed in the same manner as income tax deficiencies are recorded and collected
12 under ORS 314.430.

13 (5) The penalties provided in this section are in addition to all other penalties assessable
14 under the Sales and Use Tax Law.

15
16 MISCELLANEOUS

17
18 **SECTION 96.** Unless otherwise specifically provided by law, the taxes imposed under the
19 Sales and Use Tax Law are in addition to and not in lieu of any other taxes or excises im-
20 posed by the State of Oregon or any county, city, district or other municipal corporation or
21 political subdivision of this state.

22
23 CONFORMING CHANGES

24
25 **SECTION 97.** ORS 305.130 is amended to read:

26 305.130. (1) The Department of Revenue may be made a party in any action in any court of this
27 state or of the United States having jurisdiction of the subject matter to quiet title to, to remove
28 a cloud from the title to, or for the foreclosure of a mortgage or other lien upon, any real property
29 or personal property, or both, upon which the State of Oregon has or claims to have a lien under
30 ORS 311.673, 311.679, 311.771, 314.430 or 321.570 or ORS chapter 323 **or the Sales and Use Tax**
31 **Law**, and the judgment in *[such]* **the** action shall be conclusive and binding upon the State of
32 Oregon and *[such]* **the** department.

33 (2) The complaint in *[such]* **the** action shall set forth with particularity the nature of *[any*
34 *such]* **the** lien had or claimed by the State of Oregon. The summons in *[such]* **the** action, together
35 with a copy of the complaint *[therein]*, shall be served on *[such]* **the** department in the manner pre-
36 scribed by ORCP 7 D(3)(h), and *[such]* **the** summons shall require *[such]* **the** department to appear
37 and answer the complaint within 60 days from the date of *[such]* service.

38 **SECTION 98.** ORS 305.265 is amended to read:

39 305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports
40 or returns of tax or tax liability including claims under ORS 310.630 to 310.706 **and the Sales and**
41 **Use Tax Law**, filed with the Department of Revenue under the revenue and tax laws administered
42 by it, except those filed under ORS 320.005 to 320.150.

43 (2) As soon as practicable after a report or return is filed, the department shall examine or audit
44 it, if required by law or the department deems such examination or audit practicable. If the de-
45 partment discovers from an examination or an audit of a report or return or otherwise that a defi-

1 deficiency exists, it shall compute the tax and give notice to the person filing the return of the
2 deficiency and of the department's intention to assess the deficiency, plus interest and any appro-
3 priate penalty. Except as provided in subsection (3) of this section, the notice shall:

4 (a) State the reason for each adjustment;

5 (b) Give a reference to the statute, regulation or department ruling upon which the adjustment
6 is based; and

7 (c) Be certified by the department that the adjustments are made in good faith and not for the
8 purpose of extending the period of assessment.

9 (3) When the notice of deficiency described in subsection (2) of this section results from the
10 correction of a mathematical or clerical error and states what would have been the correct tax but
11 for the mathematical or clerical error, such notice need state only the reason for each adjustment
12 to the report or return.

13 (4) With respect to any tax return filed under ORS chapter 314, 316, 317 or 318, deficiencies
14 shall include but not be limited to the assertion of additional tax arising from:

15 (a) The failure to report properly items or amounts of income subject to or which are the
16 measure of the tax;

17 (b) The deduction of items or amounts not permitted by law;

18 (c) Mathematical errors in the return or the amount of tax shown due in the records of the de-
19 partment; or

20 (d) Improper credits or offsets against the tax claimed in the return.

21 (5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right
22 to make written objections, the person's right to request a conference and the procedure for re-
23 questing a conference. The statement, and an accompanying form, shall also explain that conference
24 determinations are routinely transmitted via regular mail and that a person desiring to have con-
25 ference determinations transmitted by certified mail may do so by indicating on the form the
26 person's preference for certified mail and by returning the form with the person's written objections
27 as described in paragraph (b) of this subsection.

28 (b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay
29 the deficiency with interest computed to the date of payment and any penalty proposed. Or within
30 that time the person shall advise the department in writing of objections to the deficiency, and may
31 request a conference with the department, which shall be held prior to the expiration of the one-year
32 period set forth in subsection (7) of this section.

33 (6) If a request for a conference is made, the department shall notify the person of a time and
34 place for conference and appoint a conference officer to meet with the person for an informal dis-
35 cussion of the matter. After the conference, the conference officer shall send the determination of
36 the issues to the person. The determination letter shall be sent by regular mail, or by certified mail
37 if the person given notice has indicated a preference for transmission of the determination by cer-
38 tified mail. The department shall assess any deficiency in the manner set forth in subsection (7) of
39 this section. If no conference is requested and written objections are received, the department shall
40 make a determination of the issues considering such objections, and shall assess any deficiency in
41 the manner provided in subsection (7) of this section. The failure to request or have a conference
42 shall not affect the rights of appeal otherwise provided by law.

