

**A-Engrossed**  
**House Bill 2041**

Ordered by the House June 24  
Including House Amendments dated June 24

Sponsored by Representatives SMITH, LININGER (Pre-session filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Provides that local governments may prohibit medical marijuana facilities and producers, processors and sellers of marijuana from being located within one mile of school.]*

*[Declares emergency, effective on passage.]*

**Imposes tax on retail sale of marijuana items, to be imposed upon consumers and collected and remitted by marijuana retailers. Requires marijuana retailers to submit returns quarterly. Directs Department of Revenue to administer and enforce provisions of tax. Repeals existing privilege tax imposed on marijuana producers and administered and enforced by Oregon Liquor Control Commission. Applies to retail sales by licensed marijuana retailers of marijuana items occurring on or after January 1, 2016. Requires proceeds of tax to be deposited in Oregon Marijuana Account and provides for distributions from account.**

**Prohibits cities and counties that pass ordinances prohibiting medical or recreational marijuana facilities or sites from receiving proceeds of marijuana taxation.**

**Corrects provisions in personal income and corporate excise tax law that allow exceptions, for marijuana-related activities, to prohibition against deduction for trade or business expenses connected to trafficking in controlled substances.**

**Applies to conduct occurring on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.**

**Requires that medical marijuana dispensaries selling to nonmedical marijuana cardholders collect 25 percent tax on all sales made on or after January 4, 2016. Repeals tax on December 31, 2016.**

**Takes effect on 91st day following adjournment sine die.**

**A BILL FOR AN ACT**

Relating to marijuana; creating new provisions; amending ORS 305.140, 305.895, 305.992 and 316.680 and sections 44 and 69, chapter 1, Oregon Laws 2015; repealing sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 71, chapter 1, Oregon Laws 2015; and prescribing an effective date.

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

**TAX**

**SECTION 1. As used in sections 1 to 13 of this 2015 Act:**

(1) "Cannabinoid concentrate," "cannabinoid edible," "cannabinoid extract," "cannabinoid product," "consumer," "immature marijuana plant," "marijuana flowers," "marijuana items," "marijuana leaves" and "marijuana retailer" have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(2) "Retail sale" means any transfer, exchange, gift or barter of a marijuana item by any person to a consumer.

(3) "Retail sales price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1       **SECTION 2.** (1) A tax is hereby imposed upon the retail sale of marijuana items in this  
2 state. The tax imposed by this section is a direct tax on the consumer, for which payment  
3 upon retail sale is required to achieve convenience and facility in the collection and admin-  
4 istration of the tax. The tax shall be collected at the point of sale of a marijuana item by a  
5 marijuana retailer at the time at which the retail sale occurs.

6       (2) The tax imposed under this section shall be imposed at the rate of:

7       (a) 17 percent of the retail sales price of marijuana leaves;

8       (b) 17 percent of the retail sales price of marijuana flowers;

9       (c) 17 percent of the retail sales price of immature marijuana plants;

10       (d) 17 percent of the retail sales price of a cannabinoid edible;

11       (e) 17 percent of the retail sales price of a cannabinoid concentrate;

12       (f) 17 percent of the retail sales price of a cannabinoid extract;

13       (g) 17 percent of the retail sales price of a cannabinoid product that is intended to be  
14 used by applying the cannabinoid product to the skin or hair; and

15       (h) 17 percent of the retail sales price of cannabinoid products other than those described  
16 in paragraph (g) of this subsection.

17       (3) If the tax imposed under this section does not equal an amount calculable to a whole  
18 cent, the tax shall be equal to the next higher whole cent.

19       (4) The amount of the tax shall be separately stated on an invoice, receipt or other sim-  
20 ilar document that the marijuana retailer provides to the consumer, or shall be otherwise  
21 disclosed to the consumer.

22       (5) A person may not knowingly sell, purchase, install, transfer or possess software pro-  
23 grams or other electronic devices intended to hide or to remove records of retail sales of  
24 marijuana items or to falsify records of retail sales of marijuana items.

25       **SECTION 3.** (1) Except as otherwise provided in sections 1 to 13 of this 2015 Act, the tax  
26 imposed upon the consumer under section 2 of this 2015 Act shall be collected at the point  
27 of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana  
28 items. The tax is considered a tax upon the marijuana retailer that is required to collect the  
29 tax, and the marijuana retailer is considered a taxpayer.

