

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1534**

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

3 In line 3, before “section” insert “section 7, chapter 753, Oregon Laws
4 2013, and”.

5 On page 6, after line 27, insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(7) Compensation paid by the United States for service in the Armed

1 Forces of the United States performed by a nonresident does not constitute
2 income derived from sources within this state.

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

6 “(a) Is owned by the United States;

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

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

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

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

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

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

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

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

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

1 lations as the department may prescribe, using printed forms furnished or
2 approved by the department for such purpose.

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

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

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

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

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

1 \$2,500.]

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

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

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

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

18 “(2) **The amendments to ORS 316.202 by section 14 of this 2014 Act**
19 **apply to payments made in tax years beginning on or after January**
20 **1, 2014.**

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

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

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

1 “(b) On or measured by the net income of a mercantile, manufacturing,
2 business, financial, centrally assessed, investment, insurance or other corpo-
3 ration or entity taxable as a corporation doing business, located, or having
4 a place of business or office or having income derived from sources, within
5 the area which income is subject to tax under ORS chapter 317 or 318.

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

10 “(3) The tax may be imposed and collected as a surtax upon the state
11 personal income or corporate income or excise tax.

12 “(4) Any tax imposed pursuant to this section shall require a nonresident,
13 corporation or other entity taxable as a corporation having income from ac-
14 tivity both within and without the area taxable under subsection (1) of this
15 section to allocate and apportion such net income to the area in the manner
16 required for allocation and apportionment of income under ORS 314.280 and
17 314.605 to 314.675.

18 **“(5) If a tax is imposed pursuant to this section upon the taxable**
19 **income of a nonresident individual, items of income, gain, loss or de-**
20 **duction shall be prorated as provided in ORS 316.117.**

21 “[(5)] (6) If a county governing body adopts an ordinance under this sec-
22 tion, the ordinance shall be compatible with any state law establishing tax-
23 able income or relating to the administration, collection or enforcement of
24 any tax law of this state, and with any rules adopted by the Department of
25 Revenue under ORS 305.620 or otherwise.

26 “[(6)] (7) An ordinance adopted under this section may not declare an
27 emergency.

28 “[(7)] (8) This section does not apply to a county that is subject to a
29 charter that prohibits the imposition of county income taxes.”.

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

