HB 2456-2
(LC 1222)
4/9/13 (CMT/ps)

PROPOSED AMENDMENTS TO HOUSE BILL 2456

On page 1 of the printed bill, line 2, after “amending” delete the rest of the line and line 3 and insert “ORS 316.085, 316.362, 316.687, 316.690, 316.695, 317.090, 317.267 and 317.715; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.”.

Delete lines 5 through 29 and delete pages 2 through 9 and insert:

“SECTION 1. ORS 316.695 is amended to read:

“316.695. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be added to or subtracted from federal taxable income:

“(a) If, in computing federal income tax for a taxable year, the taxpayer deducted itemized deductions, as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized deductions are reduced under section 68 of the Internal Revenue Code).

“(b) If, in computing federal income tax for a taxable year, the taxpayer deducted the standard deduction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount of the standard deduction deducted.

“(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer’s itemized deductions or (ii) a standard deduction. Except as provided in subsection [*(8)*] **(10)** of this section, for purposes of this subparagraph, 'standard deduction' means the sum of the basic standard deduction and the additional standard deduction.

"(B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

"(i) $3,280, in the case of joint return filers or a surviving spouse;

"(ii) $1,640, in the case of an individual who is not a married individual and is not a surviving spouse;

"(iii) $1,640, in the case of a married individual who files a separate return; or

"(iv) $2,640, in the case of a head of household.

"(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

"(ii) If any change in the maximum household income determined under this subparagraph is not a multiple of $5, the increase shall be rounded to the next lower multiple of $5.

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

"(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection [*(7)*] **(9)** of this section.

"(E) As used in subparagraph (B) of this paragraph, 'surviving spouse' and 'head of household' have the meaning given those terms in section 2 of the Internal Revenue Code.

"(F) In the case of the following, the standard deduction referred to in subparagraph (A) of this paragraph shall be zero:

"(i) A husband or wife filing a separate return where the other spouse has claimed itemized deductions under subparagraph (A) of this paragraph;

"(ii) A nonresident alien individual;

"(iii) An individual making a return for a period of less than 12 months on account of a change in the individual's annual accounting period;

"(iv) An estate or trust;

"(v) A common trust fund; or

"(vi) A partnership.

"[*(d)*] **(2)** For the purposes of [*paragraph (c)(A) of this subsection*] **subsection (1)(c)(A) of this section**, the taxpayer's itemized deductions [*are*] **shall be reduced as provided in subsection (3) of this section and shall be calculated from a starting point of** the sum of:

"[*(A)*] **(a)** The taxpayer's itemized deductions as defined in section 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code); and

"[*(B)*] **(b)** The amount that may be taken into account under section 213(a) of the Internal Revenue Code, not to exceed seven and one-half percent of the federal adjusted gross income of the taxpayer, if the taxpayer has attained the following age before the close of the taxable year, or, in the case of a joint return, if either taxpayer has attained [*the following age before the close of the taxable year:*]

"[*(i) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, a taxpayer must attain 58 years of age before the close of the taxable year.*]

"[*(ii) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, a taxpayer must attain 59 years of age before the close of the taxable year.*]

"[*(iii) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, a taxpayer must attain 60 years of age before the close of the taxable year.*]

"[*(iv) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, a taxpayer must attain 61 years of age before the close of the taxable year.*]

"[*(v) For taxable years beginning on or after January 1, 1999, a taxpayer must attain*] 62 years of age before the close of the taxable year.

"**(3)(a) If for the tax year, a taxpayer has federal adjusted gross income in excess of the applicable limits provided in paragraph (b) of this subsection, the amount of itemized deductions otherwise allowable under subsection (2) of this section shall be reduced by 18 percent of the excess of adjusted gross income over the applicable limit.**

"(b) The applicable limits are $250,000, in the case of joint return filers or a surviving spouse, or $125,000, in the case of a taxpayer filing an individual return, including a head of household.

"[*(2)(a)*] **(4)(a)** There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

"(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection shall not be added to federal taxable income in the year earned by the plan and shall not be subtracted from federal taxable income in the year received by the taxpayer.