30       (2) The marijuana retailer shall submit a return to the Department of Revenue on or  
31 before the last day of January, April, July and October of each year for the previous calendar  
32 quarter.

33       (3) The marijuana retailer shall pay the tax to the department in the form and manner  
34 prescribed by the department, but not later than with each quarterly return, without regard  
35 to extensions under subsection (5) of this section.

36       (4) Marijuana retailers shall file the returns required under this section regardless of  
37 whether any tax is owed.

38       (5) The department for good cause may extend the time for making any return under this  
39 section. The extension may be granted at any time if a written request is filed with the de-  
40 partment during or prior to the period for which the extension may be granted. The depart-  
41 ment may not grant an extension of more than 30 days.

42       (6) Interest shall be added at the rate established under ORS 305.220 for each month, or  
43 fraction of a month, from the time the return was originally required to be filed to the time  
44 of payment.

45       (7) Except as provided in subsections (8) and (9) of this section, the period prescribed for

1 the department to allow or make a refund of any overpayment of tax paid under sections 1  
2 to 13 of this 2015 Act shall be as provided in ORS 314.415.

3 (8)(a) The department shall first apply any overpayment of tax to any marijuana tax that  
4 is then owed.

5 (b) If after any offset against any delinquent amount the overpayment of tax remains  
6 greater than \$1,000, the entire refund shall be applied as a credit against the next subsequent  
7 calendar quarter as an estimated payment.

8 (9) The department may not make a refund of, or credit, any overpayment of tax under  
9 sections 1 to 13 of this 2015 Act that was credited to the account of a marijuana retailer  
10 under subsection (8)(b) of this section if the return for that tax period is not filed within  
11 three years after the due date of that return.

12 **SECTION 4.** (1) Every person who collects any amount under section 3 of this 2015 Act  
13 shall hold the same in trust for the State of Oregon and for the payment thereof to the De-  
14 partment of Revenue in the manner and at the time provided in section 3 of this 2015 Act.

15 (2) At any time a marijuana retailer fails to remit any amount collected, the department  
16 may enforce collection by the issuance of a distraint warrant for the collection of the delin-  
17 quent amount and all penalties, interest and collection charges accrued thereon. The warrant  
18 shall be issued, recorded and proceeded upon in the same manner and shall have the same  
19 force and effect as is prescribed with respect to warrants for the collection of delinquent  
20 income taxes.

21 (3)(a) In the case of a marijuana retailer that is assessed pursuant to the provisions of  
22 ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer,  
23 employee or member of the marijuana retailer within three years from the time of assess-  
24 ment. Within 30 days from the date the notice of liability is mailed to the officer, employee  
25 or member, the officer, employee or member shall pay the assessment, plus penalties and  
26 interest, or advise the department in writing of objections to the liability and, if desired, re-  
27 quest a conference. A conference shall be governed by the provisions of ORS 305.265 per-  
28 taining to a conference requested from a notice of deficiency.

29 (b) After a conference or, if no conference is requested, a determination of the issues  
30 considering the written objections, the department shall mail the officer, employee or mem-  
31 ber a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days  
32 from the date the conference letter is mailed to the officer, employee or member, the officer,  
33 employee or member shall pay the assessment, plus penalties and interest, or appeal to the  
34 tax court in the manner provided for an appeal from a notice of assessment.

35 (c) If the department does not receive payment or written objection to the notice of li-  
36 ability within 30 days after the notice of liability was mailed, the notice of liability becomes  
37 final. In that event, the officer, employee or member may appeal the notice of liability to the  
38 tax court within 90 days after it became final in the manner provided for an appeal from a  
39 notice of assessment.

40 (4)(a) In the case of a failure to file a return on the due date, governed by the provisions  
41 of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the  
42 provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment  
43 to any officer, employee or member any time within three years after the assessment. The  
44 time of assessment against the officer, employee or member is 30 days after the date the  
45 notice of determination and assessment is mailed. Within 30 days from the date the notice

1 of determination and assessment is mailed to the officer, employee or member, the officer,  
2 employee or member shall pay the assessment, plus penalties and interest, or advise the  
3 department in writing of objections to the assessment and, if desired, request a conference.  
4 A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference  
5 requested from a notice of deficiency.

