

# Senate Bill 824

Sponsored by Senators HASS, BURDICK, Representative READ

## 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 exemptions from sales and use tax. 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.

Reduces rates of personal income taxation. Creates subtraction from taxable income for portion of net long-term capital gain attributable to sale of property used in a revenue-producing enterprise. Applies to tax years beginning on or after January 1, 2016.

Increases percentage of federal earned income credit allowable as credit against Oregon personal income tax. Applies to tax years beginning on or after January 1, 2015.

Extends sunset for credit against Oregon personal income tax based on federal earned income credit.

Creates income tax credit for business investment. Provides for certification of taxpayers as eligible for tax credit by Director of Oregon Business Development Department. Limits amount of potential tax credits for all taxpayers certified as eligible to \$50 million per tax year. Applies to investments made in tax years beginning on or after January 1, 2016.

Creates refundable income tax credit that is computed based upon household income and household size. Applies to tax years beginning on or after January 1, 2016.

Exempts from ad valorem property taxation first \$50,000 of assessed value of property that is taxpayer's owner occupied principal dwelling. Applies to property tax years beginning on or after July 1, 2016.

Takes effect only if constitutional amendment proposed by Senate Joint Resolution 36 (2013) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed by Senate Joint Resolution 36 (2013).

## A BILL FOR AN ACT

1  
2 Relating to taxation; creating new provisions; amending ORS 305.130, 305.265, 305.270, 305.280,  
3 305.380, 305.565, 305.850, 305.895, 311.250, 314.430, 314.752, 315.266, 316.037, 316.502, 318.031,  
4 731.840, 801.040, 802.110 and 803.585; repealing sections 5 and 6, chapter 880, Oregon Laws 2007;  
5 appropriating money; and prescribing an effective date.

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

## UNIFORM SALES AND USE TAX ADMINISTRATION ACT

10  
11 **SECTION 1. Sections 1 to 7 of this 2013 Act shall be known and may be cited as the**  
12 **Uniform Sales and Use Tax Administration Act.**

13 **SECTION 2. As used in sections 1 to 129 and 131 to 144 of this 2013 Act:**

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

**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 state and maintain a record of the transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (d) Take other actions reasonably necessary to implement the provisions of sections 1 to  
2 7 of this 2013 Act.

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

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

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

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

12 **SECTION 6.** (1) The Streamlined Sales and Use Tax Agreement authorized by sections 1  
13 to 7 of this 2013 Act binds and inures only to the benefit of this state and the other member  
14 states. No person, other than a member state, is an intended beneficiary of the agreement.  
15 Any benefit to a person other than a state is established by the law of this state and the  
16 other member states and not by the terms of the agreement.

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

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

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

28 (2)(a) A Model 1 Seller is not liable to this state for sales or use tax due on transactions  
29 processed by the seller's certified service provider unless the seller misrepresented the type  
30 of items the seller sells or committed fraud. In the absence of probable cause to believe that  
31 the seller has committed fraud or made a material misrepresentation, the seller is not sub-  
32 ject to audit on transactions processed by the seller's certified service provider. A seller is  
33 subject to audit for transactions not processed by the seller's certified service provider.

34 (b) Member states acting jointly may perform a system check of a Model 1 Seller and  
35 review the seller's procedures to determine if the system of the seller's certified service  
36 provider is functioning properly and the extent to which the seller's transactions are being  
37 processed by the certified service provider.

38 (3) A person that provides a certified automated system is responsible for the proper  
39 functioning of that system and is liable to the state for underpayments of tax attributable  
40 to errors in the functioning of the certified automated system. A Model 2 Seller remains li-  
41 able to the state for reporting and remitting tax processed by the seller's certified automated  
42 system.

43 (4) A Model 3 Seller is liable for the failure of the seller's proprietary system to meet the  
44 tax performance standard established in the seller's performance agreement with the state.  
45

## THE SALES AND USE TAX LAW

**SECTION 8.** Sections 8 to 129 and 131 to 144 of this 2013 Act shall be known and may be cited as the Sales and Use Tax Law.

**SECTION 9.** As used in sections 8 to 129 and 131 to 144 of this 2013 Act:

(1) “Business” means any activity engaged in with the object of gain, benefit or advantage, either direct or indirect.

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

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

(a) Maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or other agent, by whatever name, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business;

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

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

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

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

(B) The cost of materials, labor, interest, losses, transportation to the seller, taxes imposed on the seller or other expense of the seller;

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

(D) Delivery charges;

(E) Installation charges; or

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

(b) “Gross receipts” does not mean:

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

(B) Separately stated credit for a trade-in of property of a like kind;

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

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

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

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

(7)(a) “Lease” means a transfer of possession or control of tangible personal property for

1 a fixed or indeterminate term for consideration, or a future option to purchase or extend the  
2 possession or control of the tangible personal property.

3 (b) "Lease" does not mean:

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

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

11 (C) The provision of tangible personal property and an operator of the tangible personal  
12 property for a fixed or indeterminate period of time, if the operator is necessary for the  
13 equipment to perform as designed. For purposes of this subparagraph, an operator must do  
14 more than maintain, inspect or set up the tangible personal property.

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

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

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

21 (9) "Nonprofit corporation" means:

22 (a) A nonprofit corporation organized and existing under ORS chapter 65; or

23 (b) A corporation described in section 501(c)(3) of the Internal Revenue Code that is ex-  
24 empt from income tax under section 501(a) of the Internal Revenue Code.

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

26 (11) "Occasional sale" means:

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

33 (b) A transfer of 80 percent or more, in terms of sales price, of the tangible personal  
34 property held or used by a person in the course of an activity requiring the transferor to  
35 register pursuant to section 19 of this 2013 Act, if, after the transfer, the real or ultimate  
36 ownership of the property is substantially similar to that which existed before the transfer.  
37 For the purposes of this paragraph, stockholders, bondholders, partners or other persons  
38 holding an interest in a corporation or other entity are regarded as having the real or ulti-  
39 mate ownership of the property of the corporation or other entity.

40 (12) "Purchase price" has the same meaning as "sales price."

41 (13) "Rental" has the same meaning as "lease."

42 (14) "Resident" and "resident of this state" have the meaning given those terms in ORS  
43 316.027.

44 (15) "Retail sale" or "sale at retail" means a sale or lease for any purpose other than for  
45 resale, sublease or subrent.

1       (16) “Sales price” means the total amount of gross receipts derived from the sale or lease  
2 of tangible personal property or services.

3       (17) “Sales tax reimbursement” means an amount equal to the sales tax that the seller  
4 is required to remit to the state and that is added by the seller to the purchase price payable  
5 by the purchaser.

6       (18) “Services” means all activities engaged in for the benefit of other persons for a fee,  
7 retainer, commission or other monetary charge, if the activities predominantly involve the  
8 performance of a service as distinguished from selling property.

9       (19)(a) “Storage” means keeping or retaining in this state tangible personal property  
10 purchased from a seller at retail, for any purpose other than sale of the property in the  
11 regular course of business or subsequent use of the property solely outside this state.

12       (b) “Storage” does not mean keeping, retaining or exercising any right or power over  
13 tangible personal property for the purpose of:

14       (A) Subsequently transporting the property outside this state for use solely outside this  
15 state; or

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

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

21       (b) “Tangible personal property” includes electricity, water, gas, steam and prewritten  
22 computer software.

23       (c) “Tangible personal property” does not mean a product that is transferred electron-  
24 ically, other than telecommunications services or services ancillary to telecommunications  
25 services.

26       (21)(a) “Use” means the exercise of any right or power over tangible personal property  
27 incident to the ownership of the property, including the possession of, or the exercise of any  
28 right or power over, tangible personal property by a lessee under a lease.

29       (b) “Use” does not mean the sale of tangible personal property in the regular course of  
30 business.

31       (c) “Use” does not mean keeping, retaining or exercising any right or power over tangible  
32 personal property for the purpose of:

33       (A) Subsequently transporting the property outside this state for use solely outside this  
34 state; or

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

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

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

45

## THE SALES TAX

1  
2  
3 **SECTION 11.** (1) Pursuant to Article IX, section 16, of the Oregon Constitution, in addition to all other taxes of every kind, for the privilege of selling tangible personal property or services at retail in this state, a tax payable by the seller is imposed upon all sales at retail of tangible personal property and services at the rate of five percent of the gross receipts from the sale.

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

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

13 (2) It is presumed that the seller and purchaser agreed to the addition of sales tax reimbursement to the sales price of tangible personal property or services sold at retail to a purchaser if:

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

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

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

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

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

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

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

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

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

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

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

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

41 (2) The department shall provide and maintain entries in the taxability matrix in a database that is in a downloadable format that complies with the Streamlined Sales and Use Tax Agreement.

44 (3) Purchasers, sellers and certified service providers are relieved from liability for sales tax or use tax to the extent that the seller or certified service provider charged and collected

1 an incorrect amount of sales tax or use tax as a result of reliance on erroneous data pro-  
2 vided by the department for the taxability matrix.

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

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

14 (B) If adequate and complete records are not maintained as required under subparagraph  
15 (A) of this paragraph, the gross receipts for the purposes of the sales tax are 60 percent of  
16 the gross receipts of the vending machine through which the sales are made, determined by  
17 the department according to the best of its information and belief, using such records as are  
18 available.

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

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

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

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

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

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

45 (3)(a) Amounts validly claimed by a purchaser under this section but not returned to the



1 purchaser by the seller shall be remitted by the seller to the Department of Revenue.

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

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

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

11 (A) Interest or other financing charges;

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

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

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

17 (E) The value of repossessed property.

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

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

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

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

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

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

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

43  
44 **SELLER REGISTRATION**  
45

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

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

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

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

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

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

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

16       **SECTION 20.** For purposes of the proper administration of the Sales and Use Tax Law  
17 and to prevent evasion of the sales tax, all gross receipts are presumed subject to the sales  
18 tax until the contrary is established. The burden of proving that a sale of tangible personal  
19 property or services is not a sale at retail is upon the seller.

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

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

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

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

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

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

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

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

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

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

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

## THE USE TAX

1  
2  
3     **SECTION 22.** (1) Pursuant to Article IX, section 16, of the Oregon Constitution, a use tax  
4 is imposed on the storage, use or other consumption in this state of tangible personal prop-  
5 erty purchased from any seller at the rate of five percent of the purchase price of the  
6 property.

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

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

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

13     (3) Notwithstanding subsection (2) of this section, a purchaser's liability under subsection  
14 (1) of this section is satisfied by a valid receipt given to the purchaser pursuant to section  
15 24 of this 2013 Act by a seller that is:

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

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

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

23     (a) The seller is:

24     (A) Engaged in business in this state;

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

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

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

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

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

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

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

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

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

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

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

44     **SECTION 25.** (1) The Director of the Department of Revenue may, upon application of a  
45 seller, authorize collection of the use tax by the seller if the seller furnishes adequate secu-

1 rity to ensure collection and payment of the tax.

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

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

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

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

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

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

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

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

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

25 (b) The contrary may be proved by:

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

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

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

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

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

45 (2) A credit otherwise permitted under subsection (1) of this section may not be allowed

1 against taxes that are measured by periodic payments made under a lease, to the extent that  
2 the taxes imposed by the other state or political subdivision of the state were also measured  
3 by periodic payments made under a lease for a period prior to the storage, use or other  
4 consumption of the property in this state.

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

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

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

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

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

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

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

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

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

31 **SECTION 31.** (1) If a purchaser acquires property in an occasional sale as defined in  
32 section 9 (11)(b) of this 2013 Act and leases the property, the purchaser may elect at the time  
33 the property is first leased to pay the use tax measured by the purchase price of the prop-  
34 erty.

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

37 (3) For purposes of this section, "purchaser" includes a transferee who acquires property  
38 in a transaction that is an occasional sale as defined in section 9 (11)(b) of this 2013 Act.

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

45 **SECTION 33.** A purchaser may not give, for the purpose of evading payment to the seller

1 or other person selling the property of the amount of the tax applicable to the transaction,  
2 a resale certificate for property that the purchaser knows, at the time of purchase, is not  
3 to be resold by the purchaser in the regular course of business.

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

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

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

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

15 (b) The department shall adopt rules establishing an appeal process for revocations of  
16 permits under this section.

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

21 (b) Notwithstanding section 137 of this 2013 Act, if the purchaser fails to notify a seller  
22 of the revocation, the department may give notice of the revocation to the seller.

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

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

30 (1) Will be assumed or absorbed by the seller;

31 (2) Will not be added to the sales price of the property or services sold; or

32 (3) If added, will be refunded, in whole or in part.

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

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

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

40 (B) "Vehicle" does not mean:

41 (i) A manufactured structure as defined in ORS 446.003.

42 (ii) A snowmobile as defined in ORS 801.490.

43 (iii) A school bus as defined in ORS 801.460.

44 (iv) An ambulance as defined in ORS 801.115, an emergency vehicle as defined in ORS  
45 801.260 or other fire apparatus or fire engine.

1 (v) A bicycle as defined in ORS 801.150.

2 (vi) A farm tractor as defined in ORS 801.265, a farm trailer as defined in ORS 801.270  
 3 or other implements of husbandry as defined in ORS 801.310.

4 (vii) Fixed load vehicles as defined in ORS 801.285 that are subject to ad valorem property  
 5 taxation.

6 (viii) Golf carts as defined in ORS 801.295 and similar vehicles described in ORS 803.030  
 7 (13).

8 (ix) Road rollers.

9 (x) Trolleys.

10 (xi) Well drilling machinery.

11 (xii) Wheelchairs.

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

14 (A) A seaplane;

15 (B) A watercraft specifically designed to operate on a permanently fixed course, the  
 16 movement of which is restricted to or guided on the permanently fixed course by means of  
 17 a mechanical device on a fixed track or arm to which the watercraft is attached or by which  
 18 the watercraft is controlled, or by means of a mechanical device attached to the watercraft  
 19 itself;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15           (2) The property is included in any transfer that is an occasional sale as defined in sec-  
16 tion 9 (11)(b) of this 2013 Act.

17           **SECTION 42.** (1) Notwithstanding sections 120 and 121 of this 2013 Act, except when the  
18 sale is by lease, the use taxes imposed with respect to the storage, use or other consumption  
19 in this state of vehicles, vessels and aircraft are due and payable by the purchaser at the  
20 time the storage, use or other consumption of the property first becomes taxable.

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

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

26           (b) In the case of a vessel that is subject to certification of title, or to registration if no  
27 certificate of title is to be issued, by the State Marine Board pursuant to ORS 830.700 to  
28 830.870, to the Department of Revenue before the vessel may be certified or registered by the  
29 State Marine Board.

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

33           (3)(a) If the purchaser of a vehicle, vessel or aircraft described in subsection (2) of this  
34 section does not make application for registration or certification to the Department of  
35 Transportation, the Oregon Department of Aviation or the State Marine Board, as applicable,  
36 within 30 days after the date of purchase of the vehicle, vessel or aircraft, the purchaser is  
37 liable for a penalty as specified in section 122 (1) of this 2013 Act without interest.

