

**PROPOSED MINORITY REPORT AMENDMENTS TO  
HOUSE BILL 2456**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of  
2 the line and line 3 and insert “ORS 317.267 and 317.715; and prescribing an  
3 effective date.”.

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

5 **“SECTION 1. ORS 317.715 is amended to read:**

6 **“317.715. (1) If a corporation required to make a return under this chapter**  
7 **is a member of an affiliated group of corporations making a consolidated**  
8 **federal return under sections 1501 to 1505 of the Internal Revenue Code, the**  
9 **corporation’s Oregon taxable income shall be determined beginning with**  
10 **federal consolidated taxable income of the affiliated group as provided in this**  
11 **section.**

12 **“(2)(a) For purposes of determining Oregon taxable income, the**  
13 **taxable income or loss of any corporation that is a member of a**  
14 **unitary group and that is incorporated in any of the following juris-**  
15 **dictions shall be added to federal consolidated taxable income:**

16 **“(b) Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas,**  
17 **Bahrain, Barbados, Belize, Bermuda, the British Virgin Islands, the**  
18 **Cayman Islands, the Cook Islands, Cyprus, Dominica, Gibraltar,**  
19 **Grenada, Guernsey-Sark-Alderney, the Isle of Man, Jersey, Liberia,**  
20 **Liechtenstein, Luxembourg, Malta, the Marshall Islands, Mauritius,**  
21 **Monaco, Montserrat, Nauru, the Netherlands Antilles, Niue, Panama,**  
22 **Samoa, San Marino, Seychelles, St. Kitts and Nevis, St. Lucia, St.**

1 **Vincent and the Grenadines, the Turks and Caicos Islands, the**  
2 **U.S. Virgin Islands, and Vanuatu.**

3 “[2] (3) If the affiliated group, of which the corporation subject to tax-  
4 ation under this chapter is a member, consists of more than one unitary  
5 group, before the additions, subtractions, adjustments and modifications to  
6 federal taxable income provided for in this chapter are made, and before al-  
7 location and apportionment as provided in ORS 317.010 (10), if any, modified  
8 federal consolidated taxable income shall be computed. Modified federal  
9 consolidated taxable income shall be determined by eliminating from the  
10 federal consolidated taxable income of the affiliated group the separate tax-  
11 able income, as determined under Treasury Regulations adopted under sec-  
12 tion 1502 of the Internal Revenue Code, and any deductions or additions or  
13 items of income, expense, gain or loss for which consolidated treatment is  
14 prescribed under Treasury Regulations adopted under section 1502 of the  
15 Internal Revenue Code, attributable to the member or members of any  
16 unitary group of which the corporation is not a member.

17 “[3(a)] (4)(a) After modified federal consolidated taxable income is de-  
18 termined under subsection [(2)] (3) of this section, the additions, sub-  
19 tractions, adjustments and modifications prescribed by this chapter shall be  
20 made to the modified federal consolidated taxable income of the remaining  
21 members of the affiliated group, where applicable, as if all such members  
22 were subject to taxation under this chapter. After those modifications are  
23 made, Oregon taxable income or loss shall be determined as provided in ORS  
24 317.010 (10)(a) to (c), if necessary.

25 “(b) In the computation of the Oregon apportionment percentage for a  
26 corporation that is a member of an affiliated group filing a consolidated  
27 federal return, there shall be taken into consideration only the property,  
28 payroll, sales or other factors of those members of the affiliated group, **and**  
29 **of those corporations described in subsection (2) of this section**, whose  
30 items of income, expense, gain or loss remain in modified federal consol-

1 idated taxable income after the eliminations required under subsection [(2)]  
2 **(3)** of this section. Those members of an affiliated group making a consol-  
3 idated federal return or a consolidated state return [*shall*] **may** not be  
4 treated as one taxpayer for purposes of determining whether any member of  
5 the group is taxable in this state or any other state with respect to questions  
6 of jurisdiction to tax or the composition of the apportionment factors used  
7 to attribute income to this state under ORS 314.280 or 314.605 to 314.675.