6 (b) After a conference or, if no conference is requested, a determination of the issues  
7 considering the written objections, the department shall mail the officer, employee or mem-  
8 ber a conference letter affirming, canceling or adjusting the notice of determination and as-  
9 sessment. Within 90 days from the date the conference letter is mailed to the officer,  
10 employee or member, the officer, employee or member shall pay the assessment, plus pen-  
11 alties and interest, or appeal in the manner provided for an appeal from a notice of assess-  
12 ment.

13 (c) If the department does not receive payment or written objection to the notice of de-  
14 termination and assessment within 30 days after the notice of determination and assessment  
15 was mailed, the notice of determination and assessment becomes final. In that event, the  
16 officer, employee or member may appeal the notice of determination and assessment to the  
17 tax court within 90 days after it became final in the manner provided for an appeal from a  
18 notice of assessment.

19 (5)(a) More than one officer or employee of a corporation may be held jointly and se-  
20 verally liable for payment of taxes.

21 (b) Notwithstanding the confidentiality provisions of section 10 of this 2015 Act, if more  
22 than one officer or employee of a corporation may be held jointly and severally liable for  
23 payment of taxes, the department may require any or all of the officers, members or em-  
24 ployees who may be held liable to appear before the department for a joint determination of  
25 liability. The department shall notify each officer, member or employee of the time and place  
26 set for the determination of liability.

27 (c) Each person notified of a joint determination under this subsection shall appear and  
28 present such information as is necessary to establish that person's liability or nonliability  
29 for payment of taxes to the department. If a person who was notified fails to appear, the  
30 department shall make its determination on the basis of all the information and evidence  
31 presented. The department's determination is binding on all persons notified and required to  
32 appear under this subsection.

33 (d)(A) If an appeal is taken to the Oregon Tax Court pursuant to section 10 of this 2015  
34 Act by any person determined to be liable for unpaid taxes under this subsection, each per-  
35 son required to appear before the department under this subsection shall be impleaded by the  
36 plaintiff. The department may implead any officer, employee or member who may be held  
37 jointly and severally liable for the payment of taxes. Each person impleaded under this par-  
38 agraph shall be made a party to the action before the tax court and shall make available to  
39 the tax court the information that was presented before the department, as well as other  
40 information that may be presented to the court.

41 (B) The court may determine that one or more persons impleaded under this paragraph  
42 are liable for unpaid taxes without regard to any earlier determination by the department  
43 that an impleaded person was not liable for unpaid taxes.

44 (C) If a person required to appear before the court under this subsection fails or refuses  
45 to appear or bring such information in part or in whole, or is outside the jurisdiction of the

1 tax court, the court shall make its determination on the basis of all the evidence introduced.  
2 Notwithstanding section 10 of this 2015 Act, the evidence constitutes a public record and  
3 shall be available to the parties and the court. The determination of the tax court is binding  
4 on all persons made parties to the action under this subsection.

5 (e) This section may not be construed to preclude a determination by the department or  
6 the Oregon Tax Court that more than one officer, employee or member are jointly and se-  
7 verally liable for unpaid taxes.

8 **SECTION 5.** (1) A marijuana retailer shall keep receipts, invoices and other pertinent  
9 records related to retail sales of marijuana items in the form required by the Department  
10 of Revenue. Each record shall be preserved for five years from the time to which the record  
11 relates, or for as long as the marijuana retailer retains the marijuana items to which the  
12 record relates, whichever is later. During the retention period and at any time prior to the  
13 destruction of records, the department may give written notice to the marijuana retailer not  
14 to destroy records described in the notice without written permission of the department.  
15 Notwithstanding any other provision of law, the department shall preserve reports and re-  
16 turns filed with the department for at least five years.

17 (2) The department or its authorized representative, upon oral or written demand, may  
18 make examinations of the books, papers, records and equipment of persons making retail  
19 sales of marijuana items and any other investigations as the department deems necessary  
20 to carry out the provisions of sections 1 to 13 of this 2015 Act.

