

D R A F T

SUMMARY

Directs Legislative Revenue Officer to prepare and submit annual report to committee of Legislative Assembly on revenue impact of connection of Oregon statutes to federal tax law. Discontinues automatic connection of provision related to definition of taxable income to federal tax law if revenue impact is negative. Reestablishes automatic connection if revenue impact is subsequently positive or neutral.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to connection to federal tax law; creating new provisions; amending ORS 314.011, 316.012, 316.013, 317.010 and 317.018; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 305.

SECTION 2. (1) On or after January 1, but not later than February 15 of each year, the Legislative Revenue Officer shall prepare and submit to a committee of the Legislative Assembly related to revenue a report containing an estimate of the revenue impact of connection of Oregon statutes to provisions of federal tax law. The estimate shall include, for the tax year in which the report is issued:

(a) An estimate of the revenue impact of amending, with the updated connection date of December 31 of the previous year, all Oregon statutes that contain connection dates to federal tax law.

(b) An estimate of the revenue impact of automatic connection of

1 **Oregon statutes that are related to the definition of taxable income**
2 **to provisions of the Internal Revenue Code, including ORS 314.011,**
3 **316.012, 316.013, 317.010 and 317.018.**

4 **SECTION 3.** ORS 314.011, as amended by section 22, chapter 52, Oregon
5 Laws 2014, is amended to read:

6 314.011. (1) As used in this chapter, unless the context requires otherwise,
7 “department” means the Department of Revenue.

8 (2) As used in this chapter:

9 (a) Any term has the same meaning as when used in a comparable context
10 in the laws of the United States relating to federal income taxes, unless a
11 different meaning is clearly required or the term is specifically defined in
12 this chapter.

13 (b) Except where the Legislative Assembly has provided otherwise, a ref-
14 erence to the laws of the United States or to the Internal Revenue Code re-
15 fers to the laws of the United States or to the Internal Revenue Code as they
16 are amended and in effect[:]

17 [(A)] on December 31, [2013; or] **2014.**

18 [(B) *If related to the definition of taxable income, as applicable to the tax*
19 *year of the taxpayer.*]

20 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying
21 expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360,
22 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and
23 314.752 and other provisions of this chapter, except those described in para-
24 graph (b) of this subsection, any reference to the laws of the United States
25 or to the Internal Revenue Code means the laws of the United States relating
26 to income taxes or the Internal Revenue Code as they are amended on or
27 before December 31, 2013, even when the amendments take effect or become
28 operative after that date, except where the Legislative Assembly has specif-
29 ically provided otherwise.

30 (3) Insofar as is practicable in the administration of this chapter, the de-
31 partment shall apply and follow the administrative and judicial interpreta-

1 tions of the federal income tax law. When a provision of the federal income
2 tax law is the subject of conflicting opinions by two or more federal courts,
3 the department shall follow the rule observed by the United States Commis-
4 sioner of Internal Revenue until the conflict is resolved. Nothing contained
5 in this section limits the right or duty of the department to audit the return
6 of any taxpayer or to determine any fact relating to the tax liability of any
7 taxpayer.

8 (4) When portions of the Internal Revenue Code incorporated by reference
9 as provided in subsection (2) of this section refer to rules or regulations
10 prescribed by the Secretary of the Treasury, then such rules or regulations
11 shall be regarded as rules adopted by the department under and in accord-
12 ance with the provisions of this chapter, whenever they are prescribed or
13 amended.

14 (5)(a) When portions of the Internal Revenue Code incorporated by refer-
15 ence as provided in subsection (2) of this section are later corrected by an
16 Act or a Title within an Act of the United States Congress designated as an
17 Act or Title making technical corrections, then notwithstanding the date
18 that the Act or Title becomes law, those portions of the Internal Revenue
19 Code, as so corrected, shall be the portions of the Internal Revenue Code
20 incorporated by reference as provided in subsection (2) of this section and
21 shall take effect, unless otherwise indicated by the Act or Title (in which
22 case the provisions shall take effect as indicated in the Act or Title), as if
23 originally included in the provisions of the Act being technically corrected.
24 If, on account of this subsection, any adjustment is required to an Oregon
25 return that would otherwise be prevented by operation of law or rule, the
26 adjustment shall be made, notwithstanding any law or rule to the contrary,
27 in the manner provided under ORS 314.135.