38           (b) If the purchaser does not make application for certification or registration or does  
39 not pay the amount of use tax due within 90 days after the date of purchase, or files a return  
40 with the Department of Revenue that is not timely, the purchaser is liable for the penalties  
41 and interest as provided in section 122 of this 2013 Act, collectible by the Department of  
42 Revenue or the Department of Transportation in the same manner and subject to the same  
43 procedures as for other delinquent sales and use taxes.

44           (c) The Department of Transportation shall collect delinquent use taxes, penalties and  
45 interest as provided in this section and section 44 of this 2013 Act with respect to any de-



1 **linquent application for certification of title or registration of a vehicle.**

2 **(4) Application to the Department of Transportation for certification of title or registra-**  
3 **tion of a vehicle accompanied by payment of the use tax by the purchaser relieves the pur-**  
4 **chaser of the obligation to file a separate return with the Department of Revenue under**  
5 **section 121 of this 2013 Act.**

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

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

14 **(2) The Department of Transportation shall collect the use tax, and any penalty or in-**  
15 **terest due, at the time an applicant applies for the registration of, or certification or transfer**  
16 **of title to, the vehicle, unless:**

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

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

20 **(c) The applicant presents an exemption certificate provided by the Department of Re-**  
21 **venue pursuant to section 119 of this 2013 Act; or**

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

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

27 **(b) A person may not willfully misrepresent the value required to be declared under this**  
28 **subsection.**

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

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

34 **(c) All moneys in excess of the administrative expenses retained by the Department of**  
35 **Transportation pursuant to paragraph (b) of this subsection shall be transferred monthly to**  
36 **the Sales and Use Tax Fund established under section 142 of this 2013 Act.**

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

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

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

3  
 4 **EXEMPTIONS**

5  
 6 **SECTION 45.** (1) Transactions that this state is prohibited from taxing under the laws  
 7 or Constitution of the United States or under the Oregon Constitution, including but not  
 8 limited to gross receipts derived from contracts entered into before the effective date of this  
 9 2013 Act, are exempt from the sales tax and the use tax.

10 (2)(a) Gross receipts from the sale in this state of tangible personal property and services  
 11 to an Indian tribe or Indian enterprise within an Indian reservation are exempt from the  
 12 sales tax.

13 (b) The storage, use or consumption of tangible personal property in this state by an  
 14 Indian tribe or Indian enterprise within an Indian reservation is exempt from the use tax.

15 **SECTION 46.** (1) Gross receipts from the sale in this state of water and services related  
 16 to water are exempt from the sales tax, and the storage, use or other consumption in this  
 17 state of water is exempt from the use tax.

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

19 **SECTION 47.** (1) Gross receipts from the sale in this state of food and food ingredients  
 20 and services related to food and food ingredients are exempt from the sales tax, and the  
 21 storage, use or other consumption of food and food ingredients in this state is exempt from  
 22 the use tax.

23 (2) The exemptions under this section do not apply to prepared food.

24 (3) As used in this section:

25 (a) “Food and food ingredients”:

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

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

30 (b) “Prepared food”:

31 (A) Means:

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

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

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

38 (B) Does not mean:

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

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

43 **SECTION 48.** The sales tax does not apply to meals provided to employees of a restaurant  
 44 by the restaurant.

45 **SECTION 49.** Gross receipts from the sale in this state of returnable containers for food

1 and beverages are exempt from the sales tax.

2 **SECTION 50.** (1) Gross receipts from the sale in this state of clothing, clothing accesso-  
 3 ries and equipment, protective equipment and sport or recreational equipment and services  
 4 related to clothing, clothing accessories and equipment, protective equipment and sport or  
 5 recreational equipment are exempt from the sales tax, and the storage, use or other con-  
 6 sumption in this state of clothing, clothing accessories and equipment, protective equipment  
 7 and sport or recreational equipment is exempt from the use tax.

8 (2) As used in this section:

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

10 (b) “Clothing accessories and equipment”:

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

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

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

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

20 **SECTION 51.** (1) Notwithstanding ORS 471.725, 471.730 or 471.745 or any other provision  
 21 of law to the contrary, the sales tax and the use tax apply to the gross receipts from the  
 22 sale, or the storage, use or other consumption, in this state of alcoholic beverages.

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

25 **SECTION 52.** Gross receipts from the sale in this state of machinery and equipment used  
 26 in manufacturing and services related to machinery and equipment used in manufacturing  
 27 are exempt from the sales tax, and the storage, use or other consumption in this state of  
 28 machinery and equipment used in manufacturing is exempt from the use tax.

29 **SECTION 53.** (1) Gross receipts from the sale in this state of tangible personal property  
 30 and services listed in subsection (2) of this section are exempt from the sales tax, and the  
 31 storage, use or other consumption in this state of tangible personal property listed in sub-  
 32 section (2) of this section is exempt from the use tax.

33 (2) The tangible personal property and services referred to in subsection (1) of this sec-  
 34 tion are:

35 (a) Prescription and over-the-counter drugs.

36 (b) Dietary supplements.

37 (c) Oxygen.

38 (d) Human body parts, including blood and tissue.

39 (e) Nebulizers.

40 (f) Drug delivery systems.

41 (g) Ostomic equipment.

42 (h) Prosthetic devices.

43 (i) Mobility enhancing equipment.

44 (j) Kidney dialysis equipment.

45 (k) Durable medical equipment.

1 (L) Laundry services provided to a nonprofit health care facility.

2 (m) Tangible personal property sold to a free hospital that is reasonably necessary for  
3 the operation of the free hospital.

4 (n) Medical supplies sold to a blood bank, tissue bank, organ procurement organization  
5 or cancer treatment facility.

6 (3) As used in this section:

7 (a) "Drug" has the meaning given that term in ORS 475.005.

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

10 (A) Can withstand repeated use;

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

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

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

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

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

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

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

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

22 (d) "Over-the-counter drug":

23 (A) Means a drug that is sold with a label that identifies the product as a drug as re-  
24 quired by 21 C.F.R. 201.66 and includes a drug facts panel or a statement of the active in-  
25 gredients contained in the drug.

26 (B) Does not mean grooming or hygiene products.

27 (e) "Prescription" has the meaning given that term in ORS 475.005.

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

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

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

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

33 **SECTION 54.** (1) Gross receipts from the sale of tangible personal property and services  
34 related to the provision of utilities in this state are exempt from the sales tax, and the  
35 storage, use or other consumption of tangible personal property related to the provision of  
36 utilities in this state is exempt from the use tax.

37 (2) Gross receipts from the sale in this state of services provided in pruning, trimming,  
38 repairing, removing and clearing trees and brush near electric transmission or distribution  
39 lines or equipment are exempt from the sales tax if the services are performed by or at the  
40 direction of an electric utility.

41 **SECTION 55.** (1) Gross receipts from the sale in this state of tangible personal property  
42 and services listed in subsection (2) of this section are exempt from the sales tax, and the  
43 storage, use or other consumption in this state of tangible personal property listed in sub-  
44 section (2) of this section is exempt from the use tax.

45 (2) The tangible personal property and services referred to in subsection (1) of this sec-

1 tion are:

2 (a) Animals, animal products, feed, seed, seedlings, plants, fertilizer, pesticides,  
3 herbicides, agents for enhanced pollination, including insects, chemical sprays or washes  
4 used in postharvest treatment of fruit for the prevention of scald, fungus, mold or decay and  
5 spray materials sold to:

6 (A) Persons engaged in commercial agricultural, horticultural or silvicultural activities;  
7 or

8 (B) Persons who participate in a federal conservation, wetlands or wildlife habitat pro-  
9 gram administered by the United States Department of Agriculture or the State Department  
10 of Fish and Wildlife.

11 (b) Feed sold to a person for use in the commercial cultivation of fish entirely within  
12 confined rearing areas on the person's land or on land to which the person has a present  
13 right of possession.

14 (c) Irrigation equipment if:

15 (A) The irrigation equipment was purchased in a sale subject to the sales tax by a lessor  
16 for the purpose of irrigating land controlled by the lessor;

17 (B) The irrigation equipment is attached to the land in whole or in part; and

18 (C) The irrigation equipment is leased to a lessee as an incidental part of the lease of the  
19 underlying land to the lessee and is used solely on the leased land.

20 (d) Diesel fuel, biodiesel fuel or aircraft fuel or a fuel blend if the component fuels of the  
21 blend would be exempt under this paragraph, that is used for agricultural purposes by a  
22 farmer who provides the seller with an exemption certificate in a form and manner pre-  
23 scribed by the Department of Transportation.

24 (e) Pollen.

25 (f) Honey bees sold to a person required to register bee colonies under ORS 602.090 who  
26 grows, raises or produces queen honey bees, packaged honey bees, honey, pollen, bees wax,  
27 propolis or other substances obtained from honey bees for sale at wholesale.

28 (g) Livestock registered or eligible to be registered in a breed association having juris-  
29 diction over the registration of livestock in the United States that is sold for breeding pur-  
30 poses.

31 (h) Cattle and milk cows used on a farm.

32 (i) Semen for use in the artificial insemination of livestock.

33 (j) Livestock feed consumed by livestock at a public livestock market.

34 (k) Animal pharmaceuticals approved by the United States Department of Agriculture  
35 or by the United States Food and Drug Administration sold to a farmer for the purpose of  
36 administering the pharmaceutical to an animal that is raised by the farmer for the purpose  
37 of producing for sale an agricultural product. The exemption is available only when the buyer  
38 provides the seller with an exemption certificate in a form and manner prescribed by the  
39 Department of Revenue.

40 (L) Livestock nutrient management equipment, services provided in installing, repairing,  
41 cleaning, altering or improving livestock nutrient management equipment and livestock nu-  
42 trient management facilities, and tangible personal property that is incorporated into live-  
43 stock nutrient management facilities in the course of repairing, cleaning, altering or  
44 improving the facilities. The exemption is available only if the purchaser of the property or  
45 services provides the seller with an exemption certificate in a form and manner prescribed

1 by the Department of Revenue.

2 (m) Tangible personal property sold to a person for use in operating an anaerobic digester  
3 used primarily to treat livestock manure, services provided in installing, constructing, re-  
4 pairing, cleaning, altering or improving an anaerobic digester and tangible personal property  
5 that is incorporated into the anaerobic digester. The exemption is available only if the pur-  
6 chaser of the property or services provides the seller with an exemption certificate in a form  
7 and manner prescribed by the department.

8 (n) Poultry sold for use in the commercial production of poultry or poultry products.

9 (o) Propane or natural gas sold to a farmer to be used exclusively to heat structures in  
10 which chickens raised for commercial production are housed. The exemption is available only  
11 if the purchaser provides the seller with an exemption certificate in a form and manner  
12 prescribed by the department.

13 (p) Bedding materials used to accumulate and facilitate the removal of chicken manure  
14 from structures in which chickens raised for commercial production are housed. The ex-  
15 emption is available only if the purchaser provides the seller with an exemption certificate  
16 in a form and manner prescribed by the department.

17 (q) Horticultural services provided to a farmer.

18 (r) Tangible personal property used in the packing of fresh perishable horticultural pro-  
19 ducts for commercial sale.

20 (s) Tangible personal property and services purchased by a person engaged in commercial  
21 Christmas tree production.

22 (t) Tangible personal property, including household goods, that has been used in con-  
23 ducting farming activity if the seller is a farmer and the sale is conducted on a farm.

24 **SECTION 56.** (1) Gross receipts from the sale in this state of the following items are  
25 exempt from the sales tax:

26 (a) Equipment, machinery and implements, and replacement parts for equipment, ma-  
27 chinery and implements, purchased for exclusive use in conducting commercial agricultural  
28 activities.

29 (b) Services provided in installing replacement parts described in paragraph (a) of this  
30 subsection.

31 (2) If a single transaction involves services that are and are not exempt under this sec-  
32 tion, the exemption under this section is available for the exempt services only if the invoice  
33 itemizes the services separately and the charges itemized for the exempt services do not  
34 exceed the seller's customary charge for the services.

35 (3) An exemption under this section is available only if the purchaser:

36 (a)(A) Engages in business as a farmer and, in the immediately preceding 12-month pe-  
37 riod, grew, raised or produced agricultural products having an estimated value of at least  
38 \$10,000; or

39 (B) Did not engage in farming in the immediately preceding 12-month period, has newly  
40 engaged in farming or returned to farming in the current year, and expects to grow, raise  
41 or produce agricultural products having an estimated value of at least \$10,000; and

42 (b) Provides the seller with an exemption certificate in a form and manner prescribed  
43 by the Department of Revenue.

44 (4) If a person described in subsection (3)(a)(B) of this section fails to grow, raise or  
45 produce agricultural products with an estimated value of at least \$10,000, the taxes that

1 would have been imposed are due and payable with interest.

2 (5) Beginning in 2015, and every year thereafter, the minimum dollar amount of agricul-  
3 tural products specified in subsections (3) and (4) of this section shall be increased or de-  
4 creased in proportion to the change in the cost of living for the previous calendar year, based  
5 on changes in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers  
6 for All Items as published by the Bureau of Labor Statistics of the United States Department  
7 of Labor.

8 (6) Equipment, machinery and implements eligible for exemption under this section do  
9 not include:

10 (a) Vehicles other than farm vehicles registered under ORS 805.300 or farm implements  
11 as defined in ORS 646A.300;

12 (b) Aircraft;

13 (c) Hand tools and hand-powered tools; and

14 (d) Property with a useful life of less than one year.

15 **SECTION 57.** (1) Gross receipts from the sale in this state of the following items to  
16 wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators  
17 and retailers who own or operate distribution centers are eligible for remittance of the sales  
18 tax in an amount determined under subsection (3) of this section:

19 (a) Material-handling equipment and racking equipment and services provided in install-  
20 ing, repairing, cleaning, altering or improving the equipment.

21 (b) Materials used and services provided in constructing a warehouse or grain elevator.

22 (2) A person claiming a remittance under this section must first pay the sales tax when  
23 due and include with the payment a claim for remittance on a form prescribed by the De-  
24 partment of Revenue.

25 (3)(a) For grain elevators with a capacity of at least 1,000,000 bushels but less than  
26 2,000,000 bushels, the remittance is equal to 50 percent of the amount of sales tax paid on  
27 property and services described in subsection (1) of this section.

28 (b) For warehouses of at least 200,000 square feet and grain elevators with a capacity of  
29 at least 2,000,000 bushels, the remittance is equal to 100 percent of the amount of sales tax  
30 paid on property and services described in subsection (1)(b) of this section and 50 percent of  
31 the amount of sales tax paid on property and services described in subsection (1)(a) of this  
32 section.

33 (4)(a) The department shall determine eligibility under this section based on information  
34 provided by the purchaser and through audit and other administrative records.

35 (b) The purchaser shall on a quarterly basis submit an information sheet, in a form and  
36 manner required by the department, specifying the amount of remittance claimed and the  
37 purchases for which the remittance is claimed.

38 (c) The department shall make remittances under this section on a quarterly basis.

39 (5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance  
40 under this section unless the underlying ownership of the warehouse or grain elevator and  
41 the material-handling equipment and racking equipment vests exclusively in the same per-  
42 son, or the lessor by written contract agrees to pass the economic benefit of the remittance  
43 to the lessee in the form of reduced rent payments.

