

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 1534

By COMMITTEE ON REVENUE

February 26

1 On page 1 of the printed A-engrossed bill, line 2, after “316.099,” insert “316.127, 316.202,”.

2 In line 3, before “section” insert “section 7, chapter 753, Oregon Laws 2013, and”.

3 On page 4, line 16, before “other” insert “from Oregon sources,”.

4 On page 6, after line 27, insert:

5 **“SECTION 13.** ORS 316.127 is amended to read:

6 “316.127. (1) The adjusted gross income of a nonresident derived from sources within this state
7 is the sum of the following:

8 “(a) The net amount of items of income, gain, loss and deduction entering into the nonresident’s
9 federal adjusted gross income that are derived from or connected with sources in this state including
10 (A) any distributive share of partnership income and deductions and (B) any share of estate or trust
11 income and deductions; and

12 “(b) The portion of the modifications, additions or subtractions to federal taxable income pro-
13 vided in this chapter and other laws of this state that relate to adjusted gross income derived from
14 sources in this state for personal income tax purposes, including any modifications attributable to
15 the nonresident as a partner.

16 “(2) Items of income, gain, loss and deduction derived from or connected with sources within this
17 state are those items attributable to:

18 “(a) The ownership or disposition of any interest in real or tangible personal property in this
19 state;

20 “(b) A business, trade, profession or occupation carried on in this state; and

21 “(c) A taxable lottery prize awarded by the Oregon State Lottery, including a taxable lottery
22 prize awarded by a multistate lottery association of which the Oregon State Lottery is a member if
23 the ticket upon which the prize is awarded was sold in this state.

24 “(3) Income from intangible personal property, including annuities, dividends, interest and gains
25 from the disposition of intangible personal property, constitutes income derived from sources within
26 this state only to the extent that such income is from property employed in a business, trade, pro-
27 fession or occupation carried on in this state.

28 “(4) Deductions with respect to capital losses, net long-term capital gains, and net operating
29 losses shall be based solely on income, gains, losses and deductions derived from or connected with
30 sources in this state, under regulations to be prescribed by the Department of Revenue, but other-
31 wise shall be determined in the same manner as the corresponding federal deductions.

32 “(5) Notwithstanding subsection (3) of this section:

33 “(a) The income of an S corporation for federal income tax purposes derived from or connected
34 with sources in this state constitutes income derived from sources within this state for a nonresident
35 individual who is a shareholder of the S corporation; and

1 “(b) A net operating loss of an S corporation derived from or connected with sources in this
2 state constitutes a loss or deduction connected with sources in this state for a nonresident individ-
3 ual who is a shareholder of the S corporation.

4 “(6) If a business, trade, profession or occupation is carried on partly within and partly without
5 this state, the determination of net income derived from or connected with sources within this state
6 shall be made by apportionment and allocation under ORS 314.605 to 314.675.

7 “(7) Compensation paid by the United States for service in the Armed Forces of the United
8 States performed by a nonresident does not constitute income derived from sources within this state.

9 “(8) Compensation paid to a nonresident for services performed by the nonresident at a hydro-
10 electric facility does not constitute income derived from sources within this state if the hydroelec-
11 tric facility:

12 “(a) Is owned by the United States;

13 “(b) Is located on the Columbia River; and

14 “(c) Contains portions located within both this state and another state.

15 “(9)(a) Retirement income received by a nonresident does not constitute income derived from
16 sources within this state unless the individual is domiciled in this state.

17 “(b) As used in this section, ‘retirement income’ means retirement income as that term is defined
18 in 4 U.S.C. 114, as amended and in effect for the tax period.

19 “(10) Compensation for the performance of duties described in this subsection that is paid to a
20 nonresident does not constitute income derived from sources within this state if the individual:

21 “(a) Is engaged on a vessel to perform assigned duties in more than one state as a pilot licensed
22 under 46 U.S.C. 7101 or licensed or authorized under the laws of a state; or

23 “(b) Performs regularly assigned duties while engaged as a master, officer or member of a crew
24 on a vessel operating [*on*] **in** the navigable waters of more than one state.

25 “**SECTION 14.** ORS 316.202 is amended to read:

26 “316.202. (1) With each payment made to the Department of Revenue, every employer shall de-
27 liver to the department, on a form prescribed by the department showing the total amount of with-
28 held taxes in accordance with ORS 316.167 and 316.172, and supply such other information as the
29 department may require. The employer is charged with the duty of advising the employee of the
30 amount of moneys withheld, in accordance with such regulations as the department may prescribe,
31 using printed forms furnished or approved by the department for such purpose.

32 “(2) Except as provided in subsection (4) of this section, every employer shall submit a combined
33 quarterly return to the department on a form provided by it showing the number of payments made,
34 the withheld taxes paid during the quarter and an explanation of federal withholding taxes as com-
35 puted by the employer. The report shall be filed with the department on or before the last day of
36 the month following the end of the quarter.