28 (b) As used in this subsection, "Act or Title" includes any subtitle, divi-
29 sion or other part of an Act or Title.

30 **SECTION 4.** ORS 316.012, as amended by section 24, chapter 52, Oregon
31 Laws 2014, is amended to read:

1 316.012. Any term used in this chapter has the same meaning as when
2 used in a comparable context in the laws of the United States relating to
3 federal income taxes, unless a different meaning is clearly required or the
4 term is specifically defined in this chapter. Except where the Legislative
5 Assembly has provided otherwise, any reference in this chapter to the laws
6 of the United States or to the Internal Revenue Code refers to the laws of
7 the United States or to the Internal Revenue Code as they are amended and
8 in effect[:]

9 [(1)] on December 31, [2013; or] **2014**.

10 [(2) *If related to the definition of taxable income, as applicable to the tax*
11 *year of the taxpayer.*]

12 **SECTION 5.** ORS 316.013 is amended to read:

13 316.013. Unless the context requires otherwise and notwithstanding ORS
14 316.012, whenever, in the calculation of Oregon taxable income, reference to
15 the taxpayer's federal adjusted gross income is required to be made, the
16 taxpayer's federal adjusted gross income shall be as determined under the
17 provisions of the Internal Revenue Code as they may be in effect [*for the tax*
18 *year of the taxpayer*] **on December 31, 2014**, without any of the additions,
19 subtractions or other modifications or adjustments required under this
20 chapter and other laws of this state applicable to personal income taxation.

21 **SECTION 6.** ORS 317.010, as amended by section 25, chapter 52, Oregon
22 Laws 2014, is amended to read:

23 317.010. As used in this chapter, unless the context requires otherwise:

24 (1) "Centrally assessed corporation" means every corporation the property
25 of which is assessed by the Department of Revenue under ORS 308.505 to
26 308.665.

27 (2) "Department" means the Department of Revenue.

28 (3)(a) "Consolidated federal return" means the return permitted or re-
29 quired to be filed by a group of affiliated corporations under section 1501 of
30 the Internal Revenue Code.

31 (b) "Consolidated state return" means the return required to be filed un-

1 der ORS 317.710 (5).

2 (4) "Doing business" means any transaction or transactions in the course
3 of its activities conducted within the state by a national banking association,
4 or any other corporation; provided, however, that a foreign corporation
5 whose activities in this state are confined to purchases of personal property,
6 and the storage thereof incident to shipment outside the state, shall not be
7 deemed to be doing business unless such foreign corporation is an affiliate
8 of another foreign or domestic corporation which is doing business in
9 Oregon. Whether or not corporations are affiliated shall be determined as
10 provided in section 1504 of the Internal Revenue Code.

11 (5) "Excise tax" means a tax measured by or according to net income
12 imposed upon national banking associations, all other banks, and financial,
13 centrally assessed, mercantile, manufacturing and business corporations for
14 the privilege of carrying on or doing business in this state.

15 (6) "Financial institution" has the meaning given that term in ORS
16 314.610 except that it does not include a credit union as defined in ORS
17 723.006, an interstate credit union as defined in ORS 723.001 or a federal
18 credit union.

19 (7) "Internal Revenue Code," except where the Legislative Assembly has
20 provided otherwise, refers to the laws of the United States or to the Internal
21 Revenue Code as they are amended and in effect[:]

22 [(a)] on December 31, [2013; or] **2014**.