44 (6) As used in this section:

45 (a) "Distribution center" means a warehouse that is used exclusively by a retailer solely

1 for the storage and distribution of finished goods to retail outlets of the retailer. “Distrib-  
2 ution center” does not include a warehouse at which retail sales occur.

3 (b) “Finished goods” means tangible personal property intended for sale by a retailer or  
4 wholesaler. “Finished goods” does not include agricultural products stored by wholesalers,  
5 third-party warehouses or retailers, if the storage takes place on the land of the person who  
6 produced the agricultural product, or logs, minerals, petroleum, gas or other extracted pro-  
7 ducts stored as raw materials or in bulk.

8 (c) “Material-handling equipment and racking equipment” means equipment in a ware-  
9 house or grain elevator that is primarily used to handle, store, organize, convey, package or  
10 repackage finished goods and includes tangible personal property with a useful life of one  
11 year or more that is incorporated into the equipment, including repair and replacement  
12 parts. “Material-handling equipment and racking equipment” does not include equipment in  
13 offices, lunchrooms, restrooms or other similar areas within a warehouse or grain elevator,  
14 or equipment used for nonwarehousing purposes.

15 **SECTION 58.** (1) Gross receipts from the sale in this state of the following items are  
16 exempt from the sales tax:

17 (a) Services provided in constructing, repairing, decorating or improving structures used  
18 as farmworker housing; and

19 (b) Tangible personal property that, in the course of constructing, repairing, decorating  
20 or improving structures used as farmworker housing, is incorporated into the structures.

21 (2) The exemption under this section is available only:

22 (a) To farmworker housing that:

23 (A) Is provided to year-round farmworkers;

24 (B) Is used as farmworker housing for at least five consecutive years from the date the  
25 housing is approved for human occupancy; and

26 (C) Complies with all applicable state and local regulations; and

27 (b) If the purchaser provides the seller with an exemption certificate in a form and  
28 manner prescribed by the Department of Revenue.

29 (3) If farmworker housing granted an exemption under this section is used for  
30 farmworker housing for less than five consecutive years after the date the housing is ap-  
31 proved for human occupancy, the amount of sales tax that would have been due is imme-  
32 diately due and payable with interest computed from the date the housing was approved for  
33 occupancy until the date of payment.

34 (4) The exemption under this section does not apply to housing built for the occupancy  
35 of an employer, family members of an employer or persons with ownership interest in a farm  
36 business.

37 **SECTION 59.** (1) Gross receipts from the sale in this state of tobacco and services related  
38 to tobacco are exempt from the sales tax, and the storage, use or other consumption in this  
39 state of tobacco is exempt from the use tax.

40 (2) As used in this section, “tobacco” means cigarettes as defined in ORS 323.010 and  
41 tobacco products as defined in 323.500.

42 **SECTION 60.** (1) Gross receipts from the sale or distribution in this state of motor ve-  
43 hicle fuel, fuel or aircraft fuel and related services are exempt from the sales tax, and the  
44 storage, use or other consumption in this state of motor vehicle fuel, fuel or aircraft fuel is  
45 exempt from the use tax:



1 (a) If the sale, distribution, storage, use or other consumption of the fuel in this state  
 2 is:

3 (A) Subject to tax under ORS 319.010 to 319.430 or 319.510 to 319.880, and not subject to  
 4 refund; or

5 (B) Exempt from the tax imposed under ORS 319.510 to 319.880 by ORS 825.484 (2); or

6 (b) If the fuel is purchased:

7 (A) By a public entity or nonprofit corporation for the purposes of providing public  
 8 transportation;

9 (B) For use in a publicly owned or operated ferry; or

10 (C) For use in the operation of a vessel in commercial deep sea fishing operations or  
 11 commercial passenger fishing boat operations by a person regularly engaged in such busi-  
 12 ness.

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

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

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

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

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

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

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

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

32 (a) Sales taxes collected on fuel exempt from the tax imposed under ORS 319.510 to  
 33 319.880 by ORS 825.484 (2) may be offset against taxes imposed under ORS chapter 825 in  
 34 returns made under that chapter. On the 15th day of each month, the Public Utility Com-  
 35 mission shall certify to the Department of Revenue and the State Treasurer the amount  
 36 offset, and the State Treasurer shall cause that amount to be transferred from the Sales and  
 37 Use Tax Fund established under section 142 of this 2013 Act to the Motor Carrier Account  
 38 in the General Fund.

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

45 **SECTION 61.** (1) Gross receipts from the sale in this state of the following items and

1 services related to the following items are exempt from the sales tax, and the storage, use  
2 or other consumption in this state of the following items is exempt from the use tax:

3 (a) Fuel oil, natural gas, liquefied petroleum gas, electricity or geothermal resources  
4 when delivered to consumers through mains, lines or pipes or by tank truck or for purposes  
5 of residential heating and of exhaust steam, waste steam, heat or resultant energy, produced  
6 in connection with cogeneration technology.

7 (b) Coal.

8 (c) Firewood.

9 (d) Nuclear fuel.

10 (2) As used in this section:

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

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

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

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

21 **SECTION 62.** Gross receipts from the sale in this state of the following items are exempt  
22 from the sales tax:

23 (1) Tangible personal property purchased for the purpose of consuming the property in  
24 producing ferrosilicon that is subsequently used in producing magnesium for sale.

25 (2) Carbon, petroleum coke, coal tar, pitch or any similar substance that becomes an  
26 ingredient or component of anodes or cathodes used in producing aluminum for sale.

27 (3) Tangible personal property used at an aluminum smelter, tangible personal property  
28 incorporated into the buildings or other structures at an aluminum smelter and services  
29 provided with respect to the buildings, structures or tangible personal property incorporated  
30 into the buildings or structures.

31 (4)(a) Precious metal bullion, the value of which depends on its contents and not upon its  
32 form.

33 (b) Monetized bullion or coins or other forms of money manufactured from precious  
34 metals and formerly or currently used as a medium of exchange under the laws of this state,  
35 the United States or any foreign nation, but not coins or money sold to be manufactured into  
36 jewelry or works of art.

37 (5) Wax and ceramic materials used to create molds consumed during the process of  
38 creating ferrous and nonferrous investment castings used in industrial applications, and  
39 services provided in creating wax patterns and ceramic shells used as molds and consumed  
40 during the process of creating ferrous and nonferrous investment castings used in industrial  
41 applications.

42 **SECTION 63.** (1) Gross receipts from the sale in this state of the following items pur-  
43 chased by a public research institution for use primarily in research and development are  
44 exempt from the sales tax:

45 (a) Machinery and equipment; and

1 (b) Services provided in installing, repairing, cleaning, altering or improving the ma-  
2 chinery and equipment.

3 (2) The exemption under this section may not be allowed unless the purchaser provides  
4 the seller with an exemption certificate in a form and manner prescribed by the Department  
5 of Revenue.

6 (3) As used in this section:

7 (a) "Machinery and equipment" means:

8 (A) Fixtures, pieces of equipment, digital goods and support facilities that are an integral  
9 and necessary part of a research and development operation; and

10 (B) Tangible personal property that becomes an ingredient or component of fixtures,  
11 equipment and support facilities, including repair parts and replacement parts.

12 (b) "Machinery and equipment" does not mean:

13 (A) Hand-powered tools;

14 (B) Property with a useful life of less than one year;

15 (C) Buildings; or

16 (D) Building fixtures that are not an integral and necessary part of a research and de-  
17 velopment operation and that are permanently affixed to and become a physical part of a  
18 building, including utility systems for heating, ventilation, air conditioning, communications,  
19 plumbing or electricity.

20 **SECTION 64.** Gross receipts from the sale in this state of tangible personal property  
21 purchased for the purpose of providing the property to consumers as part of a service pro-  
22 vided by a competitive telecommunications provider as defined in ORS 759.005 are exempt  
23 from the sales tax.

24 **SECTION 65.** Gross receipts from the sale in this state of tangible personal property  
25 purchased to satisfy the purchaser's obligations under an extended warranty are exempt  
26 from the sales tax if the tangible personal property replaces or becomes an ingredient or  
27 component of property covered by the extended warranty without intervening use by the  
28 purchaser.

29 **SECTION 66.** Notwithstanding section 120 of this 2013 Act, a person is not required to  
30 collect the sales tax if:

31 (1) The person's activities in this state, whether conducted directly or through another  
32 person, are limited to:

33 (a) The storage, dissemination or display of advertising;

34 (b) The taking of orders; or

35 (c) The processing of payments; and

36 (2) The person's activities are conducted electronically via a website on a server or other  
37 computer equipment located in this state that is not owned or operated by the person making  
38 sales into this state or by an affiliated person.

39 **SECTION 67.** Gross receipts from the sale in this state of the following items are exempt  
40 from the sales tax:

41 (1) A digital code for one or more digital products if gross receipts from the sale of the  
42 digital products to which the digital code relates are exempt from the sales tax.

43 (2)(a) A digital good or digital automated service, including a digital good or digital au-  
44 tomated service acquired through the use of a digital code, that is made available free of  
45 charge for the use or enjoyment of the general public.

1 (b) The exemption provided under this subsection may not be allowed unless:

2 (A) The purchaser has the legal right to broadcast, rebroadcast, transmit, retransmit,  
3 license, relicense, distribute, redistribute or exhibit the product, in whole or in part, to the  
4 general public; and

5 (B) The purchaser provides the seller with an exemption certificate in a form and manner  
6 prescribed by the Department of Revenue.

7 (c) For purposes of this subsection, “general public” means all persons and is not limited  
8 or restricted to a particular class of persons, except that “general public” may mean:

9 (A) A class of persons that is defined as all persons residing or owning property within  
10 this or a political subdivision of this state; and

11 (B) With respect to libraries, authorized library patrons.

12 (3)(a) Digital goods, and services provided with respect to digital goods, if the digital  
13 goods and related services are purchased solely for business purposes, and digital code if all  
14 the digital goods to be obtained by use of the digital code are used solely for business pur-  
15 poses.

16 (b) The exemption under this subsection is allowable only if the purchaser provides the  
17 seller with an exemption certificate in a form and manner prescribed by the Department of  
18 Revenue.

19 (4)(a) Digital goods, digital codes, digital automated services, prewritten computer soft-  
20 ware and related services if the purchaser provides the seller with an exemption certificate  
21 claiming multiple points of use in a form and containing such information as required by the  
22 department.

23 (b) A purchaser may be allowed to use an exemption certificate claiming multiple points  
24 of use only if the purchaser is a business and the digital goods, digital codes, digital auto-  
25 mated services, prewritten computer software or related services purchased will be concu-  
26 rrently available for use within and outside this state.

27 **SECTION 68.** (1) Gross receipts from the sale in this state of the following items are  
28 exempt from the sales tax:

29 (a) Computer equipment, including repair parts and replacement parts for the computer  
30 equipment, if the computer equipment is used primarily in the printing or publishing of any  
31 printed material.

32 (b) Services provided in installing, repairing, cleaning, altering or improving the com-  
33 puter equipment.

34 (2) The exemption under this section may not be allowed unless the purchaser provides  
35 the seller with an exemption certificate in a form and manner prescribed by the Department  
36 of Revenue.

37 **SECTION 69.** (1) Gross receipts from the sale in this state of the following items are  
38 exempt from the sales tax:

39 (a) Computer hardware, computer peripherals or software used primarily in the develop-  
40 ment, design and engineering of aerospace products or in providing aerospace services; and

41 (b) Services provided in installing property described in paragraph (a) of this subsection.

42 (2) The exemption under this section may be allowed only if the purchaser provides the  
43 seller with an exemption certificate in a form and manner prescribed by the Department of  
44 Revenue.

45 (3) As used in this section:

1 (a) "Aerospace products" means:

2 (A) Commercial airplanes and components of commercial airplanes;

3 (B) Machinery and equipment that is designed and used primarily for the maintenance,  
4 repair, overhaul or refurbishing of aerospace products by 14 C.F.R. part 145 certificated re-  
5 pair stations; and

6 (C) Tooling specifically designed for use in manufacturing aerospace products.

7 (b) "Aerospace services" means the maintenance, repair, overhaul or refurbishing of  
8 aerospace products, but only if the services are performed by a 14 C.F.R. part 145 certificated  
9 repair station.

10 (c) "Computer peripherals" includes, but is not limited to, keyboards, monitors, mouse  
11 devices and other accessories that operate outside of the computer, other than cables,  
12 conduit, wiring and similar property.

13 **SECTION 70.** Gross receipts from the sale in this state of custom software and the  
14 customization of prewritten computer software are exempt from the sales tax.

15 **SECTION 71.** Gross receipts from the sale in this state of local telephone service, coin-  
16 operated telephone service and mobile telecommunications services, including toll service,  
17 to a customer whose place of primary use is outside this state are exempt from the sales tax.

18 **SECTION 72.** Delivery charges made for the delivery of direct mail in this state are ex-  
19 empt from the sales tax if the charges are separately stated on an invoice or similar billing  
20 document given to the purchaser.

21 **SECTION 73.** (1) Gross receipts from the rental in this state of production equipment,  
22 or the sale in this state of production services, to a motion picture or video production  
23 business are exempt from the sales tax.

24 (2) The exemption under this section may not be allowed unless the purchaser provides  
25 the seller with an exemption certificate in a form and manner prescribed by the Department  
26 of Revenue.

27 (3) As used in this section:

28 (a) "Motion picture or video production business" means a person engaged in the pro-  
29 duction of motion pictures or videos for exhibition or sale or for broadcast by a person other  
30 than the person producing the motion picture or video.

31 (b) "Production equipment" means the following when used in motion picture or video  
32 production or postproduction:

33 (A) Grip and lighting equipment, cameras, camera mounts including tripods, jib arms,  
34 steadicams and other camera mounts;

35 (B) Cranes, dollies, generators, helicopter mounts, helicopters rented for motion picture  
36 or video production, walkie talkies, vans, trucks and other vehicles specifically equipped for  
37 motion picture or video production or used solely for production activities; and

38 (C) Wardrobe and makeup trailers, special effects and stunt equipment, video assists,  
39 videotape recorders, cables and connectors, teleprompters, sound recording equipment and  
40 editing equipment.

41 (c) "Production services" means motion picture and video processing, printing, editing,  
42 duplicating, animation, graphics, special effects, negative cutting, conversions to other for-  
43 mats or media, stock footage, sound mixing, rerecording, sound sweetening, sound looping,  
44 sound effects and automatic dialog replacement.

45 **SECTION 74.** (1) Gross receipts from the sale in this state of tangible personal property

1 incorporated into a prototype for aircraft parts, auxiliary equipment or modifications, or  
2 tangible personal property that is incorporated into a prototype but later destroyed in the  
3 testing or development of the prototype, are exempt from the sales tax.

4 (2) The exemption under this section may not be allowed to a person whose gross busi-  
5 ness income, plus the value of products manufactured by the person, during the immediately  
6 preceding calendar year exceeds \$20,000,000.