21 **SECTION 6.** (1) The Department of Revenue has authority, by order or subpoena to be  
22 served with the same force and effect and in the same manner as a subpoena is served in a  
23 civil action in the circuit court, or the Oregon Tax Court, to require the production at any  
24 time and place the department designates of any books, papers, accounts or other informa-  
25 tion necessary to carry out sections 1 to 13 of this 2015 Act. The department may require  
26 the attendance of any person having knowledge in the premises, and may take testimony and  
27 require proof material for the information, with power to administer oaths to the person.

28 (2) If a person fails to comply with a subpoena or order of the department or to produce  
29 or permit the examination or inspection of any books, papers, records and equipment perti-  
30 nent to an investigation or inquiry under sections 1 to 13 of this 2015 Act, or to testify to  
31 any matter regarding which the person is lawfully interrogated, the department may apply  
32 to the Oregon Tax Court or to the circuit court of the county in which the person resides  
33 or where the person is for an order to the person to attend and testify, or otherwise to  
34 comply with the demand or request of the department. The department shall apply to the  
35 court by ex parte motion, upon which the court shall make an order requiring the person  
36 against whom the motion is directed to comply with the request or demand of the depart-  
37 ment within 10 days after the service of the order, or within the additional time granted by  
38 the court, or to justify the failure within that time. The order shall be served upon the per-  
39 son to whom it is directed in the manner required by this state for service of process, which  
40 service is required to confer jurisdiction upon the court. Failure to obey any order issued  
41 by the court under this section is contempt of court. The remedy provided by this section is  
42 in addition to other remedies, civil or criminal, existing under the tax laws or other laws of  
43 this state.

44 **SECTION 7.** (1) Notwithstanding the confidentiality provisions of section 10 of this 2015  
45 Act, the Department of Revenue may disclose information received under sections 1 to 13

1 and 19 of this 2015 Act to the Oregon Liquor Control Commission to carry out the provisions  
2 of sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act.

3 (2) The commission may disclose information obtained pursuant to sections 3 to 70,  
4 chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act to the department for the  
5 purpose of carrying out the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and  
6 sections 1 to 13 of this 2015 Act.

7 (3) Except as otherwise provided in sections 3 to 70, chapter 1, Oregon Laws 2015, and  
8 sections 1 to 13 of this 2015 Act, a person aggrieved by an act or determination of the de-  
9 partment or its authorized agent under sections 1 to 13 and 19 of this 2015 Act may appeal,  
10 within 90 days after the act or determination, to the Oregon Tax Court in the manner pro-  
11 vided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to  
12 determine the person's liability for the tax imposed under sections 1 to 13 of this 2015 Act.

13 **SECTION 8.** (1) The Department of Revenue shall administer and enforce sections 1 to  
14 13 of this 2015 Act. The department is authorized to establish rules and procedures for the  
15 implementation and enforcement of sections 1 to 13 of this 2015 Act that are consistent with  
16 sections 1 to 13 of this 2015 Act and that the department considers necessary and appropriate  
17 to administer and enforce sections 1 to 13 of this 2015 Act.

18 (2) The Oregon Liquor Control Commission shall enter into an agreement with the de-  
19 partment for the purpose of administering and enforcing those provisions of sections 1 to 13  
20 of this 2015 Act, and rules or procedures established for the purpose of implementing and  
21 enforcing sections 1 to 13 of this 2015 Act, that the commission and the department deter-  
22 mine are necessary for the effective and efficient administration, implementation and  
23 enforcement of sections 1 to 13 of this 2015 Act.

24 **SECTION 9.** (1)(a) When an amount represented by a marijuana retailer at retail to a  
25 consumer as constituting the tax imposed under sections 1 to 13 of this 2015 Act is computed  
26 upon an amount that is not taxable or is in excess of the taxable amount and is actually paid  
27 by the consumer to the marijuana retailer, the excess tax paid shall be returned by the  
28 marijuana retailer to the consumer upon written notification by the Department of Revenue  
29 or the consumer.

30 (b) The written notification must contain information necessary to determine the validity  
31 of the consumer's claim.

32 (2) If the marijuana retailer does not return the excess tax within 60 days after mailing  
33 of the written notification required under subsection (1) of this section, the consumer may  
34 appeal to the department for a refund of the amount of the excess tax, in the manner and  
35 within the time allowed under rules adopted by the department.