23 [(b) *If related to the definition of taxable income, as applicable to the tax*
24 *year of the taxpayer.*]

25 (8) "Oregon taxable income" means taxable income, less the deduction
26 allowed under ORS 317.476, except as otherwise provided with respect to
27 insurers in subsection (11) of this section and ORS 317.650 to 317.665.

28 (9) "Oregon net loss" means taxable loss, except as otherwise provided
29 with respect to insurers in subsection (11) of this section and ORS 317.650
30 to 317.665.

31 (10) "Taxable income or loss" means the taxable income or loss deter-

1 mined, or in the case of a corporation for which no federal taxable income
2 or loss is determined, as would be determined, under chapter 1, Subtitle A
3 of the Internal Revenue Code and any other laws of the United States re-
4 lating to the determination of taxable income or loss of corporate taxpayers,
5 with the additions, subtractions, adjustments and other modifications as are
6 specifically prescribed by this chapter except that in determining taxable
7 income or loss for any year, no deduction under ORS 317.476 or 317.478 and
8 section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corpo-
9 ration is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring
10 or permitting apportionment of income from transactions or activities carried
11 on both within and without the state) applies, to derive taxable income or
12 loss, the following shall occur:

13 (a) From the amount otherwise determined under this subsection, subtract
14 nonbusiness income, or add nonbusiness loss, whichever is applicable.

15 (b) Multiply the amount determined under paragraph (a) of this sub-
16 section by the Oregon apportionment percentage defined under ORS 314.280,
17 314.650 or 314.667, whichever is applicable. The resulting product shall be
18 Oregon apportioned income or loss.

19 (c) To the amount determined as Oregon apportioned income or loss under
20 paragraph (b) of this subsection, add nonbusiness income allocable entirely
21 to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract nonbusiness
22 loss allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645.
23 The resulting figure is “taxable income or loss” for those corporations car-
24 rying on taxable transactions or activities both within and without Oregon.

25 (11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any
26 domestic, foreign or alien insurer as defined in ORS 731.082 and any inter-
27 insurance and reciprocal exchange and its attorney in fact with respect to
28 its attorney in fact net income as a corporate attorney in fact acting as at-
29 torney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the
30 reciprocal or interinsurance exchange. However, “insurer” does not include
31 title insurers or health care service contractors operating pursuant to ORS

1 750.005 to 750.095.

2 **SECTION 7.** ORS 317.018 is amended to read:

3 317.018. It is the intent of the Legislative Assembly:

4 (1) To make the Oregon corporate excise tax law, insofar as it relates to
5 the measurement of taxable income, identical to the provisions of the federal
6 Internal Revenue Code, as in effect and applicable [*for the tax year of the*
7 *taxpayer*] **on December 31, 2014**, to the end that taxable income of a corpo-
8 ration for Oregon purposes is the same as it is for federal income tax pur-
9 poses, subject to Oregon's jurisdiction to tax, and subject to the additions,
10 subtractions, adjustments and modifications contained in this chapter.

11 (2) To achieve the results desired under subsection (1) of this section by
12 application of the various provisions of the federal Internal Revenue Code
13 relating to the definitions for corporations, of income, deductions, accounting
14 methods, accounting periods, taxation of corporations, basis and other perti-
15 nent provisions relating to gross income. It is not the intent of the Legisla-
16 tive Assembly to adopt federal Internal Revenue Code provisions dealing
17 with the computation of tax, tax credits or any other provisions designed to
18 mitigate the amount of tax due.

19 (3) To impose on each corporation doing business within this state an
20 excise tax for the privilege of carrying on or doing that business measured
21 by its federal taxable income as adjusted in this chapter.

22 **SECTION 8.** ORS 314.011, as amended by section 22, chapter 52, Oregon
23 Laws 2014, and section 3 of this 2015 Act, is amended to read:

24 314.011. (1) As used in this chapter, unless the context requires otherwise,
25 "department" means the Department of Revenue.