43 (7) If neither payment nor written objection to the deficiency is received by the department
44 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-
45 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating

1 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within
2 one year from the date of the notice of deficiency unless an extension of time is agreed upon as
3 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

4 (8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section
5 for giving of notice of assessment, the department and the person consent in writing to the defi-
6 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed
7 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be
8 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

9 (9) The failure to hold a requested conference within the one-year period prescribed in sub-
10 section (5) of this section shall not invalidate any assessment of deficiency made within the one-year
11 period pursuant to subsection (7) of this section or within any extension of time made pursuant to
12 subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable
13 to the deficiency. After an assessment has been made, the department and the person assessed may
14 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day
15 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-
16 nation of the issues.

17 (10)(a) In the case of a failure to file a report or return on the date prescribed therefor (deter-
18 mined with regard to any extension for filing), the department shall determine the tax according to
19 the best of its information and belief, assess the tax plus appropriate penalty and interest, and give
20 written notice of the failure to file the report or return and of the determination and assessment to
21 the person required to make the filing. The amount of tax shall be reduced by the amount of any
22 part of the tax which is paid on or before the date prescribed for payment of the tax and by the
23 amount of any credit against the tax which may be lawfully claimed upon the return.

24 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent al-
25 lowed by rules adopted by the department, the department may accept the filing of a report or re-
26 turn submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

27 (c) The department may reject a report or return:

28 (A) That is not verified as required by ORS 305.810;

29 (B) That the department determines is not true and correct as to every material matter as re-
30 quired by ORS 305.815; or

31 (C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report
32 or return.

33 (d) If the department rejects a report or return of a person assessed a tax under paragraph (a)
34 of this subsection, the department shall issue a notice of rejection to the person. The person may
35 appeal the rejection to the magistrate division of the Oregon Tax Court only if:

36 (A) The report or return was filed within 90 days of the date the department's assessment under
37 paragraph (a) of this subsection was issued; and

38 (B) The appeal is filed within 90 days of the date shown on the notice of rejection.

39 (e) If the person assessed under paragraph (a) of this subsection submits a report or return to
40 the department and appeals the assessment to the tax court, the department may request a stay of
41 action from the court pending review of the report or return. If the department:

42 (A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

43 (B) Rejects the report or return, the stay of action on the appeal shall be lifted.

44 (f) If the department accepts the filing of a report or return, the department may reduce the
45 assessment issued under paragraph (a) of this subsection. A report or return filed under this sub-

1 section that is accepted by the department, whether or not the assessment has been reduced, shall
2 be considered a report or return described in subsection (1) of this section and shall be subject to
3 the provisions of this section, including but not limited to examination and adjustment pursuant to
4 subsection (2) of this section.

5 (g) The department may refund payments made with respect to a report or return filed and ac-
6 cepted pursuant to this subsection. If the report or return is filed within three years of the due date
7 for filing the report or return, excluding extensions, the refund shall be made as provided by ORS
8 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing
9 the report or return, excluding extensions, the refund shall be limited to payments received within
10 the two-year period ending on the date the report or return is received by the department and
11 payments received after the date the report or return is received by the department. Interest shall
12 be paid at the rate established under ORS 305.220 for each month or fraction of a month from the
13 date the report or return is received by the department to the time the refund is made.

14 (11) Mailing of notice to the person at the person's last-known address shall constitute the giv-
15 ing of notice as prescribed in this section.

16 (12) If a return is filed with the department accompanied by payment of less than the amount
17 of tax shown on or from the information on the return as due, the difference between the tax and
18 the amount submitted is considered as assessed on the due date of the report or return (determined
19 with regard to any extension of time granted for the filing of the return) or the date the report or
20 return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or
21 from the information on the return as due shall be reduced by the amount of any part of the tax that
22 is paid on or before the due date prescribed for payment of the tax, and by any credits against the
23 tax that are claimed on the return. If the amount required to be shown as tax on a return is less
24 than the amount shown as tax on the return, this subsection shall be applied by substituting the
25 lesser amount.

26 (13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each
27 month or fraction of a month computed from the due date of the return to date of payment. If the
28 return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent
29 of the deficiency shall be assessed and collected. All payments received shall be credited first to
30 penalty, then to interest accrued, and then to tax due.

31 (14) If the deficiency is paid in full before a notice of assessment is issued, the department is
32 not required to send a notice of assessment, and the tax shall be considered as assessed as of the
33 date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid,
34 whichever is the later. A partial payment of the deficiency shall constitute only a credit to the ac-
35 count of the person assessed. Assessments and billings of taxes shall be final after the expiration
36 of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under
37 ORS 305.280 (3) following payment of the tax.

38 (15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this
39 chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest as-
40 sessed.