36 (3) If excess tax is returned to the consumer by the department, the department may  
37 issue a notice of deficiency for the excess tax to the marijuana retailer in the manner pro-  
38 vided under ORS 305.265.

39 **SECTION 10.** Except as otherwise provided in sections 1 to 13 of this 2015 Act or where  
40 the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit  
41 and examination of returns, periods of limitation, determination of and notices of deficien-  
42 cies, assessments, collections, liens, delinquencies, claims for refund and refunds, confer-  
43 ences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality  
44 of returns and the penalties relative thereto, and the procedures relating thereto, apply to  
45 the determinations of taxes, penalties and interest under sections 1 to 13 of this 2015 Act.



1 [of this Act] during the calendar year preceding the date of the distribution for premises located in  
2 each city bears to the number of such licenses issued by the commission during such calendar year  
3 for all premises in [the] **this** state; and

4 (ii) Fifty percent of [such ten] **the 10** percent [shall] **must** be transferred in such shares as the  
5 number of licenses issued by the commission under section 22, **chapter 1, Oregon Laws 2015**, [of  
6 this Act] during the calendar year preceding the date of the distribution for premises located in each  
7 city bears to the number of such licenses issued by the commission during such calendar year for  
8 all premises in [the] **this** state;

9 (e) To assist local law enforcement in performing its duties under [this Act, ten percent shall]  
10 **sections 3 to 70, chapter 1, Oregon Laws 2015, 10 percent must** be transferred to counties in the  
11 following shares:

12 (A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such  
13 shares as their respective populations bear to the total population of [the] **this** state, as estimated  
14 from time to time by [the State Board of Higher Education] **Portland State University**; and

15 (B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

16 (i) Fifty percent of [such ten] **the 10** percent [shall] **must** be transferred in such shares as the  
17 number of licenses issued by the commission under sections 19 to 21, **chapter 1, Oregon Laws 2015**,  
18 [of this Act] during the calendar year preceding the date of the distribution for premises located in  
19 each county bears to the number of such licenses issued by the commission during such calendar  
20 year for all premises in [the] **this** state; and

21 (ii) Fifty percent of [such ten] **the 10** percent [shall] **must** be transferred in such shares as the  
22 number of licenses issued by the commission under section 22, **chapter 1, Oregon Laws 2015**, [of  
23 this Act] during the calendar year preceding the date of the distribution for premises located in each  
24 county bears to the number of such licenses issued by the commission during such calendar year for  
25 all premises in [the] **this** state; and

26 (f) Five percent [shall] **must** be transferred to the Oregon Health Authority to be used for the  
27 establishment, operation[,] and maintenance of alcohol and drug abuse prevention, early intervention  
28 and treatment services.

29 **(4) A city or county that adopts ordinances prohibiting the establishment of a premises**  
30 **for which a license is issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, or**  
31 **prohibiting the establishment of an entity for which registration is required under ORS**  
32 **475.300 to 475.346, is not eligible to receive distributions under this section.**

33 [(3)] **(5)** It is the intent of [this section] **the Legislative Assembly** that the moneys distributed  
34 from the Oregon Marijuana Account to the [distributees] **persons listed** in subsection [(2)] **(3)** of this  
35 section are in addition to, **and not in lieu of**, any other [available] moneys **available** to such  
36 [distributees and do not supplant moneys available from any other source] **persons**.

37 **SECTION 15.** ORS 305.140 is amended to read:

38 305.140. (1) Any person having an interest in or lien upon any real property may request the  
39 Department of Revenue in writing to release such real property from a cloud on the title of or lien  
40 on such property existing, created or continued under any one or more of the following:

41 (a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section 4 of this 2015 Act**;

42 or

43 (b) The provisions of ORS 311.673, 311.679, 311.689, 311.711 or 311.771.

44 (2) If, upon a request under subsection (1) of this section, the department finds that a sale of  
45 such real property would not result in satisfaction in whole or in part of the taxes due, it shall ex-



1 execute a release of such cloud or lien upon such property, and such release shall be conclusive evi-  
2 dence of the removal and extinguishment of such cloud or lien in respect of such real property.