8 **“(5) The Department of Revenue shall adopt rules:**

9 **“(a) To determine the computation of income or loss for a corpo-**  
10 **ration that is a member of a unitary group and that is not otherwise**  
11 **required to file a consolidated federal return.**

12 **“(b) To prevent double taxation or double deduction of any amount**  
13 **included in the computation of income under this section.**

14 **“SECTION 2.** ORS 317.267 is amended to read:

15 **“317.267. (1)** To derive Oregon taxable income, there shall be added to  
16 federal taxable income amounts received as dividends from corporations de-  
17 ducted for federal purposes pursuant to section 243 or 245 of the Internal  
18 Revenue Code, except section 245(c) of the Internal Revenue Code, amounts  
19 paid as dividends by a public utility or telecommunications utility and de-  
20 ducted for federal purposes pursuant to section 247 of the Internal Revenue  
21 Code or dividends eliminated under Treasury Regulations adopted under  
22 section 1502 of the Internal Revenue Code that are paid by members of an  
23 affiliated group that are eliminated from a consolidated federal return pur-  
24 suant to ORS 317.715 [(2)] **(3).**

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

1 “(a) In the case of any dividend on debt-financed portfolio stock as de-  
2 scribed in section 246A of the Internal Revenue Code, the subtraction al-  
3 lowed under this subsection shall be reduced under the same conditions and  
4 in same amount as the dividends received deduction otherwise allowable for  
5 federal income tax purposes is reduced under section 246A of the Internal  
6 Revenue Code.

7 “(b) In the case of any dividend received from a 20 percent owned corpo-  
8 ration, as defined in section 243(c) of the Internal Revenue Code, this sub-  
9 section shall be applied by substituting ‘80 percent’ for ‘70 percent.’

10 “(c) A dividend that is not treated as a dividend under section 243(d) or  
11 965(c)(3) of the Internal Revenue Code may not be treated as a dividend for  
12 purposes of this subsection.

13 “(d) If a dividends received deduction is not allowed for federal tax pur-  
14 poses because of section 246(a) or (c) of the Internal Revenue Code, a sub-  
15 traction may not be made under this subsection for received dividends that  
16 are described in section 246(a) or (c) of the Internal Revenue Code.

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

20 **“SECTION 3. On or before January 1 of each odd-numbered year,**  
21 **the Department of Revenue shall submit a report to the Legislative**  
22 **Assembly in the manner provided by ORS 192.245. The report shall in-**  
23 **clude recommendations for legislation related to jurisdictions listed in**  
24 **ORS 317.715 (2)(b), including recommendations for additions to or**  
25 **subtractions from the list of jurisdictions in ORS 317.715 (2)(b).**

26 **“SECTION 4. The amendments to ORS 317.715 and 317.267 by**  
27 **sections 1 and 2 of this 2013 Act apply to tax years beginning on or**  
28 **after January 1, 2014.**

29 **“SECTION 5. (1) For tax years beginning on or after January 1,**  
30 **2014, any revenue that is received by the Department of Revenue and**

1 that can be attributed to the operation of the amendments to ORS  
2 317.715 by section 1 of this 2013 Act and that is in excess of the revenue  
3 that would be received absent the operation of the amendments to  
4 ORS 317.715 by section 1 of this 2013 Act shall be deposited into the  
5 Mental Health Services Fund established by ORS 430.197.

6 “(2) Before the end of each biennium, beginning with the biennium  
7 ending on June 30, 2015, the department shall estimate the revenue  
8 described in subsection (1) of this section that is received during the  
9 biennium. An amount equal to that estimate shall be transferred into  
10 the Mental Health Services Fund established by ORS 430.197 on or be-  
11 fore June 30 of each odd-numbered year.

12 “SECTION 6. This 2013 Act takes effect on the 91st day after the  
13 date on which the 2013 regular session of the Seventy-seventh Legis-  
14 lative Assembly adjourns sine die.”.

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