41 **SECTION 99.** ORS 305.270 is amended to read:

42 305.270. (1) If the amount of the tax shown as due on a report or return originally filed with the
43 Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314,
44 316, 317, 318 or 321 **or the Sales and Use Tax Law**, or collected pursuant to ORS 305.620, or as
45 corrected by the department, is less than the amount theretofore paid, or if a person files a claim

1 for refund of any tax paid to the department under such laws within the period specified in sub-
2 section (2) of this section, any excess tax paid shall be refunded by the department with interest as
3 provided in this section and ORS 314.415.

4 (2) The claim shall be made on a form prescribed by the department, except that an amended
5 report or return showing a refund due and filed within the time allowed by this subsection for the
6 filing of a claim for refund, shall constitute a claim for refund. The claim shall be filed within the
7 period specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310, 314, 316, 317 [*and*]
8 **or 318 or the Sales and Use Tax Law**, or collected pursuant to ORS 305.620, [(except where any
9 applicable ordinance specifies another period)], within the period specified in ORS 118.100 (2) for
10 taxes imposed under ORS chapter 118 and within two years of the payment of any tax under ORS
11 chapter 308, 308A or 321.

12 (3) Upon receipt of a claim for refund, or original report or return claiming a refund, the de-
13 partment shall either refund the amount requested or send to the claimant a notice of any proposed
14 adjustment to the refund claim, stating the basis upon which the adjustment is made. A proposed
15 adjustment may either increase or decrease the amount of the refund claim or result in the finding
16 of a deficiency. If the proposed adjustment results in a determination by the department that some
17 amount is refundable, the department may send the claimant the adjusted amount with the notice.

18 (4)(a) The notice of proposed adjustment shall be accompanied by a statement explaining the
19 claimant's right to make written objections to the refund adjustment, the claimant's right to request
20 a conference and the procedure for requesting a conference. The statement, and an accompanying
21 form, shall also explain that conference determinations are routinely transmitted via regular mail
22 and that a claimant desiring to have conference determinations transmitted by certified mail may
23 do so by indicating on the form the claimant's preference for certified mail and by returning the
24 form with the claimant's written objections as described in paragraph (b) of this subsection.

25 (b) The claimant may, within 30 days of the date of the notice of proposed adjustment, advise
26 the department in writing of objections to the refund adjustment and may request a conference with
27 the department, which shall be held within one year of the date of the notice. The department shall
28 notify the claimant of a time and place for the conference, and appoint a conference officer to meet
29 with the claimant for an informal discussion of the claim. After the conference, the conference offi-
30 cer shall send a determination of the matter to the claimant. The determination letter shall be sent
31 by regular mail, or by certified mail if the claimant has indicated a preference for transmission of
32 the determination by certified mail. The department shall issue either a notice of refund denial or
33 payment of any amount found to be refundable, together with any applicable interest provided by
34 this section. If the conference officer determines that a deficiency exists, the department shall issue
35 a notice of assessment.

36 (5) If no conference is requested, and the adjustments have not resulted in the finding of a de-
37 ficiency, the following shall apply:

38 (a) If written objections have been made by the claimant, the department shall consider the ob-
39 jections, determine any issues raised and send the claimant a notice of refund denial or payment of
40 any amount found to be refundable, together with any interest provided by this section.

41 (b) If no written objections are made, the notice of any proposed adjustment shall be final after
42 the period for requesting a conference or filing written objections has expired.

43 (6) If no conference is requested, and the notice of proposed adjustment has asserted a defi-
44 ciency, the department shall consider any objections made by the person denied the refund, make
45 a determination of any issues raised, pay any refunds found due, with applicable interest, or assess

1 any deficiency and mail a notice [*thereof*] **setting forth the department’s determination, includ-**
 2 **ing a refund or deficiency**, within one year from the date of the notice of **proposed adjustment**
 3 **assessing the** deficiency, unless an extension of time is agreed upon as described in subsection (7)
 4 of this section.

5 (7) If, prior to the expiration of any period of time prescribed in subsection (6) of this section
 6 for giving of notice of assessment, the department and the person consent in writing to the defi-
 7 ciency being assessed after the expiration of [*such*] **the** prescribed period, [*such*] **the** deficiency may
 8 be assessed at any time prior to the expiration of the period agreed upon. The period [*so*] agreed
 9 upon may be extended by subsequent agreements in writing made before the expiration of the period
 10 agreed upon.

11 (8) If the department refunds the amount requested as provided in subsection (3) of this section,
 12 without examination or audit of the refund claim, the department shall give notice of this **deter-**
 13 **mination** to the claimant at the time of making the refund. Thereafter, the department shall have
 14 one year in which to examine or audit the refund claim, and send the notice of proposed adjustment
 15 provided for in subsection (3) of this section, in addition to any time permitted in ORS 314.410 or
 16 314.415.