3 (3) In addition to the release of cloud or lien provided for in subsection (1) of this section, the  
4 department may execute releases on part or all of any real property in the following cases, which  
5 releases shall be conclusive evidence of the removal and extinguishment of such cloud or lien:

6 (a) If the department finds that liability for the amount assessed, together with all interest  
7 thereon and penalties and costs in respect thereof, has been satisfied;

8 (b) If the department finds that the fair market value of that part of the property remaining  
9 subject to the cloud or lien is at least double the amount of the liability remaining unsatisfied in  
10 respect of such tax and the amount of all prior liens upon the property;

11 (c) If there is supplied to the department either an irrevocable letter of credit issued by an in-  
12 sured institution as defined in ORS 706.008 or a bond, in such form and with such surety as the  
13 department considers sufficient, conditioned upon the payment of the amount of the warrant, to-  
14 gether with all interest in respect thereof, within 60 days after the issuance of the release; or

15 (d) If there is paid to the department in partial satisfaction of the amount of the warrant pro-  
16 vided for in ORS 314.430, 321.570 or 323.610 **or section 4 of this 2015 Act** or the amount of any lien  
17 under ORS 311.673, 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as de-  
18 termined by the department, of the lien of the State of Oregon upon the part of the property so to  
19 be released. In determining such value the department shall give consideration to the fair market  
20 value of the part of the property so to be released and to such liens thereon as have priority to the  
21 lien of the State of Oregon.

22 **SECTION 16.** ORS 305.895 is amended to read:

23 305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the  
24 Department of Revenue shall take no action against a taxpayer's or transferee's real or personal  
25 property before issuing a warrant for the collection of tax or an amount payable by a transferee  
26 under ORS 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 **and**  
27 **section 4 of this 2015 Act.**

28 (2) At least 30 days before issuing a warrant for collection of any tax collected by the depart-  
29 ment or any amount payable under ORS 311.695, the department shall send the taxpayer or  
30 transferee a written notice and demand for payment. The notice shall:

31 (a) Be sent by mail, addressed to the taxpayer or transferee at the taxpayer's or transferee's  
32 last-known address.

33 (b) Inform the taxpayer or transferee that, even if the taxpayer or transferee is compliant with  
34 an installment agreement between the taxpayer or transferee and the department and is in commu-  
35 nication with the department, if the tax or any portion of the tax or the amount payable under ORS  
36 311.695 is not paid within 30 days after the date of the notice and demand for payment, a warrant  
37 may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and  
38 324.190 **and section 4 of this 2015 Act.**

39 (c) Describe in clear nontechnical terms the legal authority for the warrant.

40 (d) Contain the name, office mailing address and office telephone number of the person issuing  
41 the warrant and advise the taxpayer or transferee that questions or complaints concerning the  
42 warrant, other than liability for the underlying tax or amount payable under ORS 311.695, may be  
43 directed to that person.

44 (e) Include alternatives available to the taxpayer or transferee that would prevent issuance of  
45 the warrant.

1 (f) Inform the taxpayer or transferee of possible consequences to the taxpayer or transferee of  
2 noncompliance, and of issuance of a warrant, including garnishment of wages or bank accounts and  
3 seizure and sale of real or personal property.

4 **SECTION 17.** ORS 305.992 is amended to read:

5 305.992. (1) If any returns required to be filed under ORS chapter 118, 314, 316, 317, 318, 321 or  
6 323 or sections 1 to 13 of this 2015 Act or under a local tax administered by the Department of  
7 Revenue under ORS 305.620 are not filed for three consecutive years by the due date (including  
8 extensions) of the return required for the third consecutive year, there shall be a penalty for each  
9 year of 100 percent of the tax liability determined after credits and prepayments for each such year.

10 (2) The penalty imposed under this section is in addition to any other penalty imposed by law.  
11 However, the total amount of penalties imposed for any taxable year under this section, ORS 305.265  
12 (13), 314.400, 323.403 or 323.585 [shall] or section 10 of this 2015 Act may not exceed 100 percent  
13 of the tax liability.

14 **SECTION 18.** Section 19 of this 2015 Act is added to and made a part of ORS chapter 317.

15 **SECTION 19.** Section 280E of the Internal Revenue Code applies to all trafficking in  
16 controlled substances in Schedule I or Schedule II that is prohibited by federal law or the  
17 laws of this state, other than conduct authorized under sections 3 to 70, chapter 1, Oregon  
18 Laws 2015.