7 (3) The value of an exemption allowed under this section may not exceed \$100,000 for any  
8 person during any calendar year.

9 (4) Sellers shall collect the sales tax on sales described in subsection (1) of this section  
10 and the purchaser may apply for a refund directly from the Department of Revenue.

11 **SECTION 75.** (1) Gross receipts from the sale in this state of the following items are  
12 exempt from the sales tax:

13 (a) Services provided in constructing new buildings and installing fixtures to be used ex-  
14 clusively for manufacturing superefficient airplanes, including buildings used for the storage  
15 of raw materials and finished product; and

16 (b) Tangible personal property incorporated during the course of construction into  
17 buildings to be used exclusively for manufacturing superefficient airplanes.

18 (2) The exemption under this section may not be allowed unless the purchaser provides  
19 the seller with an exemption certificate in a form and manner prescribed by the Department  
20 of Revenue.

21 **SECTION 76.** The storage, use or other consumption in this state by a bailee of tangible  
22 personal property that is entirely consumed in the course of research, development, exper-  
23 imental or testing activities is not subject to the use tax, provided the acquisition of the  
24 property by the bailor was not subject to the sales taxes.

25 **SECTION 77.** Gross receipts from the sale in this state of form lumber to a person en-  
26 gaged in constructing, repairing, decorating or improving new or existing buildings or other  
27 structures under, on or above real property of or for consumers are exempt from the sales  
28 tax if the lumber is used first by the purchaser for molding concrete in a single contract,  
29 project or job and is afterwards incorporated into the product of the same contract, project  
30 or job as a part of the building or other structure.

31 **SECTION 78.** The storage, use or other consumption in this state of fuel by the person  
32 who extracted or manufactured the fuel is exempt from the use tax if the fuel is used in the  
33 operation of the plant in which the fuel was extracted or manufactured.

34 **SECTION 79.** (1) Gross receipts from the sale in this state of the following items are  
35 exempt from the sales tax:

36 (a) Tangible personal property purchased by a person engaged in the business of gener-  
37 ating, producing or distributing electrical energy for the purpose of constructing or installing  
38 air pollution control facilities at a thermal electric generation facility placed in operation  
39 before July 1, 1975; and

40 (b) Services provided in constructing or installing air pollution control facilities described  
41 in paragraph (a) of this subsection.

42 (2) The exemption under subsection (1) of this section may not be allowed unless the  
43 purchaser provides the seller with an exemption certificate in a form and containing such  
44 information as the Department of Revenue requires.

45 (3) Gross receipts from the sale in this state of coal used to generate electric power at

1 a coal-fired thermal electric generation facility placed in operation before July 1, 1975, and  
 2 operated by a business are exempt from the sales tax if:

3 (a) The owners make application to the department for the exemption;

4 (b) The owners install air pollution control facilities to meet applicable regulatory re-  
 5 quirements established under state and federal law; and

6 (c) The emissions of the generation facility meet or exceed standards established by the  
 7 Department of Environmental Quality during the immediately preceding 12-month period.

8 (4) As used in this section, "air pollution control facilities" means any treatment works,  
 9 control devices and disposal systems, machinery, equipment, structures, property, property  
 10 improvements and accessories, that are installed or acquired for the primary purpose of re-  
 11 ducing, controlling or disposing of industrial waste that, if released to the outdoor atmos-  
 12 phere, could cause air pollution, or that are required to meet regulatory requirements  
 13 applicable to their construction, installation or operation.

14 **SECTION 80.** (1) Gross receipts from the sale in this state of gun safes are exempt from  
 15 the sales tax.

16 (2) As used in this section, "gun safe" means an enclosure specifically designed or modi-  
 17 fied for the purpose of storing a firearm and equipped with a padlock, key lock, combination  
 18 lock or similar locking device that, when locked, prevents unauthorized use of the firearm.

19 **SECTION 81.** (1) The following uses of a vessel in this state by the manufacturer of the  
 20 vessel are exempt from the use tax:

21 (a) Activities to test, set up, repair, remodel, evaluate or otherwise make a vessel  
 22 seaworthy, including performance, endurance and sink testing, if the vessel is to be held for  
 23 sale.

24 (b) Training activities of the manufacturer's employees, agents or subcontractors in-  
 25 volved in the development and manufacturing of the manufacturer's vessels, if the vessel is  
 26 to be held for sale.

27 (c) Activities to promote the sale of the manufacturer's vessels, including photography  
 28 and video sessions to be used in promotional materials.

29 (d) Transportation directly to and from vessel promotional events for the express purpose  
 30 of displaying a manufacturer's vessels.

31 (e) The loan or donation of a vessel to the state, a political subdivision or a civic, reli-  
 32 gious, nonprofit or educational organization for continuous periods of use not exceeding 72  
 33 hours, or longer if approved by the Department of Revenue.

34 (f) Transporting, displaying or demonstrating a vessel at a wholesale or retail vessel  
 35 show.

36 (g) Delivery of a vessel to a buyer, vessel manufacturer, registered vessel dealer or any  
 37 other person involved in the manufacturing or sale of that vessel for the purpose of the  
 38 manufacturing or sale of that vessel.

39 (h) Displaying, showing and operating a vessel for sale to a prospective buyer, including  
 40 short-term testing, operating and examining by a prospective buyer.

41 (2) The exemption under subsection (1) of this section applies to any trailer or other ap-  
 42 paratus used to transport, display, show or operate a vessel, if the trailer or other apparatus  
 43 is held for sale.

44 **SECTION 82.** (1) Gross receipts from the sale in this state of a vessel 30 feet or longer  
 45 are exempt from the sales tax for the period of a valid use permit issued under this section

1 to a purchaser who is an individual nonresident of this state.

2 (2)(a) An individual claiming an exemption under this section must display proof of non-  
3 resident status at the time of purchase.

4 (b) Acceptable proof of nonresident status includes one piece of identification such as a  
5 valid driver license from the jurisdiction in which the residency is claimed or a valid iden-  
6 tification card that has a photograph of the holder and is issued by the out-of-state juris-  
7 diction. The identification must show the holder's residential address and have as one of its  
8 legal purposes the establishment of residency in the out-of-state jurisdiction.

9 (3) Notwithstanding subsection (1) of this section, a seller may choose to collect the sales  
10 tax on vessels sold to nonresident individuals and remit the amount of sales tax collected to  
11 the state as otherwise provided by law. If the seller chooses to make a sale to a nonresident  
12 without collecting the sales tax, the seller must examine the proof of nonresidence, deter-  
13 mine whether the proof is acceptable under subsection (2)(b) of this section and maintain  
14 records for each nontaxable sale that shows the type of proof accepted, including any iden-  
15 tification numbers where appropriate, and the expiration date, if any.

16 (4)(a) The seller of a vessel shall issue a use permit to a buyer if the seller is satisfied  
17 that the buyer is a nonresident individual. The use permit must be in a form and manner  
18 required by the Department of Revenue and must include an affidavit, signed by the pur-  
19 chaser, declaring that the vessel will be used in a manner consistent with this section.

20 (b) The fee for issuance of a use permit is \$500 for vessels 50 feet in length or less and  
21 \$800 for vessels greater than 50 feet in length.

22 (c) Funds collected under this section must be reported on the seller's sales tax return  
23 and be remitted to the department as required under section 120 of this 2013 Act.

24 (5)(a) A use permit issued under this section must be displayed on the vessel and is valid  
25 for 12 consecutive months from the date of issuance. A use permit is not renewable.

26 (b) A vessel dealer must maintain a copy of the use permit for the dealer's records.  
27 Vessel dealers must provide copies of use permits issued by the dealer under this section to  
28 the department on a quarterly basis.

29 (6) A nonresident individual who claims an exemption under this section and who uses a  
30 vessel in this state after the use permit for the vessel has expired is liable for the sales tax  
31 computed on the original purchase price plus interest computed from the date of purchase  
32 until the tax is paid.

33 (7) Any vessel dealer who makes sales without collecting the sales tax to an individual  
34 who does not hold valid identification establishing out-of-state residency, and any dealer who  
35 fails to maintain records of sales to nonresidents as provided in this section, is personally  
36 liable for the amount of sales tax due.

37 **SECTION 83.** (1) Gross receipts from the rental of a vehicle or trailer to a nonresident  
38 of this state are exempt from the sales tax if the vehicle or trailer is required to be regis-  
39 tered and titled in another state, the vehicle or trailer is used exclusively for transporting  
40 persons or property across the boundaries of this state and any intrastate operations are  
41 incidental to the interstate operations.

42 (2)(a) For purposes of this section, "nonresident of this state" includes a person who has  
43 one or more places of business in this state and in one or more other states.

44 (b) The exemption under this section may be allowed to a nonresident described in para-  
45 graph (a) of this subsection only for gross receipts from vehicles and trailers that are most



1 frequently dispatched, garaged, serviced, maintained and operated from a place of business  
2 in another state.

3 **SECTION 84.** (1) The storage, use or other consumption in this state of the following  
4 items is exempt from the use tax:

5 (a) An aircraft used primarily in interstate or foreign commerce.

6 (b) An aircraft used primarily in intrastate air transportation by a commuter air carrier.

7 (c) A locomotive, railroad car or vessel used primarily in conducting interstate or foreign  
8 commerce by transporting property and persons for hire.

9 (d) A vessel used primarily in commercial deep sea fishing operations outside the terri-  
10 torial waters of this state.

11 (e) Tangible personal property that becomes a component part of an aircraft, locomotive,  
12 railroad car or vessel described in this subsection in the course of repairing, cleaning, al-  
13 tering or improving the aircraft, locomotive, railroad car or vessel.

14 (2)(a) Use of a vehicle in this state for a period not exceeding 15 consecutive days by a  
15 nonresident of this state is exempt from the use tax if the vehicle is required to be registered  
16 and titled in another state, the vehicle is used exclusively for transporting persons or prop-  
17 erty across the boundaries of this state and any intrastate operations are incidental to the  
18 interstate operations.

19 (b) For purposes of this subsection, “nonresident of this state” includes a person who has  
20 one or more places of business in this state and in one or more other states.

21 (c) The exemption under this section may be allowed to a nonresident described in para-  
22 graph (b) of this subsection only for vehicles that are most frequently dispatched, garaged,  
23 serviced, maintained and operated from a place of business in another state.

24 (d) The Department of Transportation may adopt rules authorizing a second 15-day period  
25 of exemption consecutive to the first 15-day period.

26 (3) The use of the following items by a holder of a carrier permit issued by the Federal  
27 Motor Carrier Safety Administration of the United States Department of Transportation or  
28 a successor agency is exempt from the use tax:

29 (a) A vehicle used in substantial part in the normal and ordinary course of the user’s  
30 business for transporting for hire persons or property across the boundaries of this state;  
31 and

32 (b) Tangible personal property that is incorporated into a vehicle described in paragraph  
33 (a) of this subsection in the course of repairing, cleaning, altering or improving the vehicle.

34 (4) Gross receipts from providing services described in subsections (1)(e) and (3)(b) of this  
35 section in this state are exempt from the sales tax.

36 **SECTION 85.** (1) The storage, use or other consumption in this state by a resident of this  
37 state of motor vehicles and trailers acquired and used while the resident is a member of the  
38 armed services and is stationed outside this state pursuant to military orders is exempt from  
39 the use tax.

40 (2) The exemption under this section does not apply to members of the armed services  
41 called to active duty for training purposes for periods of less than six months or to the use  
42 of motor vehicles or trailers acquired less than 30 days prior to the discharge or release from  
43 active duty of the resident from the armed services.

44 **SECTION 86.** (1) Gross receipts from the sale in this state of passenger motor vehicles  
45 are exempt from the sales tax if the vehicles are used exclusively for commuter ride sharing

1 or ride sharing for persons with special transportation needs, in compliance with the pro-  
2 visions of this section, for 36 consecutive months beginning from the date of purchase.

3 (2) A vehicle is eligible for the exemption under this section only if the vehicle seats at  
4 least five passengers, including the driver, and is:

5 (a) Operated pursuant to a car pool or van pool program established by the Oregon De-  
6 partment of Administrative Services under ORS 276.598;

7 (b) Used by a major employer as an element of a commute trip reduction program oper-  
8 ated by the employer for employees of the employer; or

9 (c) Owned and operated by individual employees and is registered with:

10 (A) A car pool or van pool program established by the Oregon Department of Adminis-  
11 trative Services; or

12 (B) The employer of at least one of the employees as part of the employer's commute trip  
13 reduction program.

14 (3) The exemption under this section may not be allowed unless the person claiming the  
15 exemption presents certification in a form and manner prescribed by the Department of  
16 Transportation that all applicable requirements have been met.

17 (4) If the vehicle ceases to be used exclusively for commuter ride sharing or ride sharing  
18 for persons with special transportation needs before 36 months have elapsed from the date  
19 of purchase, the sales tax is due and payable immediately with interest computed from the  
20 date of purchase until the date of payment.

21 SECTION 87. The value of returnable products such as batteries, starters, brakes and  
22 other automotive property with returnable value added for the purpose of recycling or re-  
23 manufacturing is exempt from the sales tax.

24 SECTION 88. (1) Gross receipts from the sale in this state of the following items are  
25 exempt from the sales tax:

26 (a) Services provided in constructing new buildings or new parts of buildings used exclu-  
27 sively for the manufacturing of semiconductor materials, including buildings and parts of  
28 buildings used for the storage of raw materials and finished product;

29 (b) Tangible personal property that is incorporated into the buildings in the course of the  
30 construction; and

31 (c) Services provided in installing, in the course of construction, building fixtures.

32 (2) The exemption under this section is available only if the purchaser provides the seller  
33 with an exemption certificate in a form and manner prescribed by the Department of Re-  
34 venue.

35 (3) To be eligible for the exemption under this section, a manufacturer or processor for  
36 hire of semiconductor materials must meet the following requirements for an eight-year  
37 period, beginning on the date the new building commences commercial production:

38 (a) At least 75 percent of full employment must be maintained at the new building for  
39 which the exemption is claimed.

40 (b) Before commencing commercial production at a new facility, the manufacturer or  
41 processor for hire must meet with the Oregon Business Development Department to review  
42 projected employment levels in the new buildings. The department, using information pro-  
43 vided by the manufacturer or processor for hire, must make a determination of the number  
44 of positions that would be filled at full employment. This number must be used throughout  
45 the eight-year period to determine whether any tax is to be repaid.

1 (c) If a production building in existence on the effective date of this 2013 Act will be  
 2 phased out of operation while employment at the new building is increased, the manufacturer  
 3 or processor for hire must maintain 75 percent of full employment at the manufacturing site  
 4 overall.

5 (4) If the employment requirement is not met for any one calendar year, one-eighth of  
 6 the exempt sales taxes will be due and payable by April 1 of the following year. The Depart-  
 7 ment of Revenue shall assess interest, but not penalties, from the date the tax would have  
 8 been imposed until the date the tax is paid.