17 (9) The failure to hold a requested conference within the one-year period prescribed in sub-
 18 section (4) of this section shall not invalidate any assessment of deficiency made within the one-year
 19 period pursuant to subsection (8) of this section or within any extension of time made pursuant to
 20 subsection (7) of this section, but shall invalidate any assessment of interest or penalties attributable
 21 to the deficiency. After an assessment has been made, the department and the person assessed may
 22 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day
 23 period under ORS 305.280 (2) shall run from the date of the conference officer’s written determi-
 24 nation of the issues.

25 (10) The claimant may appeal any notice of proposed adjustment, refund denial or notice of as-
 26 sessment in the manner provided in ORS 305.404 to 305.560. The failure to file written objections
 27 or to request or have a conference shall not affect the **claimant’s** rights of appeal [*so provided*]
 28 **under this subsection**. All notices and determinations shall set forth rights of appeal.

29 **SECTION 100.** ORS 305.280 is amended to read:

30 305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2)
 31 shall be filed within 90 days after the act, omission, order or determination becomes actually known
 32 to the person, but in no event later than one year after the act or omission has occurred, or the
 33 order or determination has been made. An appeal under ORS 308.505 to 308.665 shall be filed within
 34 90 days after the date the order is issued under ORS 308.584 (3). An appeal from a supervisory order
 35 or other order or determination of the Department of Revenue shall be filed within 90 days after the
 36 date a copy of the order or determination or notice of the order or determination has been served
 37 upon the appealing party by mail as provided in ORS 306.805.

38 (2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial
 39 issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308,
 40 308A, 310, 314, 316, 317, 318, 321 or this chapter **or the Sales and Use Tax Law**, or collected pur-
 41 suant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a
 42 proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of
 43 adjustment is final.

44 (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes
 45 imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the

1 amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

2 (4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter
 3 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of
 4 property tax appeals shall be filed within 30 days after the date of the notice of the determination
 5 made by the department or date of mailing of the order, date of publication of notice of the order,
 6 date the order is personally delivered to the taxpayer or date of mailing of the notice of the order
 7 to the taxpayer, whichever is applicable.

8 (5) If the tax court denies an appeal made pursuant to this section on the grounds that it does
 9 not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a
 10 written decision rejecting the petition and shall set forth in the decision the reasons the tax court
 11 considered the appeal to be defective.

12 **SECTION 101.** ORS 305.565 is amended to read:

13 305.565. (1) Except as provided in subsection (2) of this section, proceedings for the collection
 14 of any taxes, interest or penalties resulting from an assessment of additional taxes imposed by ORS
 15 chapter 118, 310, 314, 316, 317, 318, 321 or this chapter **or the Sales and Use Tax Law** shall be
 16 stayed by the taking or pendency of any appeal to the tax court.

17 (2) Notwithstanding subsection (1) of this section, the Department of Revenue may proceed to
 18 collect any taxes, interest or penalties described in subsection (1) of this section if the department
 19 determines that collection will be jeopardized if collection is delayed or that the taxpayer has taken
 20 a frivolous position in the appeal. For purposes of this subsection:

21 (a) Collection of taxes, interest or penalties will be jeopardized if the taxpayer designs quickly
 22 to depart from the state or to remove the taxpayer's property from the state, or to do any other act
 23 tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax.

24 (b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS
 25 316.992 (5).

26 (3) No proceeding for the apportionment, levy or collection of taxes on any property shall be
 27 stayed by the taking or pendency of any appeal to the tax court, or from an order of the county
 28 board of property tax appeals or the Oregon Tax Court, unless the assessor or tax collector either
 29 as a party to the suit or an intervenor, requests a stay and it appears to the satisfaction of the court
 30 that a substantial public interest requires the issuance of a stay.

31 (4) The tax court may, as a condition of a stay, require the posting of a bond sufficient to
 32 guarantee payment of the tax. Payment of taxes while appeal is pending shall not operate as a
 33 waiver of the appeal or of a right to refund of taxes found to be excessively charged or assessed.

34 **SECTION 102.** ORS 305.850 is amended to read:

35 305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 and 305.610, the Direc-
 36 tor of the Department of Revenue may engage the services of a collection agency to collect any
 37 taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by
 38 ORS chapter 118, 310, 314, 316, 317, 318, 321 or 323 or ORS 320.005 to 320.150 **or the Sales and**
 39 **Use Tax Law** and any other tax laws administered by the Department of Revenue. The director may
 40 engage the services of a collection agency by entering into an agreement to pay reasonable charges
 41 on a contingent fee or other basis.

42 (2) The director shall cause to be collected, in the same manner as provided in subsection (1)
 43 of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected
 44 pursuant to this subsection shall be credited as provided in ORS 293.250.

45 (3) The director may assign to the collection agency, for collection purposes only, any of the

1 taxes, penalties, interest and moneys due the state.

2 (4) The collection agency may bring such action or take such proceedings, including but not
 3 limited to attachment and garnishment proceedings, as may be necessary.