"[*(3)(a)*] **(5)(a)** Except as provided in subsection [*(4)*] **(6)** of this section, there shall be added to federal taxable income the amount of any federal income taxes in excess of the amount provided in paragraphs (b) to (d) of this subsection, accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

"(b) The limits applicable to this subsection are:

"(A) $5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than $125,000, or, if reported on a joint return, less than $250,000.

"(B) $4,400, if the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more and less than $130,000, or, if reported on a joint return, $250,000 or more and less than $260,000.

"(C) $3,300, if the federal adjusted gross income of the taxpayer for the tax year is $130,000 or more and less than $135,000, or, if reported on a joint return, $260,000 or more and less than $270,000.

"(D) $2,200, if the federal adjusted gross income of the taxpayer for the tax year is $135,000 or more and less than $140,000, or, if reported on a joint return, $270,000 or more and less than $280,000.

"(E) $1,100, if the federal adjusted gross income of the taxpayer for the tax year is $140,000 or more and less than $145,000, or, if reported on a joint return, $280,000 or more and less than $290,000.

"(c) If the federal adjusted gross income of the taxpayer is $145,000 or more for the tax year, or, if reported on a joint return, $290,000 or more, the limit is zero and the taxpayer is not allowed a subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

"(d) In the case of a husband and wife filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess of the amount provided for individual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

"(e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

"(f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue shall make a cost-of-living adjustment to the federal income tax threshold amounts described in paragraphs (b) and (d) of this subsection.

"(B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

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

"(D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of $50, the adjustment shall be rounded to the next lower multiple of $50.

"(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

"[*(4)(a)*] **(6)(a)** In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of the amount provided in subsection [*(3)*] **(5)** of this section in the proportion provided in ORS 316.117.

"(b) In the case of a husband and wife filing separate tax returns, the amount added under this subsection shall be computed in a manner consistent with the computation of the amount to be added in the case of a husband and wife filing separate returns under subsection [*(3)*] **(5)** of this section. The method of computation shall be determined by the Department of Revenue by rule.

"[*(5)*] **(7)** Subsections [*(3)(d) and (4)(b)*] **(5)(d) and (6)(b)** of this section shall not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

"[*(6)(a)*] **(8)(a)** For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.

"(b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder the items are required to be adjusted under the provisions of this chapter.

"(c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S corporation.

"(d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small business corporation.

"[*(7)(a)*] **(9)(a)** The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of $1,000:

"(A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's taxable year; and

"(B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code.

"(b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of $1,000:

"(A) For the taxpayer if the taxpayer is blind at the close of the taxable year; and

"(B) For the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse dies during the taxable year, the determination of whether such spouse is blind shall be made immediately prior to death.

"(c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a) and (b) of this subsection shall be applied by substituting '$1,200' for '$1,000.'

"(d) For purposes of this subsection, an individual is blind only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"[*(8)*] **(10)** In the case of an individual with respect to whom a deduction under section 151 of the Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the basic standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such individual's taxable year shall equal the lesser of:

"(a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for federal income tax purposes for the tax year for which the deduction is being claimed; or

"(b) The amount determined under subsection (1)(c)(B) of this section.

"SECTION 2. ORS 317.090 is amended to read:

"317.090. (1) As used in this section:

"(a) 'Oregon sales' means:

"(A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes of ORS 314.665;

"(B) If the corporation does not apportion business income for Oregon tax purposes, the total sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer were required to apportion business income for Oregon tax purposes; or

"(C) If the corporation apportions business income using a method different from the method prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.

"(b) If the corporation is an agricultural cooperative that is a cooperative organization described in section 1381 of the Internal Revenue Code, 'Oregon sales' does not include sales representing business done with or for members of the agricultural cooperative.

"(2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall pay annually to the state, for the privilege of carrying on or doing business by it within this state, a minimum tax as follows:

"(a) If Oregon sales properly reported on a return are:

"(A) Less than $500,000, the minimum tax is $150.

"(B) $500,000 or more, but less than $1 million, the minimum tax is $500.

"(C) $1 million or more, but less than $2 million, the minimum tax is $1,000.

"(D) $2 million or more, but less than $3 million, the minimum tax is $1,500.

