

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2460**

1 In line 2 of the printed A-engrossed bill, after “compliance;” insert “cre-
2 ating new provisions; amending ORS 317.267 and 317.715;”.

3 After line 11, insert:

4 **“SECTION 2.** ORS 317.715 is amended to read:

5 “317.715. (1) If a corporation required to make a return under this chapter
6 is a member of an affiliated group of corporations making a consolidated
7 federal return under sections 1501 to 1505 of the Internal Revenue Code, the
8 corporation’s Oregon taxable income shall be determined beginning with
9 federal consolidated taxable income of the affiliated group as provided in this
10 section.

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

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

1 **and Vanuatu.**

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

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

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

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

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

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

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

13 **“SECTION 3.** ORS 317.267 is amended to read:

14 “317.267. (1) To derive Oregon taxable income, there shall be added to
15 federal taxable income amounts received as dividends from corporations de-
16 ducted for federal purposes pursuant to section 243 or 245 of the Internal
17 Revenue Code, except section 245(c) of the Internal Revenue Code, amounts
18 paid as dividends by a public utility or telecommunications utility and de-
19 ducted for federal purposes pursuant to section 247 of the Internal Revenue
20 Code or dividends eliminated under Treasury Regulations adopted under
21 section 1502 of the Internal Revenue Code that are paid by members of an
22 affiliated group that are eliminated from a consolidated federal return pur-
23 suant to ORS 317.715 [(2)] **(3)**.

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

30 “(a) In the case of any dividend on debt-financed portfolio stock as de-

1 scribed in section 246A of the Internal Revenue Code, the subtraction al-
2 lowed under this subsection shall be reduced under the same conditions and
3 in same amount as the dividends received deduction otherwise allowable for
4 federal income tax purposes is reduced under section 246A of the Internal
5 Revenue Code.

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

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

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

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

19 **“SECTION 4. On or before January 1 of each odd-numbered year,**
20 **the Department of Revenue shall submit a report to the Legislative**
21 **Assembly in the manner provided by ORS 192.245. The report shall in-**
22 **clude recommendations for legislation related to jurisdictions listed in**
23 **ORS 317.715 (2)(b), including recommendations for additions to or**
24 **subtractions from the list of jurisdictions in ORS 317.715 (2)(b).**

25 **“SECTION 5. The amendments to ORS 317.267 and 317.715 by**
26 **sections 2 and 3 of this 2013 Act apply to tax years beginning on or**
27 **after January 1, 2014.”.**

28 In line 12, delete “2” and insert “6”.

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