4 **SECTION 103.** ORS 305.895 is amended to read:

5 305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the
 6 Department of Revenue shall take no action against a taxpayer's or transferee's real or personal
 7 property before issuing a warrant for the collection of tax or an amount payable by a transferee
 8 under ORS 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190.

9 (2) At least 30 days before issuing a warrant for collection of any tax collected by the depart-
 10 ment or any amount payable under ORS 311.695, the department shall send the taxpayer or
 11 transferee a written notice and demand for payment. The notice shall:

12 (a) Be sent by mail, addressed to the taxpayer or transferee at the taxpayer's or transferee's
 13 last-known address.

14 (b) Inform the taxpayer or transferee that, even if the taxpayer or transferee is compliant with
 15 an installment agreement between the taxpayer or transferee and the department and is in commu-
 16 nication with the department, if the tax or any portion of the tax or the amount payable under ORS
 17 311.695 is not paid within 30 days after the date of the notice and demand for payment, a warrant
 18 may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and
 19 324.190.

20 (c) Describe in clear nontechnical terms the legal authority for the warrant.

21 (d) Contain the name, office mailing address and office telephone number of the person issuing
 22 the warrant and advise the taxpayer or transferee that questions or complaints concerning the
 23 warrant, other than liability for the underlying tax or amount payable under ORS 311.695, may be
 24 directed to that person.

25 (e) Include alternatives available to the taxpayer or transferee that would prevent issuance of
 26 the warrant.

27 (f) Inform the taxpayer or transferee of possible consequences to the taxpayer or transferee of
 28 noncompliance, and of issuance of a warrant, including garnishment of wages or bank accounts and
 29 seizure and sale of real or personal property.

30 **(3) As used in this section, "taxpayer" includes any person required under the Sales and**
 31 **Use Tax Law to remit taxes to the Department of Revenue.**

32 **SECTION 104.** ORS 731.840 is amended to read:

33 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and
 34 731.859, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter 317,
 35 is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes
 36 measured by income that might otherwise be imposed upon the foreign or alien insurer except the
 37 fire insurance premiums tax imposed under ORS 731.820, the tax imposed upon wet marine and
 38 transportation insurers under ORS 731.824 and 731.828, and the assessment imposed under ORS
 39 743.961. However, all real and personal property, if any, of the insurer shall be listed, assessed and
 40 taxed the same as real and personal property of like character of noninsurers. Nothing in this sub-
 41 section shall be construed to preclude the imposition of the assessments imposed under ORS 656.612
 42 upon a foreign or alien insurer.

43 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity
 44 as such.

45 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien

1 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS
 2 731.824 and 731.828.

3 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,
 4 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers
 5 and their insurance producers and other representatives as such, and:

6 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-
 7 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any
 8 such tax, license or fee; except that whenever a county, city, district or other political subdivision
 9 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing
 10 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or
 11 imposed upon domestic insurers; and

12 (b) No county, city, district, political subdivision or agency in this state shall require of any
 13 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-
 14 ance Code, any additional authorization, license, or permit of any kind for conducting therein
 15 transactions otherwise lawful under the authority or license granted under this code.

16 **(5)(a) The gross amount of premiums, as defined in ORS 731.808, received by a foreign,
 17 alien or domestic insurer or health or legal care service contractor is not subject to the
 18 taxes imposed under the Sales and Use Tax Law.**

19 **(b) Notwithstanding paragraph (a) of this subsection, an insurer or health or legal care
 20 service contractor is not exempt from liability for taxes imposed under the Sales and Use
 21 Tax Law with respect to retail sales or purchases of tangible personal property by the
 22 insurer or health or legal care service contractor.**

23 **SECTION 105.** ORS 801.040 is amended to read:

24 801.040. This section describes circumstances where special provisions are made concerning the
 25 authority of cities, counties or other political subdivisions in relation to some portion of the vehicle
 26 code. This section is not the only section of the vehicle code that applies to such authority and shall
 27 not be interpreted to affect the vehicle code except as specifically provided in this section. The
 28 following limits are partial or complete as described:

29 (1) No county, municipal or other local body with authority to adopt and administer local police
 30 regulations under the Constitution and laws of this state shall enact or enforce any rule or regu-
 31 lation in conflict with the provisions of the vehicle code described in this subsection except as spe-
 32 cifically authorized in the vehicle code. This subsection applies to the provisions of the vehicle code
 33 relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the
 34 manner of operation of vehicles and use of roads by persons, animals and vehicles.

35 (2) Except as provided in ORS 822.230 and this subsection, no city, county or other political
 36 subdivisions shall regulate or require or issue any registration, licenses, permits or surety bonds or
 37 charge any fee for the regulatory or surety registration of any person required to obtain a certif-
 38 icate from the Department of Transportation under ORS 822.205. This subsection does not:

39 (a) Limit any authority of a city or county to license and collect a general and
 40 nondiscriminatory license fee levied upon all businesses or to levy a tax based upon business con-
 41 ducted by any person within the city or county.