37 “(3) The employer shall make an annual return to the department on forms provided or approved
38 by it, summarizing the total compensation paid and the taxes withheld for all employees during the
39 calendar year and shall file the same with the department on or before the due date of the corre-
40 sponding federal return for the year for which report is made. Failure to file the annual report
41 without reasonable excuse on or before the 30th day after notice has been given to the employer
42 of failure subjects the employer to a penalty of \$100. The department may by rule require additional
43 information the department finds necessary to substantiate the annual return, including but not
44 limited to copies of federal form W-2 for individual employees, and may prescribe circumstances
45 under which the filing requirement imposed by this subsection is waived.

1 “(4) Notwithstanding the provisions of subsection (2) of this section, employers of agricultural
2 employees may submit returns annually showing the number of payments made and the withheld
3 taxes paid. However, such employers shall make and file a combined quarterly tax report with re-
4 spect to other tax programs, as required by ORS 316.168.

5 “(5) In addition to [*the penalty required under subsection (3) of this section and*] any other penalty
6 required by law:

7 “[*(a) A person who fails to file a report required under this section, or who files an incomplete or*
8 *incorrect report, shall be subject to a penalty of \$50 per report after the date on which the report is*
9 *due, up to a maximum penalty of \$2,500.*]

10 “[*(b) A person who knowingly fails to file a report required under this section, or who knowingly*
11 *files an incomplete, false or misleading report, shall be subject to a penalty of \$250 per report after the*
12 *date on which the report is due, up to a maximum penalty of \$25,000.*]

13 “(a) **A person who fails to substantiate a report required under subsection (3) of this**
14 **section, or who files incomplete or incorrect substantiation, shall be subject to a penalty of**
15 **\$50 per federal form W-2 after the date on which the substantiation is due, up to a maximum**
16 **penalty of \$2,500.**

17 “(b) **A person who knowingly fails to substantiate a report required under subsection (3)**
18 **of this section, or who knowingly files incomplete or incorrect substantiation, shall be sub-**
19 **ject to a penalty of \$250 per federal form W-2 after the date on which the substantiation is**
20 **due, up to a maximum penalty of \$25,000.**

21 “**SECTION 15. (1) The amendments to ORS 316.127 by section 13 of this 2014 Act apply**
22 **to tax years beginning on or after January 1, 2014.**

23 “**(2) The amendments to ORS 316.202 by section 14 of this 2014 Act apply to payments**
24 **made in tax years beginning on or after January 1, 2014.**

25 “**SECTION 16.** Section 7, chapter 753, Oregon Laws 2013, is amended to read:

26 “**Sec. 7. (1)** To carry out the purposes of sections 2 to 6, **chapter 753, Oregon Laws 2013** [*of*
27 *this 2013 Act*], counties within the area covered by the proclamation made pursuant to section 2,
28 **chapter 753, Oregon Laws 2013**, [*of this 2013 Act*] may impose a tax:

29 “(a) Upon the entire taxable income of every resident of the area who is subject to tax under
30 ORS chapter 316 and upon the taxable income of every nonresident that is derived from sources
31 within the area which income is subject to tax under ORS chapter 316; or

32 “(b) On or measured by the net income of a mercantile, manufacturing, business, financial, cen-
33 trally assessed, investment, insurance or other corporation or entity taxable as a corporation doing
34 business, located, or having a place of business or office or having income derived from sources,
35 within the area which income is subject to tax under ORS chapter 317 or 318.

36 “(2) A tax imposed pursuant to this section shall require the adoption of an ordinance by the
37 governing body of each county authorizing a tax under this section. The Governor may not act on
38 behalf of a county governing body in authorizing a tax under this section.

39 “(3) The tax may be imposed and collected as a surtax upon the state personal income or cor-
40 porate income or excise tax.

41 “(4) Any tax imposed pursuant to this section shall require a nonresident, corporation or other
42 entity taxable as a corporation having income from activity both within and without the area taxa-
43 ble under subsection (1) of this section to allocate and apportion such net income to the area in the
44 manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to
45 314.675.

1 “(5) If a tax is imposed pursuant to this section upon the taxable income of a nonresident
2 individual, items of income, gain, loss or deduction shall be prorated as provided in ORS
3 316.117.

4 “[(5)] (6) If a county governing body adopts an ordinance under this section, the ordinance shall
5 be compatible with any state law establishing taxable income or relating to the administration,
6 collection or enforcement of any tax law of this state, and with any rules adopted by the Department
7 of Revenue under ORS 305.620 or otherwise.

8 “[(6)] (7) An ordinance adopted under this section may not declare an emergency.

9 “[(7)] (8) This section does not apply to a county that is subject to a charter that prohibits the
10 imposition of county income taxes.”.

11 In line 28, delete “13” and insert “17”.

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