26 (2) As used in this chapter:

27 (a) Any term has the same meaning as when used in a comparable context
28 in the laws of the United States relating to federal income taxes, unless a
29 different meaning is clearly required or the term is specifically defined in
30 this chapter.

31 (b) Except where the Legislative Assembly has provided otherwise, a ref-

1 erence to the laws of the United States or to the Internal Revenue Code re-
2 fers to the laws of the United States or to the Internal Revenue Code as they
3 are amended and in effect:

4 (A) On December 31, 2014; or

5 (B) **If related to the definition of taxable income, as applicable to**
6 **the tax year of the taxpayer.**

7 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying
8 expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360,
9 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and
10 314.752 and other provisions of this chapter, except those described in para-
11 graph (b) of this subsection, any reference to the laws of the United States
12 or to the Internal Revenue Code means the laws of the United States relating
13 to income taxes or the Internal Revenue Code as they are amended on or
14 before December 31, 2013, even when the amendments take effect or become
15 operative after that date, except where the Legislative Assembly has specif-
16 ically provided otherwise.

17 (3) Insofar as is practicable in the administration of this chapter, the de-
18 partment shall apply and follow the administrative and judicial interpreta-
19 tions of the federal income tax law. When a provision of the federal income
20 tax law is the subject of conflicting opinions by two or more federal courts,
21 the department shall follow the rule observed by the United States Commis-
22 sioner of Internal Revenue until the conflict is resolved. Nothing contained
23 in this section limits the right or duty of the department to audit the return
24 of any taxpayer or to determine any fact relating to the tax liability of any
25 taxpayer.

26 (4) When portions of the Internal Revenue Code incorporated by reference
27 as provided in subsection (2) of this section refer to rules or regulations
28 prescribed by the Secretary of the Treasury, then such rules or regulations
29 shall be regarded as rules adopted by the department under and in accord-
30 ance with the provisions of this chapter, whenever they are prescribed or
31 amended.

1 (5)(a) When portions of the Internal Revenue Code incorporated by refer-
2 ence as provided in subsection (2) of this section are later corrected by an
3 Act or a Title within an Act of the United States Congress designated as an
4 Act or Title making technical corrections, then notwithstanding the date
5 that the Act or Title becomes law, those portions of the Internal Revenue
6 Code, as so corrected, shall be the portions of the Internal Revenue Code
7 incorporated by reference as provided in subsection (2) of this section and
8 shall take effect, unless otherwise indicated by the Act or Title (in which
9 case the provisions shall take effect as indicated in the Act or Title), as if
10 originally included in the provisions of the Act being technically corrected.
11 If, on account of this subsection, any adjustment is required to an Oregon
12 return that would otherwise be prevented by operation of law or rule, the
13 adjustment shall be made, notwithstanding any law or rule to the contrary,
14 in the manner provided under ORS 314.135.

15 (b) As used in this subsection, "Act or Title" includes any subtitle, divi-
16 sion or other part of an Act or Title.

17 **SECTION 9.** ORS 316.012, as amended by section 24, chapter 52, Oregon
18 Laws 2014, and section 4 of this 2015 Act, is amended to read:

19 316.012. Any term used in this chapter has the same meaning as when
20 used in a comparable context in the laws of the United States relating to
21 federal income taxes, unless a different meaning is clearly required or the
22 term is specifically defined in this chapter. Except where the Legislative
23 Assembly has provided otherwise, any reference in this chapter to the laws
24 of the United States or to the Internal Revenue Code refers to the laws of
25 the United States or to the Internal Revenue Code as they are amended and
26 in effect:

27 (1) On December 31, 2014; or

28 (2) **If related to the definition of taxable income, as applicable to**
29 **the tax year of the taxpayer.**

30 **SECTION 10.** ORS 316.013, as amended by section 5 of this 2015 Act, is
31 amended to read:

1 316.013. Unless the context requires otherwise and notwithstanding ORS
 2 316.012, whenever, in the calculation of Oregon taxable income, reference to
 3 the taxpayer’s federal adjusted gross income is required to be made, the
 4 taxpayer’s federal adjusted gross income shall be as determined under the
 5 provisions of the Internal Revenue Code as they may be in effect [*on De-*
 6 *cember 31, 2014,*] **for the tax year of the taxpayer** without any of the ad-
 7 ditions, subtractions or other modifications or adjustments required under
 8 this chapter and other laws of this state applicable to personal income tax-
 9 ation.