42 (b) Limit the authority of any city or county to impose any requirements or conditions as part
 43 of any contract to perform towing or recovering services for the city or county.

44 (c) Limit the authority of any city or county to impose requirements and conditions that govern
 45 the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and

1 conditions are consistent with the provisions of ORS 822.230.

2 (3) No city, county or other political subdivision of this state, nor any state agency, may adopt
 3 a regulation or ordinance that imposes a special fee for the use of public lands or waters by
 4 snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by
 5 or under the jurisdiction of either the United States, this state or any such city, county or other
 6 political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal
 7 property [or excise] tax imposed on snowmobiles by this state or any political subdivision. No city,
 8 county or other municipality, and no state agency shall impose any other registration or license fee
 9 on any snowmobile in this state. This subsection does not prohibit any city, county or other political
 10 subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain
 11 vehicles on public lands, waters and other properties under its jurisdiction and on streets or high-
 12 ways within its boundaries by adopting regulations or ordinances of its governing body if such reg-
 13 ulations are not inconsistent with ORS 821.150 to 821.292.

14 (4) The provisions of ORS 819.110 to 819.215 relating to towing of vehicles that are abandoned
 15 establish minimum requirements subject to the following:

16 (a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may super-
 17 sede such provisions by ordinance or charter provision.

18 (b) Any road authority described under ORS 810.010 may adopt rules or procedures that do not
 19 conflict with such provisions to provide for additional protection for the owner or person with an
 20 interest in a vehicle subject to such provisions or that more quickly accomplish the procedures es-
 21 tablished under such provisions.

22 (5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an
 23 accident file with a designated city department a copy of any report required to be filed under ORS
 24 811.725. All such reports shall be for the confidential use of the city department but subject to the
 25 same requirements for release of such reports as provided for the release of such reports by the
 26 department under ORS 802.220 and 802.240.

27 (6) Except as otherwise specifically provided in this section, in accordance with the provisions
 28 of ORS 801.041, the governing body of a county may establish by ordinance registration fees for
 29 vehicles registered at a residence or business address within the county.

30 (7) Except as otherwise specifically provided in this section, in accordance with the provisions
 31 of ORS 801.042, the governing body of a district may establish by ordinance registration fees for
 32 vehicles registered at a residence or business address within the district.

33 **SECTION 106.** ORS 802.110 is amended to read:

34 802.110. Any procedures the Department of Transportation establishes for financial adminis-
 35 tration of those functions of the department dealing with driver and motor vehicle services and for
 36 the disposition and payment of moneys it receives from the provision of driver and motor vehicle
 37 services shall comply with all of the following:

38 (1) The department shall deposit all moneys it receives related to driver and motor vehicle ser-
 39 vices in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved
 40 expenses and disbursements before payment of general administrative expenses of the department related
 41 to the provision of driver and motor vehicle services. Notwithstanding this subsection, the depart-
 42 ment may return a bank check or money order when received in incorrect or incomplete form or
 43 when not accompanied by the proper application, **unless the check or money order is presented**
 44 **in partial or complete payment of the use tax imposed under section 22 of this 2013 Act. Any**
 45 **bank check or money order received by the department that is in any part presented for**

1 **payment of sales tax or use tax liability pursuant to section 42, 44 or 55 of this 2013 Act shall**
 2 **be retained by the department. A receipt shall be given for the retained check or money or-**
 3 **der.**

4 (2) The department shall pay the following approved expenses and disbursements from the Depart-
 5 ment of Transportation Driver and Motor Vehicle Suspense Account before payment of the general
 6 administrative expenses of the department related to driver and motor vehicle services:

7 (a) Refunds authorized by any statute administered by the department when such refunds are
 8 approved by the department.

9 (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carry-
 10 ing out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and
 11 Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417
 12 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

13 (c) After deduction of expenses of collection, transfer and administration, the department shall
 14 pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040,
 15 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The
 16 moneys deposited in the Student Driver Training Fund under this paragraph are continuously ap-
 17 propriated to the department for the following purposes:

18 (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver
 19 Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805,
 20 336.810 (2) and 336.815.

21 (B) The remaining moneys, for reimbursing school districts and commercial driver training
 22 schools as provided under ORS 336.805.

23 (d) After deduction of expenses of collection, transfer and administration, the department shall
 24 pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treas-
 25 urer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys
 26 paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

27 (e) After deduction of expenses for the administration of the issuance of customized registration
 28 plates under ORS 805.240, the department shall place moneys received from the sale of customized
 29 registration plates in the Passenger Rail Transportation Account. The moneys placed in the account
 30 are continuously appropriated to the department and shall be used for the payment of expenses in-
 31 curred in administering passenger rail programs.