9 **SECTION 89.** (1) Gross receipts from the sale in this state of gases and chemicals de-  
 10 scribed in subsection (2) of this section that are used by a manufacturer or processor for  
 11 hire in the production or manufacture of semiconductor materials are exempt from the sales  
 12 tax:

13 (2) The exemption under this section is limited to gases and chemicals:

14 (a) Used in the production process to grow, deposit or grow permanent or sacrificial  
 15 layers on, etch, remove material from, anneal, immerse or clean the product;

16 (b) Brought into direct contact with the product during the production process for any  
 17 other purpose; or

18 (c) Used to clean the chambers and other equipment in which the processing takes place.

19 (3) A manufacturer or processor for hire claiming the exemption under this section must  
 20 file a complete annual report with the Department of Revenue.

21 **SECTION 90.** (1) Gross receipts from the sale, lease or rental in this state of a manu-  
 22 factured home or a floating home and services related to a manufactured home or a floating  
 23 home are exempt from the sales tax, and the storage, use or other consumption in this state  
 24 of a manufactured structure or a floating home is exempt from 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 91.** Gross receipts from the sale, or rental pursuant to an agreement for a  
 29 period greater than 30 days, of previously owned trailers used for camping, mobile homes and  
 30 floating homes are exempt from the sales tax.

31 **SECTION 92.** (1) Gross receipts from the sale in this state of any tangible personal  
 32 property and services to the following entities are exempt from the sales tax and the use tax:

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

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

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

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

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

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

43 **SECTION 93.** Gross receipts from the sale in this state of the following items are exempt  
 44 from the sales tax:

45 (1) Services provided in building, repairing or improving any street, place, road, highway,

1 easement, right-of-way, public mass transportation terminal or parking facility, bridge, tun-  
2 nel or trestle owned by a municipal corporation or political subdivision of the state or by the  
3 United States that is or will be used primarily for foot or vehicular traffic including mass  
4 transportation vehicles of any kind.

5 (2)(a) Services provided in constructing, repairing, decorating or improving buildings or  
6 other structures under, upon or above real property of the United States, an instrumentality  
7 of the United States or a housing authority created under the laws of this state.

8 (b) Tangible personal property installed in or attached to buildings or other structures  
9 described in paragraph (a) of this subsection, regardless of whether the property is incorpo-  
10 rated into the buildings or other structures.

11 (3) Services provided in clearing land or moving earth of or for the United States, an  
12 instrumentality of the United States or a housing authority created under the laws of this  
13 state.

14 (4) Services provided in cleaning up for the United States or an instrumentality of the  
15 United States radioactive waste or by-products of weapons production or nuclear research  
16 and development.

17 (5) Services provided or tangible personal property sold pursuant to an agreement en-  
18 tered into between agencies or political subdivisions of this state to provide maintenance  
19 services for bus, rail or rail fixed guideway equipment.

20 (6) Services provided in mining, sorting, crushing, screening, washing, hauling or stock-  
21 piling sand, gravel or rock taken from a pit or quarry owned by or leased to a county or a  
22 city if the sand, gravel or rock is:

23 (a) Placed by the county or city on a street, road or highway of the county or city; or

24 (b) Sold by the county or city to a county or a city at actual cost for placement on a  
25 publicly owned street, road or highway.

26 (7) Services provided in compacting, redistributing or removing snow on state-owned or  
27 privately owned trails for the state or a nonprofit corporation.

28 (8) Tangible personal property, including digital goods and codes, transferred in a sale of  
29 the entire operating property of a publicly or privately owned public utility, or of a complete  
30 operating integral section of a publicly or privately owned public utility, to the state or a  
31 political subdivision for use in conducting any public service.

32 (9) Tangible personal property used and services provided under a contract with the state  
33 or a political subdivision for watershed protection or flood prevention. This exemption is  
34 limited to the amount of the gross receipts that are reimbursed by the United States gov-  
35 ernment according to the provisions of the Watershed Protection and Flood Prevention Act,  
36 16 U.S.C. 1001 et seq.

37 (10) Tangible personal property sold by one political subdivision to another political sub-  
38 division directly or indirectly arising out of the annexation or incorporation of any part of  
39 the territory of one political subdivision by another.

40 (11)(a) Ferry vessels purchased by the state or a political subdivision for use in trans-  
41 porting pedestrians, vehicles and goods within or outside the territorial waters of the state;

42 (b) Tangible personal property that is incorporated into a ferry vessel described in para-  
43 graph (a) of this subsection; and

44 (c) Services provided in constructing or improving a ferry vessel described in paragraph  
45 (a) of this subsection.

1       **SECTION 94.** Gross receipts from the sale in this state of public records that are copied  
2 or transferred electronically by state agencies and local governments under a request for the  
3 record are exempt from the sales tax. A request for a record includes a request for a docu-  
4 ment that is available only to certain persons allowed access to the document by law.

5       **SECTION 95.** Gross receipts from the sale in this state of the following items are exempt  
6 from the sales tax:

7       (1) Amusement or recreation services provided by a nonprofit youth organization to  
8 members of the organization.

9       (2) Amusement or recreation services:

10       (a) Donated to a nonprofit corporation, the state or a local government; or

11       (b) Used by a person to whom the property is donated by a nonprofit corporation, the  
12 state or a local government in furtherance of the purpose for which the services were ori-  
13 ginally donated.

14       (3) Physical fitness classes provided by a local government.

15       (4) Tangible personal property sold for fundraising purposes by a nonprofit corporation  
16 or a library.

17       (5) Subscriptions to magazines or periodicals, including magazines and periodicals deliv-  
18 ered electronically, for the purposes of fundraising by an educational institution or a  
19 nonprofit corporation engaged in activities primarily for the benefit of persons 19 years of  
20 age and younger.

21       (6) Tangible personal property purchased by an artistic or cultural organization for the  
22 purpose of exhibition or presentation to the general public of the property if the property is  
23 an object:

24       (a) Of art;

25       (b) Of cultural value; and

26       (c) Other than a tool, to be used in the creation of a work of art; or

27       (d) To be used in displaying objects of art or presenting artistic or cultural exhibitions  
28 or performances.

29       (7) If the sale is made by a nonprofit corporation at a camp or conference center:

30       (a) Lodging, conference and meeting rooms, camping facilities, parking and similar li-  
31 censes to use real property;

32       (b) Food and meals; and

33       (c) Books, tapes and other products, including books and other products that are trans-  
34 ferred electronically, that are available exclusively to the participants at the camp or con-  
35 ference center.

36       **SECTION 96.** Gross receipts from the sale in this state of the following items are exempt  
37 from the sales tax:

38       (1) Tangible personal property used in constructing alternative housing exclusively for  
39 runaway, homeless and at-risk youth and related services, if the housing is a facility licensed  
40 by an agency of state or local government.

41       (2) Tangible personal property used in providing emergency shelter and related services  
42 for homeless persons for a period of less than 30 consecutive days pursuant to a program  
43 administered by a county, city or other political subdivision or an organization providing  
44 emergency shelter and attendant services.

45       **SECTION 97.** The storage, use or other consumption in this state of the following tangi-

1 ble personal property is exempt from the use tax:

2 (1) Tangible personal property:

3 (a) Donated to a nonprofit corporation, the state or a local government; or

4 (b) Used by a person to whom the property is donated or bailed by a nonprofit corpo-  
5 ration, the state or a local government in furtherance of the purpose for which the property  
6 was originally donated.

7 (2) Tangible personal property donated without intervening use to a nonprofit corporation  
8 or incorporated without intervening use into real or personal property of or for a nonprofit  
9 corporation in the course of installing, repairing, cleaning, altering, imprinting, improving,  
10 constructing or decorating the real or personal property for no charge.

11 **SECTION 98.** The storage, use or other consumption in this state of tangible personal  
12 property, including a digital good, digital code, digital automated service or an extended  
13 warranty, acquired by a credit union organized and operating under the laws of this state  
14 from a federal credit union, foreign credit union or out-of-state credit union as a result of  
15 a merger or conversion is exempt from the use tax.

16 **SECTION 99.** Gross receipts from the sale in this state of the following items are exempt  
17 from the sales tax:

18 (1) Printed newspapers, including supplements, that are issued regularly at stated inter-  
19 vals at least twice a month and printed on newsprint in tabloid or broadsheet format folded  
20 loosely together without stapling, glue or binding of any kind.

21 (2) Newspapers transferred electronically, provided the electronic version of a printed  
22 newspaper shares content with the printed newspaper and is prominently identified by the  
23 same name as the printed newspaper or otherwise conspicuously indicates that it is a com-  
24 plement to the printed newspaper.

25 **SECTION 100.** The storage, use or other consumption in this state by a public school,  
26 college or university or a private nonprofit educational institution of computers, computer  
27 components, computer accessories, computer software, digital goods or digital codes that are  
28 irrevocably donated to the public school, college or university or the private nonprofit edu-  
29 cational institution is exempt from the use tax.

30 **SECTION 101.** Gross receipts from the sale of motorcycles for use in a motorcycle rider  
31 education program created under ORS 802.320 are exempt from the sales tax.

32 **SECTION 102.** The use in this state of a motor vehicle equipped with dual controls that  
33 is loaned to and used exclusively for purposes of driver training by a public educational in-  
34 stitution or a commercial driver training school with a valid certificate issued under ORS  
35 822.515 is exempt from the use tax.

36 **SECTION 103.** Gross receipts from lease amounts paid by a seller-lessee to a lessor under  
37 a sale-leaseback agreement with respect to tangible personal property used by the seller-  
38 lessee, or from the purchase amount paid by the seller-lessee pursuant to an option to pur-  
39 chase at the end of the lease term, are exempt from the sales tax, if the seller-lessee:

40 (1) Is a mass transit district, transportation district or metropolitan service district; and

41 (2) Paid any sales tax or use tax otherwise due at the time the property was acquired.

42 **SECTION 104.** (1) If a cargo container is purchased for use outside this state and is de-  
43 livered by an in-state manufacturer to the purchaser in this state, and the purchaser moves  
44 the cargo container to any point outside this state within 30 days after the date of delivery,  
45 gross receipts from the sale in this state of the cargo container and services related to the

1 cargo container are exempt from the sales tax, and the storage, use or other consumption  
2 in this state of the cargo container is exempt from the use tax, provided that the purchaser  
3 furnishes to the manufacturer the purchaser's affidavits attesting that:

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

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

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

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

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

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

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

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

17 SECTION 105. (1) Gross receipts from the sale in this state of tangible personal property  
18 and related services to a common carrier are exempt from the sales tax if the property is  
19 shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is  
20 paid in advance or the shipment is made freight charges collect, to a point outside this state  
21 and the property is actually transported to the out-of-state destination for use by the carrier  
22 in the conduct of its business as a common carrier.

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

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

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

44 (3) As used in this section:

45 (a) With respect to water transportation, "common carrier" means a person that engages

1 in the business of transporting persons or property for hire or compensation and that offers  
2 such services indiscriminately to the public or some portion of the public, and includes any  
3 vessel engaged for compensation in transporting persons or property in interstate or foreign  
4 commerce.

5 (4) "Foreign air carrier" means a foreign air carrier as defined in 49 U.S.C. 40102.

6 **SECTION 106.** (1) Gross receipts from the sale in this state of tangible personal property  
7 and related services are exempt from the sales tax if the property is purchased for use by  
8 the purchaser in connection with the business of operating as a private or common carrier  
9 by water, air or rail in interstate or foreign commerce.

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

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

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

16 **SECTION 107.** (1) Gross receipts from the sale in this state of tangible personal property  
17 in import or export commerce are exempt from the sales tax.

18 (2) For purposes of this section, tangible personal property is in import commerce from  
19 the time the property begins transportation at a point outside the United States until the  
20 property is:

21 (a) Actually used in any state, territory or possession of the United States for any pur-  
22 pose;

23 (b) Resold after the property has arrived in this state or any other state, territory or  
24 possession of the United States, regardless of whether the property is in its original unbroke-  
25 n package or container; or

26 (c) Processed, handled or otherwise stopped in transit for a business purpose other than  
27 shipping, if the processing, handling or other stoppage in transit occurs within any state,  
28 territory or possession of the United States or the territorial waters of this state or any  
29 other state, regardless of whether the processing, handling or other stoppage in transit oc-  
30 curs within a foreign trade zone.

31 (3)(a) For purposes of this section, tangible personal property is in export commerce  
32 when the seller delivers the property to:

33 (A) The buyer at a destination in a foreign country;

34 (B) A carrier consigned to and for transportation to a destination in a foreign country;

35 (C) The purchaser at shipside or aboard the purchaser's vessel or other vehicle of  
36 transportation under circumstances that make it clear that the process of exportation of the  
37 property has begun; or

38 (D) The purchaser in this state if the property, other than a vehicle, is capable of being  
39 transported to a foreign destination under its own power, the seller files a shipper's export  
40 declaration with respect to the property listing the seller as the exporter and the purchaser  
41 immediately transports the property directly to a destination in a foreign country.

42 (b) The exemption under this subsection may be allowed for property delivered to the  
43 purchaser in this state if at the time of delivery there is a certainty of export and the pro-  
44 cess of export has begun. The process of export begins when the property starts its final and  
45 certain continuous movement to a destination in a foreign country. The process of export



1 has not begun if the property is in storage awaiting shipment even though there is reason-  
2 able certainty that the property will be exported.

3 **SECTION 108.** (1) Gross receipts from occasional sales in this state of tangible personal  
4 property and related services are exempt from the sales tax.

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

8 **SECTION 109.** Gross receipts from the sale in this state of tangible personal property  
9 purchased for use outside the United States and related services are exempt from the sales  
10 tax, and the storage, use or other consumption in this state of the property is exempt from  
11 the use tax if the property is delivered to a forwarding agent, export packer or other person  
12 engaged in the business of preparing goods for export or arranging for their exportation, and  
13 is actually delivered to a port outside the United States prior to any use of the property.

14 **SECTION 110.** (1) Gross receipts from the sale in this state of tangible personal property  
15 and related services to a purchaser that is a seller registered under section 19 of this 2013  
16 Act are exempt from the sales tax if the property is used by the purchaser outside this state  
17 in the performance of a contract to improve real property and, as a result of the use, the  
18 property is incorporated into and becomes a part of real property located outside this state.

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

22 **SECTION 111.** (1) Gross receipts from the sale in this state to a nonresident of this state  
23 for use outside this state of the following items are exempt from the sales tax:

24 (a) Tangible personal property that becomes a component part of tangible personal  
25 property belonging to the nonresident in the course of installing, repairing, cleaning, altering  
26 or improving the nonresident's property; and

27 (b) Services provided in installing, repairing, cleaning, altering or improving personal  
28 property of or for a nonresident.

29 (2) The exemption under this section is allowable only if the seller delivers the property  
30 to the purchaser at a point outside this state or to a common or bona fide private carrier  
31 for delivery to the purchaser at a point outside this state.

32 **SECTION 112.** Rentals payable under a lease of tangible personal property in this state  
33 and related services are exempt from the sales tax if the rentals are required to be included  
34 in the measure of the use tax or if the property is situated outside this state.