10 **SECTION 11.** ORS 317.010, as amended by section 25, chapter 52, Oregon
 11 Laws 2014, and section 6 of this 2015 Act, is amended to read:

12 317.010. As used in this chapter, unless the context requires otherwise:

13 (1) “Centrally assessed corporation” means every corporation the property
 14 of which is assessed by the Department of Revenue under ORS 308.505 to
 15 308.665.

16 (2) “Department” means the Department of Revenue.

17 (3)(a) “Consolidated federal return” means the return permitted or re-
 18 quired to be filed by a group of affiliated corporations under section 1501 of
 19 the Internal Revenue Code.

20 (b) “Consolidated state return” means the return required to be filed un-
 21 der ORS 317.710 (5).

22 (4) “Doing business” means any transaction or transactions in the course
 23 of its activities conducted within the state by a national banking association,
 24 or any other corporation; provided, however, that a foreign corporation
 25 whose activities in this state are confined to purchases of personal property,
 26 and the storage thereof incident to shipment outside the state, shall not be
 27 deemed to be doing business unless such foreign corporation is an affiliate
 28 of another foreign or domestic corporation which is doing business in
 29 Oregon. Whether or not corporations are affiliated shall be determined as
 30 provided in section 1504 of the Internal Revenue Code.

31 (5) “Excise tax” means a tax measured by or according to net income

1 imposed upon national banking associations, all other banks, and financial,
2 centrally assessed, mercantile, manufacturing and business corporations for
3 the privilege of carrying on or doing business in this state.

4 (6) "Financial institution" has the meaning given that term in ORS
5 314.610 except that it does not include a credit union as defined in ORS
6 723.006, an interstate credit union as defined in ORS 723.001 or a federal
7 credit union.

8 (7) "Internal Revenue Code," except where the Legislative Assembly has
9 provided otherwise, refers to the laws of the United States or to the Internal
10 Revenue Code as they are amended and in effect:

11 (a) On December 31, 2014; or

12 (b) **If related to the definition of taxable income, as applicable to**
13 **the tax year of the taxpayer.**

14 (8) "Oregon taxable income" means taxable income, less the deduction
15 allowed under ORS 317.476, except as otherwise provided with respect to
16 insurers in subsection (11) of this section and ORS 317.650 to 317.665.

17 (9) "Oregon net loss" means taxable loss, except as otherwise provided
18 with respect to insurers in subsection (11) of this section and ORS 317.650
19 to 317.665.

20 (10) "Taxable income or loss" means the taxable income or loss deter-
21 mined, or in the case of a corporation for which no federal taxable income
22 or loss is determined, as would be determined, under chapter 1, Subtitle A
23 of the Internal Revenue Code and any other laws of the United States re-
24 lating to the determination of taxable income or loss of corporate taxpayers,
25 with the additions, subtractions, adjustments and other modifications as are
26 specifically prescribed by this chapter except that in determining taxable
27 income or loss for any year, no deduction under ORS 317.476 or 317.478 and
28 section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corpo-
29 ration is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring
30 or permitting apportionment of income from transactions or activities carried
31 on both within and without the state) applies, to derive taxable income or

1 loss, the following shall occur:

2 (a) From the amount otherwise determined under this subsection, subtract
3 nonbusiness income, or add nonbusiness loss, whichever is applicable.