32 (f) After deduction of expenses of collection, transfer and administration, the department shall
 33 pay moneys from any registration fees established by the governing bodies of counties or a district,
 34 as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts.
 35 The department shall make the payments on at least a monthly basis unless another basis is estab-
 36 lished by the intergovernmental agreements required by ORS 801.041 and 801.042 between the de-
 37 partment and the governing bodies of a county or a district.

38 (g) After deducting the expenses of the department in collecting and transferring the moneys,
 39 the department shall make disbursements and payments of moneys collected for or dedicated to any
 40 other purpose or fund except the State Highway Fund, including but not limited to, payments to the
 41 Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

42 **(h) After deducting the actual expenses of the department in collecting the use tax im-**
 43 **posed under section 22 of this 2013 Act, the department shall transfer the use tax moneys**
 44 **collected under section 44 of this 2013 Act to the State Highway Fund.**

45 (3) The department shall refund from the Department of Transportation Driver and Motor Ve-

1 hicle Suspense Account any excess or erroneous payment to a person who made the payment or to
2 the person's legal representative when the department determines that money has been received by
3 it in excess of the amount legally due and payable or that it has received money in which it has
4 no legal interest. Refunds payable under this subsection are continuously appropriated for such
5 purposes in the manner for payment of refunds under this section. If the department determines that
6 a refund is due, the department may refund the amount of excess or erroneous payment without a
7 claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a
8 refund from the department must be filed within 12 months after the date payment is received by
9 the department.

10 (4) After payment of those expenses and disbursements approved for payment before general admin-
11 istrative expenses related to the provision of driver and motor vehicle services, the department shall
12 pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Ac-
13 count its general administrative expenses incurred in the administration of any law related to driver
14 and motor vehicle services that the department is charged with administering and any other ex-
15 penses the department is permitted by law to pay from moneys held by the department before
16 transfer of the moneys to the State Highway Fund. The following limitations apply to payments of
17 administrative expenses under this subsection:

18 (a) The department shall make payment of the expenses of administering the issuance of winter
19 recreation parking permits under ORS 811.595 from those moneys received from issuing the permits.

20 (b) The department shall pay its expenses for administering the registration and titling of
21 snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those
22 sections. The department shall also pay its expenses for the administration of the snowmobile driver
23 permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

24 (c) The department shall pay its expenses for determining the amount of money to be withheld
25 under ORS 802.120 from the fees collected for administering the registration and titling of
26 snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary
27 but shall not exceed \$10,000 during each biennium.

28 (d) The department shall retain not more than \$15,000 in any biennium for the expenses of col-
29 lecting and transferring moneys to the Student Driver Training Fund under this section and for the
30 administration of ORS 336.810 (3).

31 (5) Except as otherwise provided in this subsection, the department shall transfer to the State
32 Highway Fund the moneys not used for payment of the general administrative expenses or for ap-
33 proved expenses and disbursements before payment of general administrative expenses. The following
34 apply to this subsection:

35 (a) If the Director of Transportation certifies the amount of principal or interest of highway
36 bonds due on any particular date, the department may make available for the payment of such in-
37 terest or principal any sums that may be necessary to the extent of moneys on hand available for
38 the State Highway Fund regardless of the dates otherwise specified under this section.

39 (b) Notwithstanding paragraph (a) of this subsection the department shall not make available for
40 purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when
41 there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds
42 issued under ORS 367.615.

43 (6) Notwithstanding any other provision of this section, the following moneys shall be trans-
44 ferred to the State Highway Fund at the times described:

45 (a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses

1 of the department shall be transferred before July 31 of each year.

2 (b) Moneys received from the registration of snowmobiles that is not to be used for payment of
 3 administrative expenses of the department shall be transferred within 30 days after the end of the
 4 quarter.

5 (c) Moneys received from the issuance of winter recreation parking permits that is not used for
 6 payment of administrative expenses of the department shall be transferred within 30 days after the
 7 end of the quarter.

8 (7) The following moneys transferred to the State Highway Fund under this section may be used
 9 only for the purposes described as follows:

10 (a) Moneys collected from the issuance of winter recreation parking permits, and the interest
 11 on such moneys, shall be used to enforce the requirement for winter recreation parking permits and
 12 to remove snow from winter recreation parking locations designated under ORS 810.170. Any re-
 13 maining moneys shall, upon approval by the Winter Recreation Advisory Committee:

14 (A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170
 15 and snowmobile facilities that are parking lots developed with moneys as provided under this sec-
 16 tion;

17 (B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

18 (C) Be carried over to be used in subsequent years for the purposes and in the manner described
 19 in this paragraph.

20 (b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for
 21 development and maintenance of multiuse trails within urban growth boundaries described in ORS
 22 367.017 or for the development and maintenance of snowmobile facilities, including the acquisition
 23 of land therefor by any means other than the exercise of eminent domain. Moneys received under
 24 ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140,
 25 821.150, 821.190, 821.210 and 821.240 to 821.290.