35 **SECTION 113.** (1) Gross receipts from the sale in this state of tangible personal property  
36 and related services are exempt from the sales tax if, pursuant to the contract of sale, the  
37 property is required to be shipped and is shipped to a point outside this state by the retailer  
38 by means of:

39 (a) Facilities operated by the retailer; or

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

42 (2) As used in this section:

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

1 (b) "Forwarding agent" means a person or firm engaged in the business of preparing  
2 property for shipment or arranging for its shipment.

3 **SECTION 114.** (1) The storage, use or other consumption in this state of tangible personal  
4 property is exempt from the use tax if the gross receipts from the sale of the property are  
5 required to be included in the measure of the sales tax.

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

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

12 **SECTION 115.** (1) The storage, use or other consumption in this state of tangible personal  
13 property is exempt from the use tax if:

14 (a) The sales price of the tangible personal property does not exceed \$500 and the pur-  
15 chase is for personal use or consumption and not for use or consumption in carrying on a  
16 trade, occupation, business or profession; or

17 (b) The transfer is an occasional sale.

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

21 (3)(a) For each tax year beginning on or after July 1, 2014, the Department of Revenue  
22 shall recompute the threshold amount 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 the threshold amount by multiplying \$500 by the appropriate indexing  
27 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 \$50.

30 (4) 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 116.** (1) The storage, use or other consumption in this state of tangible personal  
34 property brought into this state by a nonresident for the nonresident's use or enjoyment  
35 while temporarily within this state is exempt from the use tax unless the tangible personal  
36 property is used in conducting a nontransitory business activity within this state.

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

40 **SECTION 117.** (1) The storage, use or other consumption in this state of tangible personal  
41 property by a resident of this state is exempt from the use tax if the tangible personal  
42 property was acquired by the person in another state while a resident of the other state  
43 primarily for use outside this state and if the use was actual and substantial.

44 (2) If the tangible personal property was acquired by the person less than three months  
45 before the person entered this state, it is presumed that the tangible personal property was

1 acquired for use in this state and that its use outside this state was not actual and sub-  
2 stantial.

3 **SECTION 118.** (1) The use tax shall be computed on the reasonable rental value, rather  
4 than on the retail value, of tangible personal property stored, used or otherwise consumed  
5 in this state for business purposes by a person engaged in business outside this state who is  
6 the owner of the property.

7 (2) Notwithstanding subsection (1) of this section, the use tax may not be imposed on  
8 property described in subsection (1) of this section if the person paid the sales tax on the  
9 property.

10 **SECTION 119.** (1) The Department of Revenue shall adopt rules establishing procedures  
11 for claiming exemption from the sales tax and the use tax, and may prescribe forms, ex-  
12 emption certificates or other documentation required to claim exemptions.

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

## 15 RETURNS AND PAYMENTS

16  
17  
18 **SECTION 120.** (1) Except as otherwise provided in the Sales and Use Tax Law, all sales  
19 taxes and use taxes are due and payable to the Department of Revenue as follows:

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

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

26 (c) Except for estimated taxes that may be required to be paid under section 121 of this  
27 2013 Act, if the taxes may reasonably be expected to exceed \$5,000 for the calendar year, the  
28 taxes are due and payable quarterly not later than the 15th day of the calendar month next  
29 following the end of the calendar quarter.

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

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

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

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

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

42 **SECTION 121.** (1) The Department of Revenue shall prescribe by rule:

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

45 (b) Sales tax and use tax forms and procedures for the filing of sales tax and use tax

1 returns.

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

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

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

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

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

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

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

14 **SECTION 122.** (1) If a person fails to file a sales tax or use tax return at the time pre-  
15 scribed for filing, there shall be added to the amount of tax required to be shown on the re-  
16 turn a delinquency penalty of five percent of the amount of the tax.

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

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

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

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

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

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

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

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

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

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

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

45 **SECTION 123.** (1) If a person fails to file a report or return required under the Sales and

1 Use Tax Law within 150 days of the time prescribed by law, the Department of Revenue may  
 2 petition the Oregon Tax Court for an order requiring the person to show cause why the  
 3 person is not required to file the report or return.

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

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

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

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

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

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

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

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

21 **SECTION 124.** Notwithstanding sections 121 and 122 of this 2013 Act, a penalty for late  
 22 filing of a return with respect to the sales tax or use tax or for late payment of sales taxes  
 23 or use taxes due may not be assessed, and the right of a seller to retain as compensation a  
 24 percentage of taxes due may not be denied, during the six-month period beginning on the  
 25 operative date of this section.

26 **SECTION 125.** (1) A person may not:

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

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

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

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

#### 35 36 DETERMINATIONS, DEFICIENCIES AND COLLECTION

37  
38 **SECTION 126.** Except as otherwise provided in the Sales and Use Tax Law, the provisions  
 39 of ORS chapters 305 and 314 relating to audits and examinations of returns, periods of limi-  
 40 tations, determinations of deficiencies, assessments, liens, delinquencies, claims for refund,  
 41 conferences and appeals to the Oregon Tax Court, and the procedures relating thereto, apply  
 42 to the determinations of taxes, penalties and interest under the Sales and Use Tax Law.

43 **SECTION 127.** (1) If the Department of Revenue is not satisfied with a tax return or the  
 44 amount of tax paid to this state by any person under the Sales and Use Tax Law, the de-  
 45 partment may compute and determine the amount required to be paid upon the basis of the

1 **facts contained in the return or upon the basis of any information in the department's pos-**  
 2 **session or that comes into the department's possession.**

3 **(2) One or more deficiency determinations may be made of the amount due for one or**  
 4 **more periods.**

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

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

9 **(5) Subject to ORS 314.421 and 314.423, liens for taxes or deficiencies shall arise at the**  
 10 **time of assessment, shall continue until the taxes, interest and penalties are fully satisfied**  
 11 **and may be recorded and collected in the manner provided for the collection of delinquent**  
 12 **income taxes.**

13 **SECTION 128. All taxes, interest and penalties due and unpaid under the Sales and Use**  
 14 **Tax Law are, from the time liability is incurred, a personal debt, due the State of Oregon,**  
 15 **from the persons liable for the taxes, interest and penalties.**

16 **SECTION 129. (1) If the Department of Revenue believes that any determination or col-**  
 17 **lection of any sales or use tax or any amount of sales or use tax required to be collected and**  
 18 **paid to the state will be jeopardized by delay, the department may make a determination of**  
 19 **the tax or amount of tax required to be collected, noting that fact upon the determination.**

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

24 **SECTION 130. ORS 314.430 is amended to read:**

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

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

1 of the warrant liability.

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

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

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

12 **SECTION 131. (1) The Director of the Department of Revenue may enter into a sales tax  
 13 and use tax refund agreement with the governing body of any Indian reservation in Oregon.**

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

18 (3) **There is annually appropriated to the department, from the suspense account estab-  
 19 lished pursuant to section 141 of this 2013 Act, the amounts necessary to make refunds  
 20 pursuant to this section.**

21 **SECTION 132. (1) The Department of Revenue may require any person subject to the  
 22 Sales and Use Tax Law to deposit with the department a security in an amount the depart-  
 23 ment considers necessary to ensure the person’s compliance with the Sales and Use Tax  
 24 Law.**

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

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

29  
 30 **ADMINISTRATION**

31  
 32 **SECTION 133. (1) The Department of Revenue shall administer and enforce the Sales and  
 33 Use Tax Law and may adopt rules to achieve these purposes.**

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

37 **SECTION 134. Every seller, every person required to register under section 19 of this  
 38 2013 Act and every person storing, using or otherwise consuming in this state tangible per-  
 39 sonal property purchased from a seller shall keep records, receipts, invoices and other per-  
 40 tinent papers in a form that the Department of Revenue may require, consistent with the  
 41 Streamlined Sales and Use Tax Agreement.**

42 **SECTION 135. (1) The Department of Revenue or a person authorized in writing by the  
 43 department may examine, during reasonable business hours, the books, papers, records and  
 44 equipment of any person selling tangible personal property and any person liable for the use  
 45 tax. The department may investigate the character of the business of the person in order to**

1 verify the accuracy of any return made, or, if no return is made by the person, to ascertain  
2 and determine the amount required to be paid.

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

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

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

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

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

25 (5) The remedy provided by section 143 of this 2013 Act for failure to obey an order issued  
26 by the court under this section is in addition to other remedies, civil or criminal, existing  
27 under the tax laws or other laws of this state.

28 **SECTION 136.** (1) In the administration of the use tax, the Department of Revenue may  
29 require the filing of reports by any person or class of persons having in their possession or  
30 custody information relating to sales of tangible personal property, the storage, use or other  
31 consumption of which may be subject to the use tax.

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

33 (a) The names and addresses of purchasers of the tangible personal property;

34 (b) The sales price of the property;

35 (c) The date of sale; and

36 (d) Such other information as the department requires.

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

39 **SECTION 137.** (1) Except as otherwise specifically provided by law, it is unlawful for the  
40 Department of Revenue or any officer or employee of the department or other person having  
41 administrative duty under the Sales and Use Tax Law to divulge or make known in any  
42 manner the amount of gross receipts or purchase price or any particulars set forth or dis-  
43 closed in any report, return, claim or other document required in the administration of the  
44 Sales and Use Tax Law.

45 (2) It is unlawful for any person or entity to whom information is disclosed or given by



1 the department pursuant to section 138 (2) of this 2013 Act or any other provision of state  
2 law to divulge or use such information for any purpose other than that specified in the pro-  
3 visions of law authorizing the use or disclosure.

4 (3) A subpoena or judicial order may not be issued compelling the Department of Re-  
5 venue, the Department of Transportation, the State Marine Board, the Oregon Department  
6 of Aviation or any of their officers or employees, or any person who has acquired information  
7 pursuant to section 138 (2) of this 2013 Act or any other provision of state law, to divulge  
8 or make known the amount of gross receipts or purchase price or any particulars set forth  
9 or disclosed in any report, return, claim or other document required in the administration  
10 of the Sales and Use Tax Law except where the taxpayer's liability for sales or use tax is to  
11 be adjudicated by the court from which such process issues.

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

15 **SECTION 138.** (1) The Department of Revenue, the Department of Transportation, the  
16 State Marine Board and the Oregon Department of Aviation may:

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

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

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

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

26 (2) The Department of Revenue, the Department of Transportation, the State Marine  
27 Board and the Oregon Department of Aviation may disclose and give access to information  
28 described in section 137 of this 2013 Act to:

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

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

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

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

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

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

44 (B) For use by an officer or employee of the Oregon Department of Administrative Ser-  
45 vices authorized to prepare revenue estimates, or a person contracting with the Oregon De-

1 department of Administrative Services to prepare revenue estimates, in the preparation of  
2 revenue estimates required for the Governor's budget under ORS 291.201 to 291.226, or re-  
3 quired for submission to the Emergency Board or, if the Legislative Assembly is in session,  
4 to the Joint Committee on Ways and Means and to the Legislative Revenue Officer under  
5 ORS 291.342. Any officer, employee or person furnished or granted access to information  
6 under this subparagraph shall not remove the information from the premises of the De-  
7 partment of Revenue, the Department of Transportation, the State Marine Board or the  
8 Oregon Department of Aviation.

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

11 (c) The proper officer of any state or the District of Columbia, or their authorized rep-  
12 resentatives, for tax purposes only, if the state or district has a provision of law that sub-  
13 stantially conforms to the requirements of section 137 of this 2013 Act and this section as  
14 to confidentiality.

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

17 (B) Notwithstanding subparagraph (A) of this paragraph, the Multistate Tax Commission  
18 may make the information available to the United States Commissioner of Internal Revenue  
19 or the proper officer of any state or the District of Columbia, or their authorized represen-  
20 tatives, for tax purposes only, if the state or district has a provision of law that substantially  
21 conforms to the requirements of section 137 of this 2013 Act and this section as to  
22 confidentiality.

23 (e) The Attorney General, assistants and employees in the Department of Justice or  
24 other legal representative of the State of Oregon, to the extent the Department of Revenue,  
25 the Department of Transportation, the State Marine Board or the Oregon Department of  
26 Aviation deems disclosure or access necessary for the performance of the duties of advising  
27 or representing the Department of Revenue, the Department of Transportation, the State  
28 Marine Board or the Oregon Department of Aviation pursuant to ORS 180.010 to 180.240 and  
29 the tax laws of this state.

30 (f) Employees of the State of Oregon, to the extent the Department of Revenue, the De-  
31 partment of Transportation, the State Marine Board or the Oregon Department of Aviation  
32 deems disclosure or access necessary for the employees to perform their duties under con-  
33 tracts or agreements between the Department of Revenue, the Department of Transporta-  
34 tion, the State Marine Board or the Oregon Department of Aviation and any other  
35 department, division, agency or subdivision of the State of Oregon, in the administration of  
36 the tax laws.

37 (g) Other persons, and their employees, to the extent the Department of Revenue, the  
38 Department of Transportation, the State Marine Board or the Oregon Department of Avi-  
39 ation deems disclosure or access necessary for the performance of the persons' duties under  
40 agreements between the Department of Revenue, the Department of Transportation, the  
41 State Marine Board or the Oregon Department of Aviation and such persons, in the admin-  
42 istration of the tax laws.

43 (h) The Legislative Revenue Officer or authorized representatives upon compliance with  
44 ORS 173.850. The officer or representative shall not remove from the premises of the De-  
45 partment of Revenue, the Department of Transportation, the State Marine Board or the

1 Oregon Department of Aviation any materials that would reveal the identity of any taxpayer  
2 or other person.

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

5 (3) Each officer or employee of the Department of Revenue, the Department of Trans-  
6 portation, the State Marine Board or the Oregon Department of Aviation and each person  
7 described or referred to in subsection (2)(a) and (e) to (i) of this section to whom disclosure  
8 or access to the tax information is given under subsection (2) of this section or any other  
9 provision of state law, prior to beginning employment or the performance of duties involving  
10 the disclosure or access, shall be advised in writing of the provisions of sections 137 and 143  
11 of this 2013 Act, relating to penalties for the violation of section 137 of this 2013 Act, and  
12 shall as a condition of employment or performance of duties execute a certificate, in a form  
13 prescribed by the Department of Revenue, stating in substance that the person has read  
14 these provisions of law, that the person has had them explained and that the person is aware  
15 of the penalties for the violation of section 137 of this 2013 Act.

16 SECTION 139. The Department of Revenue shall prepare and make available to the public  
17 statistics, in a manner determined by the department, with respect to the operation of the  
18 Sales and Use Tax Law, including amounts collected, classification of taxpayers and other  
19 facts considered by the department to be of public interest.

#### 20 21 DISPOSITION OF PROCEEDS

22  
23 SECTION 140. All fees, taxes, interest and penalties imposed and all amounts of tax re-  
24 quired to be paid to this state under the Sales and Use Tax Law, except those collected by  
25 the Department of Transportation, shall be paid to the Department of Revenue, and upon  
26 receipt by the Department of Revenue shall be paid over to the State Treasurer to be dis-  
27 posed of as provided in sections 141 and 142 of this 2013 Act.

28 SECTION 141. (1) All moneys received by the Department of Revenue under the Sales and  
29 Use Tax Law shall be deposited in the State Treasury and credited to a suspense account  
30 established under ORS 293.445.