4 (b) Multiply the amount determined under paragraph (a) of this sub-
5 section by the Oregon apportionment percentage defined under ORS 314.280,
6 314.650 or 314.667, whichever is applicable. The resulting product shall be
7 Oregon apportioned income or loss.

8 (c) To the amount determined as Oregon apportioned income or loss under
9 paragraph (b) of this subsection, add nonbusiness income allocable entirely
10 to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract nonbusiness
11 loss allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645.
12 The resulting figure is “taxable income or loss” for those corporations car-
13 rying on taxable transactions or activities both within and without Oregon.

14 (11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any
15 domestic, foreign or alien insurer as defined in ORS 731.082 and any inter-
16 insurance and reciprocal exchange and its attorney in fact with respect to
17 its attorney in fact net income as a corporate attorney in fact acting as at-
18 torney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the
19 reciprocal or interinsurance exchange. However, “insurer” does not include
20 title insurers or health care service contractors operating pursuant to ORS
21 750.005 to 750.095.

22 **SECTION 12.** ORS 317.018, as amended by section 7 of this 2015 Act, is
23 amended to read:

24 317.018. It is the intent of the Legislative Assembly:

25 (1) To make the Oregon corporate excise tax law, insofar as it relates to
26 the measurement of taxable income, identical to the provisions of the federal
27 Internal Revenue Code, as in effect and applicable [*on December 31, 2014*] **for**
28 **the tax year of the taxpayer**, to the end that taxable income of a corpo-
29 ration for Oregon purposes is the same as it is for federal income tax pur-
30 poses, subject to Oregon’s jurisdiction to tax, and subject to the additions,
31 subtractions, adjustments and modifications contained in this chapter.

1 (2) To achieve the results desired under subsection (1) of this section by
2 application of the various provisions of the federal Internal Revenue Code
3 relating to the definitions for corporations, of income, deductions, accounting
4 methods, accounting periods, taxation of corporations, basis and other perti-
5 nent provisions relating to gross income. It is not the intent of the Legisla-
6 tive Assembly to adopt federal Internal Revenue Code provisions dealing
7 with the computation of tax, tax credits or any other provisions designed to
8 mitigate the amount of tax due.

9 (3) To impose on each corporation doing business within this state an
10 excise tax for the privilege of carrying on or doing that business measured
11 by its federal taxable income as adjusted in this chapter.

12 **SECTION 13. (1)(a) The amendments to ORS 314.011, 316.012, 316.013,**
13 **317.010 and 317.018 by sections 3 to 7 of this 2015 Act become operative**
14 **on the date that the Legislative Revenue Officer first submits a report**
15 **described in section 2 (1)(b) of this 2015 Act indicating that automatic**
16 **connection to federal law will have a negative revenue impact for the**
17 **tax year in which the report is submitted.**

18 (b) The amendments to ORS 314.011, 316.012, 316.013, 317.010 and
19 317.018 by sections 3 to 7 of this 2015 Act apply to tax years beginning
20 during the calendar year of the operative date specified in paragraph
21 (a) of this subsection.

22 (2)(a) The amendments to ORS 314.011, 316.012, 316.013, 317.010 and
23 317.018 by sections 8 to 12 of this 2015 Act become operative on the date
24 following the date specified in subsection (1) of this section that the
25 Legislative Revenue Officer first submits a report described in section
26 2 (1)(b) of this 2015 Act indicating that automatic connection to federal
27 law will have a positive or neutral revenue impact.

28 (b) The amendments to ORS 314.011, 316.012, 316.013, 317.010 and
29 317.018 by sections 8 to 12 of this 2015 Act apply to tax years beginning
30 during the calendar year of the operative date specified in paragraph
31 (a) of this subsection.

1 **SECTION 14. This 2015 Act takes effect on the 91st day after the**
2 **date on which the 2015 regular session of the Seventy-eighth Legisla-**
3 **tive Assembly adjourns sine die.**

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