"(E) $3 million or more, but less than $5 million, the minimum tax is $2,000.

"(F) $5 million or more, but less than $7 million, the minimum tax is $4,000.

"(G) $7 million or more, but less than $10 million, the minimum tax is $7,500.

"(H) $10 million or more, but less than $25 million, the minimum tax is $15,000.

"(I) $25 million or more, but less than $50 million, the minimum tax is $30,000.

"(J) $50 million or more, but less than $75 million, the minimum tax is $50,000.

"(K) $75 million or more, but less than $100 million, the minimum tax is $75,000.

"(L) $100 million [*or more*], the minimum tax is $100,000.

"**(M) More than $100 million, the minimum tax is $100,000 plus 0.1 percent of the excess over $100 million.**

"(b) If a corporation is an S corporation, the minimum tax is $150.

"(3) The minimum tax is not apportionable (except in the case of a change of accounting periods), and is payable in full for any part of the year during which a corporation is subject to tax.

"SECTION 3. ORS 316.085 is amended to read:

"316.085. (1)(a) There shall be allowed a personal exemption credit against taxes otherwise due under this chapter. The credit shall equal $90 multiplied by the number of personal exemptions allowed under section 151 of the Internal Revenue Code.

"(b) In the case of an individual with respect to whom a credit under paragraph (a) of this subsection is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to such individual for such individual's taxable year is zero.

"(2)(a) A nonresident shall be allowed the credit provided under subsection (1) of this section computed in the same manner and subject to the same limitations as the credit allowed to a resident of this state. However, the credit shall be prorated using the proportion provided in ORS 316.117.

"(b) 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.

"(c) 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.

"(3) The Department of Revenue shall recompute the dollar amount of the personal exemption credit allowed for state personal income tax purposes. The computation shall be as follows:

"(a) Divide the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the monthly averaged index for the first six months of 1986.

"(b) Recompute the dollar amount of the personal exemption credit by multiplying $90 by the appropriate indexing factor determined as provided in paragraph (a) of this subsection. Round off the amount obtained under this paragraph to the nearest $1.

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

"(5) Notwithstanding subsections (1) to (3) of this section, **a taxpayer may not claim the exemption credit otherwise allowed under this section** if [*a*] **the** taxpayer's federal adjusted gross income for the tax year exceeds **$250,000, in the case of joint return filers or a surviving spouse, or $125,000, in the case of a taxpayer filing an individual return, including a head of household.**[*the threshold amount, the exemption amount shall be the greater of:*]

"[*(a) Thirty-three percent of the amount computed in subsection (3) of this section; or*]

"[*(b) The amount computed in subsection (3) of this section reduced by:*]

"[*(A) Two percentage points for each $2,500 (or fraction thereof) by which the taxpayer's federal adjusted gross income exceeds the threshold amount; or*]

"[*(B) Two percentage points for each $1,250 (or fraction thereof) by which the taxpayer's federal adjusted gross income exceeds the threshold amount, if the taxpayer is married but filing separately.*]

"[*(6) As used in this section, 'threshold amount' means:*]

"[*(a) $234,600 in the case of a joint return or a surviving spouse.*]

"[*(b) $195,500 in the case of a head of a household.*]

"[*(c) $156,400 in the case of an individual who is not a married individual and is not a surviving spouse.*]

"[*(d) $117,300 in the case of a married individual filing a separate return.*]

"[*(7) The Department of Revenue shall adjust the threshold amounts in subsection (6) of this section according to the cost-of-living adjustment for the calendar year. The department shall annually recompute the threshold amounts for the current tax year by multiplying each dollar amount by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index* *for the 12 consecutive months ending August 31, 2006.*]

"[*(8) If a threshold amount computed under subsections (6) and (7) of this section is not a multiple of $50, the amount shall be rounded to the next lower multiple of $50.*]

"**SECTION 4.** ORS 316.362 is amended to read:

"316.362. (1) An income tax return with respect to the tax imposed by this chapter shall be made by the following:

"(a) Every resident individual:

"(A) Who is required to file a federal income tax return for the taxable year; or

"(B) Who has gross income greater than the sum of:

"(i) The basic standard deduction allowed under ORS 316.695 (1)(c)(B);

"(ii) Any additional standard deduction allowed to the taxpayer under ORS 316.695 [*(7)*] **(9)**; and

"(iii) An amount equal to the income equivalent of one personal exemption credit under ORS 316.085 (3)(b) if unmarried, or equal to the income equivalent of two personal exemption credits under ORS 316.085 (3)(b) if married.