26 (8) The department shall maintain the Revolving Account for Emergency Cash Advances sepa-
 27 rate from other moneys described in this section. From the account, the department may pay for the
 28 taking up of dishonored remittances returned by banks or the State Treasurer and for emergency
 29 cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund.
 30 The department shall at all times be accountable for the amount of the account, either in cash or
 31 unreimbursed items and advances. The moneys in the account are continuously appropriated for the
 32 purposes of this subsection. The amount of the account under this subsection shall not exceed
 33 \$40,000 from moneys received by the department in the performance of its driver and motor vehicle
 34 services functions and moneys otherwise appropriated for purposes of this subsection. The account
 35 under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is au-
 36 thorized to honor and pay all properly signed and indorsed checks or warrants drawn against the
 37 account.

38 **SECTION 107.** ORS 803.585 is amended to read:

39 803.585. (1) Except as otherwise provided in this section or ORS 801.041 or 801.042, the regis-
 40 tration fees under the vehicle code are in lieu of all other taxes and licenses, except **taxes imposed**
 41 **under the Sales and Use Tax Law** or municipal license fees under regulatory ordinances, to which
 42 such vehicles or the owners thereof may be subject. Fixed load vehicles are not exempt from ad
 43 valorem taxation by this section.

44 (2) Travel trailers subject to registration and titling under the vehicle code are not subject to
 45 ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxa-

tion as provided in ORS 308.880.

SECTION 108. ORS 305.380 is amended to read:

305.380. As used in ORS 305.385:

(1) "Agency" means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

(2) "License" means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

(3) "Provider" means any person who contracts to supply goods, services or real estate space to an agency.

(4) "Tax" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and **the Sales and Use Tax Law**, the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

TECHNICAL PROVISIONS

SECTION 109. (1) The sales tax imposed under section 11 of this 2013 Act applies to sales occurring on or after the operative date of this section.

(2)(a) The sales tax does not apply to sales occurring on or after the operative date of this section under contracts, leases or rental agreements that were entered into before the operative date of this section.

(b) Notwithstanding paragraph (a) of this subsection, the sales tax applies to sales occurring on or after the date of an extension or renewal of a contract, lease or rental agreement described in paragraph (a) of this subsection if the extension or renewal is entered into on or after the operative date of this section.

(3) The use tax imposed under section 22 of this 2013 Act applies to purchases of tangible personal property for storage, consumption or use occurring on or after the operative date of this section.

(4)(a) The use tax does not apply to purchases of tangible personal property for storage, consumption or use that occur on or after the operative date of this section under contracts, leases or rental agreements that were entered into before the operative date of this section.

(b) Notwithstanding paragraph (a) of this subsection, the use tax applies to purchases occurring on or after the date of an extension or renewal of a contract, lease or rental agreement described in paragraph (a) of this subsection if the extension or renewal is entered into on or after the operative date of this section.

(5) A lessee, upon extension or renewal of the contract, lease or rental agreement, shall have the right to make the election under section 31 of this 2013 Act.

SECTION 110. (1) Sections 1 to 81, 83 to 96 and 109 of this 2013 Act and the amendments to ORS 305.130, 305.265, 305.270, 305.280, 305.380, 305.565, 305.850, 305.895, 314.430, 731.840, 801.040, 802.110 and 803.585 by sections 82 and 97 to 108 of this 2013 Act become operative on January 1, 2016.

(2) The Department of Revenue and the Department of Transportation may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the departments to exercise, on and after the operative date specified in subsection

1 (1) of this section, all the duties, functions and powers conferred on the departments by
2 sections 1 to 81, 83 to 96 and 109 of this 2013 Act and the amendments to ORS 305.130, 305.265,
3 305.270, 305.280, 305.380, 305.565, 305.850, 305.895, 314.430, 731.840, 801.040, 802.110 and 803.585
4 by sections 82 and 97 to 108 of this 2013 Act.

5 (3) Notwithstanding subsection (1) of this section, sections 1 to 81, 83 to 96 and 109 of this
6 2013 Act and the amendments to ORS 305.130, 305.265, 305.270, 305.280, 305.380, 305.565,
7 305.850, 305.895, 314.430, 731.840, 801.040, 802.110 and 803.585 by sections 82 and 97 to 108 of this
8 2013 Act do not become operative if the State of Oregon has not entered into the Streamlined
9 Sales and Use Tax Agreement, as defined in section 2 of this 2013 Act, before January 1, 2016.

10 SECTION 111. The unit captions used in this 2013 Act are provided only for the conven-
11 ience of the reader and do not become part of the statutory law of this state or express any
12 legislative intent in the enactment of this 2013 Act.

13 SECTION 112. This 2013 Act does not take effect unless the amendment to the Oregon
14 Constitution proposed by House Joint Resolution 30 (2013) is approved by the people at the
15 next regular general election held throughout this state. This 2013 Act takes effect on the
16 effective date of that constitutional amendment.

17 _____