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

34 (3) After the payment of refunds pursuant to subsection (2) of this section, the balance  
35 in the suspense fund shall be deposited in the Sales and Use Tax Fund established under  
36 section 142 of this 2013 Act.

37 (4) Notwithstanding subsection (1) of this section, any moneys described in Article IX,  
38 section 3a, of the Oregon Constitution, that are received by the Department of Revenue shall  
39 be transferred to the State Highway Fund.

40 SECTION 142. The Sales and Use Tax Fund is established in the State Treasury, separate  
41 and distinct from the General Fund. Interest earned by the Sales and Use Tax Fund shall  
42 be credited to the fund.

#### 43 44 PENALTIES

1        **SECTION 143.** (1) If a person violates any provision of the Sales and Use Tax Law, the  
 2 Department of Revenue may assess a civil penalty of not more than \$1,000 against the per-  
 3 son.

4        (2) A person who violates section 125 (1)(c) or (2) of this 2013 Act is guilty of a Class C  
 5 felony.

6        (3) A person who violates section 137 of this 2013 Act is guilty of a Class C felony. If the  
 7 person is an officer or employee of this state, the person shall be dismissed from office and  
 8 shall be incapable of holding any public office in this state for a period of five years after  
 9 dismissal.

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

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

#### 17 18 MISCELLANEOUS

19  
20       **SECTION 144.** Unless otherwise specifically provided by law, the taxes imposed under the  
 21 Sales and Use Tax Law are in addition to and not in lieu of any other taxes or excises im-  
 22 posed by the State of Oregon or any county, city, district or other municipal corporation or  
 23 political subdivision of this state.

#### 24 25 CONFORMING CHANGES

26  
27       **SECTION 145.** ORS 305.130 is amended to read:

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

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

40       **SECTION 146.** ORS 305.265 is amended to read:

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

45       (2) As soon as practicable after a report or return is filed, the department shall examine or audit

1 it, if required by law or the department deems such examination or audit practicable. If the de-  
2 partment discovers from an examination or an audit of a report or return or otherwise that a defi-  
3 ciency exists, it shall compute the tax and give notice to the person filing the return of the  
4 deficiency and of the department's intention to assess the deficiency, plus interest and any appro-  
5 priate penalty. Except as provided in subsection (3) of this section, the notice shall:

6 (a) State the reason for each adjustment;

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

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

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

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

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

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

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

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

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

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

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

45 (7) If neither payment nor written objection to the deficiency is received by the department

1 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-  
2 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating  
3 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within  
4 one year from the date of the notice of deficiency unless an extension of time is agreed upon as  
5 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (f) If the department accepts the filing of a report or return, the department may reduce the  
2 assessment issued under paragraph (a) of this subsection. A report or return filed under this sub-  
3 section that is accepted by the department, whether or not the assessment has been reduced, shall  
4 be considered a report or return described in subsection (1) of this section and shall be subject to  
5 the provisions of this section, including but not limited to examination and adjustment pursuant to  
6 subsection (2) of this section.

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

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

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

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

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

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

43 **SECTION 147.** ORS 305.270 is amended to read:

44 305.270. (1) If the amount of the tax shown as due on a report or return originally filed with the  
45 Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314,

1 316, 317, 318 or 321 **or the Sales and Use Tax Law**, or collected pursuant to ORS 305.620, or as  
2 corrected by the department, is less than the amount theretofore paid, or if a person files a claim  
3 for refund of any tax paid to the department under such laws within the period specified in sub-  
4 section (2) of this section, any excess tax paid shall be refunded by the department with interest as  
5 provided in this section and ORS 314.415.

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

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

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

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

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

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

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

45 (6) If no conference is requested, and the notice of proposed adjustment has asserted a defi-



1 deficiency, the department shall consider any objections made by the person denied the refund, make  
2 a determination of any issues raised, pay any refunds found due, with applicable interest, or assess  
3 any deficiency and mail a notice *[thereof]* **setting forth the department's determination, includ-**  
4 **ing a refund or deficiency**, within one year from the date of the notice of **proposed adjustment**  
5 **assessing the** deficiency, unless an extension of time is agreed upon as described in subsection (7)  
6 of this section.

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

13 (8) If the department refunds the amount requested as provided in subsection (3) of this section,  
14 without examination or audit of the refund claim, the department shall give notice of this **deter-**  
15 **mination** to the claimant at the time of making the refund. Thereafter, the department shall have  
16 one year in which to examine or audit the refund claim, and send the notice of proposed adjustment  
17 provided for in subsection (3) of this section, in addition to any time permitted in ORS 314.410 or  
18 314.415.

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

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

31 **SECTION 148.** ORS 305.280 is amended to read:

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

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

1 (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes  
 2 imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the  
 3 amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

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

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

14 **SECTION 149.** ORS 305.565 is amended to read:

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

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

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

26 (b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS  
 27 316.992 (5).

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

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

36 **SECTION 150.** ORS 305.850 is amended to read:

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

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

1 pursuant to this subsection shall be credited as provided in ORS 293.250.

2 (3) The director may assign to the collection agency, for collection purposes only, any of the  
3 taxes, penalties, interest and moneys due the state.

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

6 **SECTION 151.** ORS 305.895 is amended to read:

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

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

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

16 (b) Inform the taxpayer or transferee that, even if the taxpayer or transferee is compliant with  
17 an installment agreement between the taxpayer or transferee and the department and is in commu-  
18 nication with the department, if the tax or any portion of the tax or the amount payable under ORS  
19 311.695 is not paid within 30 days after the date of the notice and demand for payment, a warrant  
20 may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and  
21 324.190.

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

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

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

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

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

34 **SECTION 152.** ORS 731.840 is amended to read:

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

45 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity

1 as such.

2 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien  
3 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS  
4 731.824 and 731.828.

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

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

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

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

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

25 **SECTION 153.** ORS 801.040 is amended to read:

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

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

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

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

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

1 (c) Limit the authority of any city or county to impose requirements and conditions that govern  
 2 the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and  
 3 conditions are consistent with the provisions of ORS 822.230.

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

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

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

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

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

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

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

35 **SECTION 154.** ORS 802.110 is amended to read:

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

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

1 **in partial or complete payment of the use tax imposed under section 22 of this 2013 Act. Any**  
2 **bank check or money order received by the department that is in any part presented for**  
3 **payment of sales tax or use tax liability pursuant to section 42, 44 or 60 of this 2013 Act shall**  
4 **be retained by the department. A receipt shall be given for the retained check or money or-**  
5 **der.**

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

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

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

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

20 (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver  
21 Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805,  
22 336.810 (2) and 336.815.

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

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

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

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

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

44 **(h) After deducting the actual expenses of the department in collecting the use tax im-**  
45 **posed under section 22 of this 2013 Act, the department shall transfer the use tax moneys**

1 **collected under section 44 of this 2013 Act to the State Highway Fund.**

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

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

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

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

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

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

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

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

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

45 (6) Notwithstanding any other provision of this section, the following moneys shall be trans-

1   ferred to the State Highway Fund at the times described:

2       (a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses  
3   of the department shall be transferred before July 31 of each year.

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

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

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

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

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

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

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

22      (b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for  
23   development and maintenance of multiuse trails within urban growth boundaries described in ORS  
24   367.017 or for the development and maintenance of snowmobile facilities, including the acquisition  
25   of land therefor by any means other than the exercise of eminent domain. Moneys received under  
26   ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140,  
27   821.150, 821.190, 821.210 and 821.240 to 821.290.

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

40      **SECTION 155.** ORS 803.585 is amended to read:

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



(2) Travel trailers subject to registration and titling under the vehicle code are not subject to ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxation as provided in ORS 308.880.

**SECTION 156.** 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.

**INCOME TAX REDUCTION**

**SECTION 157.** ORS 316.037 is amended to read:

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

---

If taxable income is:	The tax is:
<i>[Not over \$2,000</i>	<i>5% of]</i>
<b>Not over \$2,000</b>	<b>2% of</b>
	taxable
	income
 Over \$2,000 but not	
<i>[over \$5,000</i>	<i>\$100 plus 7%]</i>
<b>over \$11,800</b>	<b>\$ 40 plus 4%</b>
	of the excess
	over \$2,000
 <i>[Over \$5,000 but not]</i>	
<i>[over \$125,000</i>	<i>\$310 plus 9%]</i>
	<i>[of the excess]</i>
	<i>[over \$5,000]</i>
<b>Over \$11,800</b>	<b>\$432 plus 6%</b>
	<b>of the excess</b>
	<b>over \$11,800</b>

1 [Over \$125,000                      \$11,110 plus 9.9%]  
 2    [of the excess]  
 3    [over \$125,000]

---

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

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

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

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

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

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

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

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

25 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year  
 26 resident of this state. The amount of the tax shall be computed under subsection (1) of this section  
 27 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided  
 28 under ORS 316.117 to determine the tax on income derived from sources within this state.

29 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident  
 30 that is derived from sources within this state. The amount of the tax shall be determined in ac-  
 31 cordance with the table set forth in subsection (1) of this section.

32 **SECTION 158. Section 159 of this 2013 Act is added to and made a part of ORS chapter**  
 33 **316.**

34 **SECTION 159. (1) As used in this section, "long-term capital gain" means gain recognized**  
 35 **through the sale of an asset that has been held by the taxpayer for at least 60 consecutive**  
 36 **months and that otherwise qualifies as long-term capital gain under section 1222 of the**  
 37 **Internal Revenue Code. "Long-term capital gain" does not include qualified dividends.**

38 **(2) In addition to the other modifications to federal taxable income contained in this**  
 39 **chapter, to derive Oregon taxable income there shall be subtracted from federal taxable in-**  
 40 **come 50 percent of the net long-term capital gain incurred by the taxpayer during the tax**  
 41 **year that is included in federal taxable income for Oregon tax purposes, if the gain is at-**  
 42 **tributable to the sale of property:**

- 43 **(a) That has a primary purpose of income generation;**
- 44 **(b) That is used in Oregon in a revenue-producing enterprise; and**
- 45 **(c) That has been held by the taxpayer for at least 60 consecutive months.**

1       **(3) The subtraction allowed under this section shall be determined by multiplying 50**  
2 **percent by the total of the following amounts:**

3       **(a) Net long-term capital gain recognized through the sale of real property.**

4       **(b) The sale price of tangible personal property.**

5       **(4) A taxpayer may elect not to claim a subtraction under this section.**

6       **SECTION 160. (1) The amendments to ORS 316.037 by section 157 of this 2013 Act apply**  
7 **to tax years beginning on or after January 1, 2016.**

8       **(2) Section 159 of this 2013 Act applies to the sale of assets on or after January 1, 2016,**  
9 **and to tax years beginning on or after January 1, 2016.**

10       **SECTION 161. ORS 315.266 is amended to read:**

11       315.266. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible  
12 resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316  
13 for the tax year in an amount equal to [six] **25** percent of the earned income credit allowable to the  
14 individual for the same tax year under section 32 of the Internal Revenue Code.

15       (2) An eligible nonresident individual shall be allowed the credit computed in the same manner  
16 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.  
17 However, the credit shall be prorated using the proportion provided in ORS 316.117.

18       (3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
19 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
20 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

21       (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
22 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
23 ORS 316.117.

24       (5) If the amount allowable as a credit under this section, when added to the sum of the amounts  
25 allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other  
26 refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year  
27 after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax  
28 year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

29       (6) The Department of Revenue may adopt rules for purposes of this section, including but not  
30 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal  
31 earned income credit claimed by the taxpayer for the tax year.

32       (7) Refunds attributable to the earned income credit allowed under this section shall not bear  
33 interest.

34       **SECTION 162. The amendments to ORS 315.266 by section 161 of this 2013 Act apply to**  
35 **tax years beginning on or after January 1, 2015, and before January 1, 2021.**

36       **SECTION 163. ORS 315.266 applies to tax years beginning before January 1, 2021.**

37       **SECTION 164. Sections 5 and 6, chapter 880, Oregon Laws 2007, are repealed.**

38       **SECTION 165. Sections 166 and 172 of this 2013 Act are added to and made a part of ORS**  
39 **chapter 315.**

40       **SECTION 166. (1) A credit against taxes that are otherwise due under ORS chapter 316**  
41 **(or, if the taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a taxpayer**  
42 **that during the tax year makes an investment in a capital asset that is used in the**  
43 **taxpayer's business and is placed in service during the tax year. The credit under this section**  
44 **may not be allowed for investment in replacement property. The amount of the credit al-**  
45 **lowed under this section shall equal 10 percent of the amount invested and may not exceed**

1 \$1 million for the tax year.

2 (2) Prior to claiming the credit allowed under this section, a taxpayer is required to re-  
3 ceive written certification of eligibility for the credit from the Director of the Oregon Busi-  
4 ness Development Department.

5 (3) If the amount allowable as a credit under this section, when added to the sum of the  
6 amounts allowable as payment of estimated tax under ORS 314.505 or 316.583, payment of  
7 withholding under ORS 316.187, other tax prepayment amounts and other refundable credit  
8 amounts, exceeds the taxes imposed by ORS chapter 314 and ORS chapter 316, 317 or 318 for  
9 the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter  
10 316, 317 or 318 for the tax year), the amount of the excess shall be refunded to the taxpayer  
11 as provided in ORS 314.415 or 316.502.

12 (4) A nonresident shall be allowed the credit under this section. The credit shall be  
13 computed in the same manner and be subject to the same limitations as the credit granted  
14 to a resident. However, the credit shall be prorated using the proportion provided in ORS  
15 316.117.

16 (5) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,  
17 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,  
18 the credit allowed by this section shall be prorated or computed in a manner consistent with  
19 ORS 314.085.

20 (6) If a change in the status of a taxpayer from resident to nonresident or from nonres-  
21 ident to resident occurs, the credit allowed by this section shall be determined in a manner  
22 consistent with ORS 316.117.

23 (7) The Oregon Business Development Department, after consultation with the Depart-  
24 ment of Revenue, shall adopt rules to implement this section, including policies and proce-  
25 dures for certifying taxpayers as eligible for the credit allowed under this section as provided  
26 in subsection (2) of this section.

27 **SECTION 167.** Section 166 of this 2013 Act applies to investments made in tax years be-  
28 ginning on or after January 1, 2016.

29 **SECTION 168.** (1) The total amount that is certified by the Oregon Business Development  
30 Department for a tax credit allowed under section 166 of this 2013 Act in any tax year may  
31 not exceed \$1 million for any taxpayer.

32 (2) The department shall determine the dollar amount certified for any taxpayer and the  
33 priority between applications for certification based upon the criteria established by the de-  
34 partment by rule.

35 **SECTION 169.** The total amount of potential tax credits for all taxpayers certified under  
36 section 166 of this 2013 Act may not, at the time of certification under section 166 of this 2013  
37 Act, exceed \$50 million for any tax year.

38 **SECTION 170.** ORS 314.752 is amended to read:

39 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a  
40 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
41 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
42 allowable to the shareholders of the S corporation.

43 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on  
44 income of the shareholder of an S corporation, there shall be taken into account the shareholder's  
45 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but

1 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
 2 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
 3 manner prescribed under section 1377(a) of the Internal Revenue Code.