"(b) Every nonresident individual who has federal gross income from sources in this state of more than the basic standard deduction allowed under ORS 316.695 (1)(c)(B).

"(c) Every resident estate or trust that is required to file a federal income tax return.

"(d) Every nonresident estate that has federal gross income of $600 or more for the taxable year from sources within this state.

"(e) Every nonresident trust that for the taxable year has from sources within this state any taxable income, or gross income of $600 or more regardless of the amount of taxable income.

"(2) Nothing contained in this section shall preclude the Department of Revenue from requiring any individual, estate or trust to file a return when, in the judgment of the department, a return should be filed.

"(3) For purposes of this section, the income equivalent of a personal exemption credit under ORS 316.085 (3)(b) shall be determined as follows:

"(a) Divide the personal exemption credit amount by the rate applicable to the lowest income bracket under ORS 316.037.

"(b) If the resulting quotient is less than the maximum amount of income subject to the rate used in paragraph (a) of this subsection, the quotient is the income equivalent.

"(c) If the resulting quotient is more than the maximum amount of income subject to the rate used in paragraph (a) of this subsection:

"(A) Multiply the maximum amount of income subject to the rate used in paragraph (a) of this subsection by the rate used in paragraph (a) of this subsection.

"(B) Determine the difference between the product calculated under subparagraph (A) of this paragraph and the personal exemption credit amount.

"(C) Divide the difference determined in subparagraph (B) of this paragraph by the rate applicable to the income bracket that is the next succeeding the lowest income bracket under ORS 316.037.

"(D) Add the quotient determined in subparagraph (C) of this paragraph to the maximum amount of income subject to the rate used in paragraph (a) of this subsection. The sum is the income equivalent.

"SECTION 5. ORS 316.687 is amended to read:

"316.687. There shall be added to federal taxable income of a parent who makes an election under section 1(g)(7)(B) of the Internal Revenue Code any amount in excess of the standard deduction allowed for a child under ORS 316.695 [*(8)*] **(10)** but not in excess of the amount described in section 1(g)(7)(B)(i) of the Internal Revenue Code (twice the amount in effect for the taxable year under section 63(c)(5)(A) of the Internal Revenue Code). The addition under this section shall be made for each child whose income is included in the taxable income of the parent under section 1(g)(7)(B) of the

Internal Revenue Code.

"SECTION 6. ORS 316.690 is amended to read:

"316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year by a foreign country as a credit on the federal income tax return or does not itemize personal deductions on the federal income tax return, there shall be subtracted from federal taxable income in the computation of state taxable income the amount of foreign income taxes imposed for the taxable year by a foreign country.

"(2) The deduction for foreign country income taxes provided by this section shall be limited as follows:

"(a) Except as provided in paragraph (b) of this subsection, the sum of foreign country income taxes deducted in computing state taxable income and the modification for federal income taxes authorized by ORS 316.680 (1)(b) as limited by ORS 316.695 [*(3)*] **(5)** shall not exceed $3,000.

"(b) In the case of a husband and wife filing separate tax returns, the sum described in paragraph (a) of this subsection shall be limited to $1,500.

"SECTION 7. ORS 317.715 is amended to read:

"317.715. (1) If a corporation required to make a return under this chapter is a member of an affiliated group of corporations making a consolidated federal return under sections 1501 to 1505 of the Internal Revenue Code, the corporation's Oregon taxable income shall be determined beginning with federal consolidated taxable income of the affiliated group as provided in this section.

"**(2)(a) For purposes of determining Oregon taxable income, the income of any unitary corporation that is incorporated in a nonexempt jurisdiction shall be added to federal consolidated taxable income.**

"(b) Nonexempt jurisdictions include Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize,

Bermuda, the British Virgin Islands, the Cayman Islands, the Cook Islands, Cyprus, Dominica, Gibraltar, Grenada, Guernsey-Sark-Alderney, the Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Malta, the Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, the Netherlands Antilles, Niue, Panama, Samoa, San Marino, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, the Turks and Caicos Islands, the U.S. Virgin Islands, and Vanuatu.