19 **SECTION 20.** ORS 316.680 is amended to read:

20 316.680. (1) There shall be subtracted from federal taxable income:

21 (a) The interest or dividends on obligations of the United States and its territories and pos-  
22 sessions or of any authority, commission or instrumentality of the United States to the extent  
23 includable in gross income for federal income tax purposes but exempt from state income taxes un-  
24 der the laws of the United States. However, the amount subtracted under this paragraph shall be  
25 reduced by any interest on indebtedness incurred to carry the obligations or securities described in  
26 this paragraph, and by any expenses incurred in the production of interest or dividend income de-  
27 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,  
28 are deductible in determining federal taxable income.

29 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as  
30 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for  
31 which a tax benefit was received.

32 (c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the  
33 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce  
34 federal taxable income by those amounts.

35 (d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

36 (e)(A) Federal pension income that is attributable to federal employment occurring before Oc-  
37 tober 1, 1991. Federal pension income that is attributable to federal employment occurring before  
38 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for  
39 the tax year by the ratio of the number of months of federal creditable service occurring before  
40 October 1, 1991, over the total number of months of federal creditable service.

41 (B) The subtraction allowed under this paragraph applies only to federal pension income re-  
42 ceived at a time when:

43 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

44 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,  
45 are exempt from state income tax.

1 (C) As used in this paragraph:

2 (i) "Federal creditable service" means those periods of time for which a federal employee earned  
3 a federal pension.

4 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-  
5 ment, its agencies or its instrumentalities to retirees of the federal government or their benefi-  
6 ciaries.

7 (f) Any amount included in federal taxable income for the tax year that is attributable to the  
8 conversion of a regular individual retirement account into a Roth individual retirement account  
9 described in section 408A of the Internal Revenue Code, to the extent that:

10 (A) The amount was subject to the income tax of another state or the District of Columbia in  
11 a prior tax year; and

12 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax  
13 year.

14 (g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS  
15 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-  
16 termining the taxpayer's federal taxable income for the tax year.

17 (h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax  
18 year in qualified withdrawals from a college savings network account established under ORS 348.841  
19 to 348.873.

20 **(i) Any federal deduction that the taxpayer would have been allowed for the production,**  
21 **processing or sale of marijuana items authorized under sections 3 to 70, chapter 1, Oregon**  
22 **Laws 2015, but for section 280E of the Internal Revenue Code.**

23 (2) There shall be added to federal taxable income:

24 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any  
25 foreign state or of a political subdivision or authority of any foreign state. However, the amount  
26 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the  
27 obligations or securities described in this paragraph and by any expenses incurred in the production  
28 of interest or dividend income described in this paragraph.

29 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-  
30 torial possession of the United States that by the laws of the United States are exempt from federal  
31 income tax but not from state income taxes. However, the amount added under this paragraph shall  
32 be reduced by any interest on indebtedness incurred to carry the obligations or securities described  
33 in this paragraph and by any expenses incurred in the production of interest or dividend income  
34 described in this paragraph.

35 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not  
36 taxable by Oregon.

37 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the  
38 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-  
39 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

40 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under  
41 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

42 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-  
43 ness credits under section 196 of the Internal Revenue Code.

44 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws  
45 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,

1 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal  
2 Revenue Code.

3 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer  
4 during the tax year if:

5 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the  
6 tax year; and

7 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

8 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-  
9 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right  
10 income repayment adjustment under ORS 315.068.

11 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college  
12 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal  
13 that is attributable to contributions that were subtracted from federal taxable income under ORS  
14 316.699.

15 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-  
16 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this  
17 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the  
18 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-  
19 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

20 **SECTION 21.** ORS 316.680, as amended by section 74, chapter 1, Oregon Laws 2015, is amended  
21 to read:

22 316.680. (1) There shall be subtracted from federal taxable income:

23 (a) The interest or dividends on obligations of the United States and its territories and pos-  
24 sessions or of any authority, commission or instrumentality of the United States to the extent  
25 includable in gross income for federal income tax purposes but exempt from state income taxes un-  
26 der the laws of the United States. However, the amount subtracted under this paragraph shall be  
27 reduced by any interest on indebtedness incurred to carry the obligations or securities described in  
28 this paragraph, and by any expenses incurred in the production of interest or dividend income de-  
29 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,  
30 are deductible in determining federal taxable income.

