

**PROPOSED AMENDMENTS TO
HOUSE BILL 4004**

1 On page 1 of the printed bill, line 2, after “316.043,” insert “316.127,
2 316.202.”.

3 On page 4, after line 39, insert:

4 **“SECTION 6.** ORS 316.127 is amended to read:

5 “316.127. (1) The adjusted gross income of a nonresident derived from
6 sources within this state is the sum of the following:

7 “(a) The net amount of items of income, gain, loss and deduction entering
8 into the nonresident’s federal adjusted gross income that are derived from
9 or connected with sources in this state including (A) any distributive share
10 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
13 taxable income provided in this chapter and other laws of this state that
14 relate to adjusted gross income derived from sources in this state for per-
15 sonal income tax purposes, including any modifications attributable to the
16 nonresident as a partner.

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

19 “(a) The ownership or disposition of any interest in real or tangible per-
20 sonal property in this state;

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

1 “(c) A taxable lottery prize awarded by the Oregon State Lottery, in-
2 cluding a taxable lottery prize awarded by a multistate lottery association
3 of which the Oregon State Lottery is a member if the ticket upon which the
4 prize is awarded was sold in this state.

5 “(3) Income from intangible personal property, including annuities, divi-
6 dends, interest and gains from the disposition of intangible personal prop-
7 erty, constitutes income derived from sources within this state only to the
8 extent that such income is from property employed in a business, trade,
9 profession or occupation carried on in this state.

10 “(4) Deductions with respect to capital losses, net long-term capital gains,
11 and net operating losses shall be based solely on income, gains, losses and
12 deductions derived from or connected with sources in this state, under reg-
13 ulations to be prescribed by the Department of Revenue, but otherwise shall
14 be determined in the same manner as the corresponding federal deductions.

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

16 “(a) The income of an S corporation for federal income tax purposes de-
17 rived from or connected with sources in this state constitutes income derived
18 from sources within this state for a nonresident individual who is a share-
19 holder of the S corporation; and

20 “(b) A net operating loss of an S corporation derived from or connected
21 with sources in this state constitutes a loss or deduction connected with
22 sources in this state for a nonresident individual who is a shareholder of the
23 S corporation.

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

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

1 “(8) Compensation paid to a nonresident for services performed by the
2 nonresident at a hydroelectric facility does not constitute income derived
3 from sources within this state if the hydroelectric facility:

4 “(a) Is owned by the United States;

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

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

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

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

13 “(10) Compensation for the performance of duties described in this sub-
14 section that is paid to a nonresident does not constitute income derived from
15 sources within this state if the individual:

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

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

22 “**SECTION 7.** ORS 316.202 is amended to read:

23 “316.202. (1) With each payment made to the Department of Revenue, ev-
24 ery employer shall deliver to the department, on a form prescribed by the
25 department showing the total amount of withheld taxes in accordance with
26 ORS 316.167 and 316.172, and supply such other information as the depart-
27 ment may require. The employer is charged with the duty of advising the
28 employee of the amount of moneys withheld, in accordance with such regu-
29 lations as the department may prescribe, using printed forms furnished or
30 approved by the department for such purpose.

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

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

19 “(4) Notwithstanding the provisions of subsection (2) of this section, em-
20 ployers of agricultural employees may submit returns annually showing the
21 number of payments made and the withheld taxes paid. However, such em-
22 ployers shall make and file a combined quarterly tax report with respect to
23 other tax programs, as required by ORS 316.168.

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

26 “[(a) *A person who fails to file a report required under this section, or who*
27 *files an incomplete or incorrect report, shall be subject to a penalty of \$50 per*
28 *report after the date on which the report is due, up to a maximum penalty of*
29 *\$2,500.*]

30 “[(b) *A person who knowingly fails to file a report required under this*

1 *section, or who knowingly files an incomplete, false or misleading report, shall*
2 *be subject to a penalty of \$250 per report after the date on which the report is*
3 *due, up to a maximum penalty of \$25,000.]*

4 **“(a) A person who fails to substantiate a report required under**
5 **subsection (3) of this section, or who files an incomplete or incorrect**
6 **substantiation, shall be subject to a penalty of \$50 per federal form**
7 **W-2 after the date on which the substantiation is due, up to a maxi-**
8 **mum penalty of \$2,500.**

9 **“(b) A person who knowingly fails to substantiate a report required**
10 **under subsection (3) of this section, or who knowingly files an incom-**
11 **plete or incorrect substantiation, shall be subject to a penalty of \$250**
12 **per federal form W-2 after the date on which the substantiation is due,**
13 **up to a maximum penalty of \$25,000.**

14 **“SECTION 8. (1) The amendments to ORS 316.127 by section 6 of this**
15 **2014 Act apply to tax years beginning on or after January 1, 2014.**

16 **“(2) The amendments to ORS 316.202 by section 7 of this 2014 Act**
17 **apply to payments made in tax years beginning on or after January**
18 **1, 2014.”.**

19 In line 40, delete “6” and insert “9”.

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