4 (3) The character of any item included in a shareholder's pro rata share under subsection (2)  
 5 of this section shall be determined as if such item were realized directly from the source from which  
 6 realized by the corporation, or incurred in the same manner as incurred by the corporation.

7 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
 8 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
 9 316.117, then that provision shall apply to the nonresident shareholder.

10 (5) As used in this section, "business tax credit" means a tax credit granted to personal income  
 11 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive  
 12 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-  
 13 section as a business tax credit or is designated as a business tax credit by law or by the Depart-  
 14 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309  
 15 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-  
 16 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
 17 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker  
 18 housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS  
 19 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326  
 20 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS  
 21 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing  
 22 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-  
 23 merce), ORS 315.533 (low income community jobs initiative) and ORS 317.115 (fueling stations nec-  
 24 essary to operate an alternative fuel vehicle) **and section 166 of this 2013 Act (investment in**  
 25 **business).**

26 **SECTION 171.** ORS 318.031 is amended to read:

27 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
 28 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
 29 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
 30 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,  
 31 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 166 of this 2013**  
 32 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

33 **SECTION 172.** (1) **As used in this section:**

34 (a) **"Household income"** means the aggregate adjusted gross income of the taxpayer and  
 35 the spouse of the taxpayer who reside in the household for the tax year.

36 (b) **"Household member"** means the taxpayer, the spouse of the taxpayer or a dependent  
 37 of the taxpayer who resides in the household for a period of at least 12 consecutive months  
 38 ending during the tax year.

39 (2) **In addition to any other credit available for purposes of ORS chapter 316, a credit**  
 40 **shall be allowed against the tax otherwise due under ORS chapter 316 for the tax year based**  
 41 **upon the household income of the taxpayer. If the taxpayer is a married individual who files**  
 42 **a separate return, the total credit allowed for the household shall be apportioned between**  
 43 **the taxpayer and the taxpayer's spouse. The credit allowed under this section shall be com-**  
 44 **puted based upon household income and the number of household members in the taxpayer's**  
 45 **household, as provided in the following table:**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

---

Household Income	Number of Household Members				
	1	2	3	4	5+
\$0 to \$10,844	\$256	\$307	\$358	\$409	\$460
\$10,845 to \$14,717	\$204	\$256	\$307	\$358	\$409
\$14,718 to \$18,590	\$153	\$204	\$256	\$307	\$358
\$18,591 to \$22,463	\$102	\$153	\$204	\$256	\$307
\$22,464 to \$26,336	\$51	\$102	\$153	\$204	\$256
\$26,337 to \$30,209	\$0	\$51	\$102	\$153	\$204
\$30,210 to \$34,082	\$0	\$0	\$51	\$102	\$153
\$34,083 to \$37,955	\$0	\$0	\$0	\$51	\$102
\$37,956 to \$41,828	\$0	\$0	\$0	\$0	\$51
Over \$41,828	\$0	\$0	\$0	\$0	\$0

---

(3) An eligible nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (2) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(4) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(5) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(6) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(7) Refunds attributable to the credit allowed under this section may not bear interest.

**SECTION 173.** Section 172 of this 2013 Act applies to tax years beginning on or after January 1, 2016.

**SECTION 174.** ORS 316.502 is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year

1 exceed the sum of \$1 million.

2 (3) Moneys are continuously appropriated to the Department of Revenue to make:

3 (a) The refunds authorized under subsection (2) of this section; and

4 (b) The refund payments in excess of tax liability authorized under ORS 315.262 and 315.266 and  
5 section 17, chapter 906, Oregon Laws 2007, **and section 172 of this 2013 Act.**

6  
7 **PROPERTY TAX EXEMPTION**

8  
9 **SECTION 175. Section 176 of this 2013 Act is added to and made a part of ORS chapter  
10 307.**

11 **SECTION 176. (1)(a) Notwithstanding any other provision of law, the first \$50,000 of as-  
12 sessed value of a homestead as defined in ORS 311.666 is exempt from all ad valorem property  
13 taxation.**

14 (b) The exemption under this section is in addition to any other partial exemption or  
15 special assessment applicable to a taxpayer's homestead.

16 (2)(a) Before allowing an exemption under this section for the current property tax year,  
17 the assessor of the county in which residential property is located may, pursuant to rules  
18 adopted by the Department of Revenue, require the taxpayer for the property to provide in-  
19 formation necessary to substantiate that the property is the taxpayer's homestead.

20 (b) Failure to provide the information requested under paragraph (a) of this subsection  
21 within 30 days after the request is sent shall result in the property being taxed as property  
22 that is not a homestead for purposes of this section until such time as the taxpayer provides  
23 information to the assessor substantiating that the property is the taxpayer's homestead.

24 (c) A taxpayer aggrieved by the taxation of property without the exemption allowable  
25 under this section may appeal to the tax court in the manner provided under ORS 305.280  
26 and 305.560.

27 **SECTION 177. Sections 178 and 179 of this 2013 Act are added to and made a part of ORS  
28 chapter 311.**

29 **SECTION 178. (1) Whenever the county assessor discovers, receives credible information  
30 or has reason to believe that property located in the county that was allowed an exemption  
31 under section 176 of this 2013 Act was not the taxpayer's homestead for any property tax  
32 years not exceeding five years prior to the last certified roll, the assessor shall give notice  
33 as provided in subsection (2) of this section. If the tax collector discovers, receives credible  
34 information or has reason to believe that property allowed an exemption under section 176  
35 of this 2013 Act was not the taxpayer's homestead, the tax collector shall immediately bring  
36 this to the attention of the assessor by written notice.**

37 (2)(a) In the circumstances described in subsection (1) of this section, the assessor shall  
38 give notice to the taxpayer for the property that the property:

39 (A) Is not eligible for the exemption under section 176 of this 2013 Act; and

40 (B) Shall be assessed for the value of the exemption for the number of prior property tax  
41 years determined under subsection (1) of this section, plus interest under section 179 (3) of  
42 this 2013 Act, if any.

43 (b) The notice required under this subsection shall:

44 (A) Be in writing;

45 (B) Be mailed to the address of the property; and

1 (C) Require the taxpayer to appear at a specified time, not less than 20 days after mailing  
2 the notice, and to show cause, if any, why the property should be taxed as the taxpayer's  
3 homestead.

4 (3)(a) If the taxpayer notified pursuant to subsection (2) of this section does not appear  
5 or fails to show cause why the property should be taxed as the taxpayer's homestead, the  
6 assessor shall proceed to correct the assessment or tax rolls on which the property was  
7 listed as the taxpayer's homestead.

8 (b) The assessor shall extend on the tax rolls the difference in the amount of property  
9 taxes that should have been imposed on the property and the amount of property taxes ac-  
10 tually imposed on the property for each year the property was taxed as the taxpayer's  
11 homestead.

12 (c) To carry out the correction of the tax rolls, the assessor shall send a written state-  
13 ment to the tax collector instructing the tax collector to make the necessary changes on the  
14 tax rolls. The statement shall contain all information needed by the tax collector to make  
15 the changes in the tax rolls and shall be dated and signed by the assessor or the deputy of  
16 the assessor. As soon as practicable after receipt of the statement, the tax collector shall  
17 then correct the tax rolls.

18 (4) Immediately after the assessor corrects the assessment or tax rolls, the assessor  
19 shall file in the office of the assessor a statement of the facts or evidence on which the  
20 assessor based the correction and notify the taxpayer by written notice, sent by first class  
21 mail to the taxpayer's last-known address, of:

22 (a) The date and amount of the correction, including interest under section 179 (3) of this  
23 2013 Act, if any;

24 (b) An explanation of the collection procedures applicable to the correction; and

25 (c) An explanation of the taxpayer's right to appeal under subsection (6) of this section  
26 and the procedures for making the appeal.

27 (5) To enable the assessor to comply with this section, the assessor is invested with all  
28 the powers of the county clerk under the law in force during the years for which correction  
29 may be made under this section and thereafter.

30 (6) A taxpayer aggrieved by an assessment made under this section may appeal to the  
31 tax court in the manner provided under ORS 305.280 and 305.560.

32 (7) Taxes imposed under this section shall be deemed imposed in the property tax years  
33 for which the property was improperly taxed as the taxpayer's homestead. A correction of  
34 the tax roll in the year in which it is discovered that the property was improperly taxed as  
35 the taxpayer's homestead shall not be considered in making the determination of the amount  
36 of tax imposed in calculating the tax limitations under Article XI, section 11b, of the Oregon  
37 Constitution, in that year.

38 SECTION 179. (1) Additional taxes imposed under section 178 of this 2013 Act shall be  
39 added to the tax extended against the property on the general property tax roll for the tax  
40 year following the current tax year, to be collected and distributed in the same manner as  
41 other ad valorem property taxes imposed on the property.

42 (2) Notwithstanding ORS 311.226, for purposes of collection and enforcement, the addi-  
43 tional taxes added to the roll under this section shall be considered delinquent as of the date  
44 the other taxes for the year in which the additional taxes are added to the roll become de-  
45 linquent.



1       **(3) When it appears to the satisfaction of the assessor that the taxation of the property**  
 2 **as the taxpayer's homestead was due to a willful attempt by the taxpayer to evade the pay-**  
 3 **ment of taxes on the property, the assessor shall advise the tax collector and interest at the**  
 4 **rate provided in ORS 311.505 (2) shall be added to the amounts charged, computed from the**  
 5 **dates that payment of the charges were properly due and continuing to run until payment**  
 6 **of the charges.**

7       **(4) Additional taxes arising under section 178 of this 2013 Act may be paid to the tax**  
 8 **collector prior to the completion of the next general property tax roll, pursuant to ORS**  
 9 **311.370.**

10       **(5) For purposes of this section, "additional taxes" includes increases in taxes that have**  
 11 **already been extended on the roll.**

12       **SECTION 180.** ORS 311.250 is amended to read:

13       311.250. (1) Except as to real property assessed to "unknown owners" pursuant to ORS 308.240  
 14 (2), on or before October 25 in each year, the tax collector shall deliver or mail to each person (as  
 15 defined in ORS 311.605) shown on the tax roll as an owner of real or personal property, or to an  
 16 agent or representative authorized in writing pursuant to ORS 308.215 by such person, a written  
 17 statement of property taxes payable on the following November 15.

18       (2) The failure of a taxpayer to receive the statement described in this section shall not invali-  
 19 date any assessment, levy, tax, or proceeding to collect tax.

20       (3) The tax collector shall not be liable for failure to deliver or mail the tax statements by Oc-  
 21 tober 25 as provided in subsection (1) of this section if such failure was caused by not receiving the  
 22 tax roll from the assessor by the time provided by law or by reason of any other circumstance be-  
 23 yond the control of the tax collector. In such case the tax collector shall deliver or mail the state-  
 24 ments as soon as possible.

25       (4) Where, for any reason the taxes due on any property on the assessment roll in any year  
 26 cannot be ascertained from the tax roll by November 5 of that year, within 15 days thereafter the  
 27 owner or other person liable for or desiring to pay the taxes on such property may tender to the  
 28 tax collector, and the tax collector may collect, a payment of all or part of the taxes estimated by  
 29 the tax collector to be due on such property. Immediately after the taxes are actually extended on  
 30 the tax roll, the tax collector shall credit the amount paid as provided by law, allowing the discount  
 31 under ORS 311.505 and not charging interest for the amount of taxes satisfied by such payment.  
 32 Where there has been an underpayment, additional taxes shall be collected, and where there has  
 33 been an overpayment, refund shall be made as otherwise provided by law.

34       (5) The tax statement described in this section shall be designed by the Department of Revenue  
 35 and shall contain such information as the department shall prescribe by rule including:

36       (a) The real market value of the property for which the tax statement is being prepared (or the  
 37 property's specially assessed value if the property is subject to special assessment) for the current  
 38 and prior tax year;

39       (b) The property's assessed value for the current and prior tax year; *[and]*

40       (c) The total amount of taxes due on the property; **and**

41       **(d) Notice that if the amount of taxes due on the property reflects an exemption for a**  
 42 **homestead under section 176 of this 2013 Act and the property is not the taxpayer's owner**  
 43 **occupied principal dwelling, the taxpayer must notify the county assessor within 30 days af-**  
 44 **ter the date on the statement.**

45       **SECTION 181.** Sections 175 to 179 of this 2013 Act and the amendments to ORS 311.250

1 by section 180 of this 2013 Act apply to property tax years beginning on or after July 1, 2016.

2  
3 **TECHNICAL PROVISIONS**

4  
5 **SECTION 182.** (1) The sales tax imposed under section 11 of this 2013 Act applies to sales  
6 occurring on or after the operative date of this section.

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

10 (b) Notwithstanding paragraph (a) of this subsection, the sales tax applies to sales oc-  
11 ccurring on or after the date of an extension or renewal of a contract, lease or rental agree-  
12 ment described in paragraph (a) of this subsection if the extension or renewal is entered into  
13 on or after the operative date of this section.

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

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

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

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

26 **SECTION 183.** (1) Sections 1 to 129, 131 to 144 and 182 of this 2013 Act and the amend-  
27 ments to ORS 305.130, 305.265, 305.270, 305.280, 305.380, 305.565, 305.850, 305.895, 314.430,  
28 731.840, 801.040, 802.110 and 803.585 by sections 130 and 145 to 156 of this 2013 Act become  
29 operative on January 1, 2016.

30 (2) The Department of Revenue and the Department of Transportation may take any  
31 action before the operative date specified in subsection (1) of this section that is necessary  
32 to enable the departments to exercise, on and after the operative date specified in subsection  
33 (1) of this section, all the duties, functions and powers conferred on the departments by  
34 sections 1 to 129, 131 to 144 and 182 of this 2013 Act and the amendments to ORS 305.130,  
35 305.265, 305.270, 305.280, 305.380, 305.565, 305.850, 305.895, 314.430, 731.840, 801.040, 802.110 and  
36 803.585 by sections 130 and 145 to 156 of this 2013 Act.

37 (3) Notwithstanding subsection (1) of this section, sections 1 to 129, 131 to 144 and 182  
38 of this 2013 Act and the amendments to ORS 305.130, 305.265, 305.270, 305.280, 305.380, 305.565,  
39 305.850, 305.895, 314.430, 731.840, 801.040, 802.110 and 803.585 by sections 130 and 145 to 156 of  
40 this 2013 Act do not become operative if the State of Oregon has not entered into the  
41 Streamlined Sales and Use Tax Agreement, as defined in section 2 of this 2013 Act, before  
42 January 1, 2016.

43 **SECTION 184.** The unit captions used in this 2013 Act are provided only for the conven-  
44 ience of the reader and do not become part of the statutory law of this state or express any  
45 legislative intent in the enactment of this 2013 Act.

1        **SECTION 185.** This 2013 Act does not take effect unless the amendment to the Oregon  
2        **Constitution proposed by Senate Joint Resolution 36 (2013) is approved by the people at the**  
3        **next regular general election held throughout this state. This 2013 Act takes effect on the**  
4        **effective date of that constitutional amendment.**

5

---