"[*(2)*] **(3)** If the affiliated group, of which the corporation subject to taxation under this chapter is a member, consists of more than one unitary group, before the additions, subtractions, adjustments and modifications to federal taxable income provided for in this chapter are made, and before allocation and apportionment as provided in ORS 317.010 (10), if any, modified federal consolidated taxable income shall be computed. Modified federal consolidated taxable income shall be determined by eliminating from the federal consolidated taxable income of the affiliated group the separate taxable income, as determined under Treasury Regulations adopted under section 1502 of the Internal Revenue Code, and any deductions or additions or items of income, expense, gain or loss for which consolidated treatment is prescribed under Treasury Regulations adopted under section 1502 of the Internal Revenue Code, attributable to the member or members of any unitary group of which the corporation is not a member.

"[*(3)(a)*] **(4)(a)** After modified federal consolidated taxable income is determined under subsection [*(2)*] **(3)** of this section, the additions, subtractions, adjustments and modifications prescribed by this chapter shall be made to the modified federal consolidated taxable income of the remaining members of the affiliated group, where applicable, as if all such members were subject to taxation under this chapter. After those modifications are made, Oregon taxable income or loss shall be determined as provided in ORS 317.010 (10)(a) to (c), if necessary.

"(b) In the computation of the Oregon apportionment percentage for a corporation that is a member of an affiliated group filing a consolidated federal return, there shall be taken into consideration only the property, payroll, sales or other factors of those members of the affiliated group whose items of income, expense, gain or loss remain in modified federal consolidated taxable income after the eliminations required under subsection [*(2)*] **(3)** of this section. Those members of an affiliated group making a consolidated federal return or a consolidated state return [*shall*] **may** not be treated as one taxpayer for purposes of determining whether any member of the group is taxable in this state or any other state with respect to questions of jurisdiction to tax or the composition of the apportionment factors used to attribute income to this state under ORS 314.280 or 314.605 to 314.675.

"**SECTION 8.** ORS 317.267 is amended to read:

"317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income amounts received as dividends from corporations deducted for federal purposes pursuant to section 243 or 245 of the Internal Revenue Code, except section 245(c) of the Internal Revenue Code, amounts paid as dividends by a public utility or telecommunications utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by members of an affiliated group that are eliminated from a consolidated federal return pursuant to ORS 317.715 [*(2)*] **(3)**.

"(2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of this section, there shall be subtracted from federal taxable income an amount equal to 70 percent of dividends (determined without regard to section 78 of the Internal Revenue Code) received or deemed received from corporations if such dividends are included in federal taxable income. However:

"(a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the same conditions and in same amount as the dividends received deduction otherwise allowable for federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

"(b) In the case of any dividend received from a 20 percent owned corporation, as defined in section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting '80 percent' for '70 percent.'

"(c) A dividend that is not treated as a dividend under section 243(d) or 965(c)(3) of the Internal Revenue Code may not be treated as a dividend for purposes of this subsection.

"(d) If a dividends received deduction is not allowed for federal tax purposes because of section 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

"(3) There shall be excluded from the sales factor of any apportionment formula employed to attribute income to this state any amount subtracted from federal taxable income under subsection (2) of this section.

"SECTION 9. On or before January 1 of each odd-numbered year, the Department of Revenue shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245. The report shall include recommendations for legislation related to nonexempt jurisdictions, including recommendations for additions to or subtractions from the list of nonexempt jurisdictions in ORS 317.715.

"SECTION 10. (1) The amendments to ORS 316.085, 316.362, 316.687, 316.690, 316.695 and 317.090 by sections 1 to 6 of this 2013 Act apply to tax years beginning on or after January 1, 2013.

"(2) The amendments to ORS 317.715 and 317.267 by sections 7 and 8 of this 2013 Act apply to tax years beginning on or after January 1, 2014.

"**SECTION 11. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**".