31 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as  
32 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for  
33 which a tax benefit was received.

34 (c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the  
35 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce  
36 federal taxable income by those amounts.

37 (d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

38 (e)(A) Federal pension income that is attributable to federal employment occurring before Oc-  
39 tober 1, 1991. Federal pension income that is attributable to federal employment occurring before  
40 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for  
41 the tax year by the ratio of the number of months of federal creditable service occurring before  
42 October 1, 1991, over the total number of months of federal creditable service.

43 (B) The subtraction allowed under this paragraph applies only to federal pension income re-  
44 ceived at a time when:

45 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

1 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,  
2 are exempt from state income tax.

3 (C) As used in this paragraph:

4 (i) "Federal creditable service" means those periods of time for which a federal employee earned  
5 a federal pension.

6 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-  
7 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-  
8 aries.

9 (f) Any amount included in federal taxable income for the tax year that is attributable to the  
10 conversion of a regular individual retirement account into a Roth individual retirement account  
11 described in section 408A of the Internal Revenue Code, to the extent that:

12 (A) The amount was subject to the income tax of another state or the District of Columbia in  
13 a prior tax year; and

14 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax  
15 year.

16 (g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS  
17 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-  
18 termining the taxpayer's federal taxable income for the tax year.

19 (h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax  
20 year in qualified withdrawals from a college savings network account established under ORS 348.841  
21 to 348.873.

22 *[(i) For income tax years commencing on or after January 1, 2015, the amount of any deductions*  
23 *or credits that the taxpayer would have been allowed but for the provisions of section 280E of the*  
24 *Internal Revenue Code.]*

25 **(i) Any federal deduction that the taxpayer would have been allowed for the production,**  
26 **processing or sale of marijuana items authorized under sections 3 to 70, chapter 1, Oregon**  
27 **Laws 2015, but for section 280E of the Internal Revenue Code.**

28 (2) There shall be added to federal taxable income:

29 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any  
30 foreign state or of a political subdivision or authority of any foreign state. However, the amount  
31 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the  
32 obligations or securities described in this paragraph and by any expenses incurred in the production  
33 of interest or dividend income described in this paragraph.

34 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-  
35 torial possession of the United States that by the laws of the United States are exempt from federal  
36 income tax but not from state income taxes. However, the amount added under this paragraph shall  
37 be reduced by any interest on indebtedness incurred to carry the obligations or securities described  
38 in this paragraph and by any expenses incurred in the production of interest or dividend income  
39 described in this paragraph.

40 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not  
41 taxable by Oregon.

42 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the  
43 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-  
44 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

45 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under

1 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

2 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-  
3 ness credits under section 196 of the Internal Revenue Code.

4 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws  
5 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,  
6 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal  
7 Revenue Code.

8 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer  
9 during the tax year if:

10 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the  
11 tax year; and

12 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

13 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-  
14 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right  
15 income repayment adjustment under ORS 315.068.

16 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college  
17 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal  
18 that is attributable to contributions that were subtracted from federal taxable income under ORS  
19 316.699.

20 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-  
21 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this  
22 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the  
23 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-  
24 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

25  
26 **EARLY START**

27  
28 **SECTION 21a. (1) For purposes of this section:**

29 (a) "Limited marijuana retail product" has the meaning given that term in section 2,  
30 chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 460).

31 (b) "Medical marijuana dispensary" means an entity registered with the Oregon Health  
32 Authority under ORS 475.314.

33 (2) On and after January 4, 2016, if a medical marijuana dispensary elects to make sales  
34 as described in section 2, chapter \_\_\_\_\_, Oregon Laws 2015 (Enrolled Senate Bill 460), the  
35 medical marijuana dispensary must collect the tax imposed under section 2 of this 2015 Act  
36 in the same manner that a marijuana retailer that holds a license under section 22, chapter  
37 1, Oregon Laws 2015, collects the tax imposed under section 2 of this 2015 Act, except that  
38 the tax imposed under this section shall be imposed at the rate of 25 percent of the retail  
39 sales price of the limited marijuana retail product.

40 (3) A medical marijuana dispensary that collects taxes as required by this section is  
41 subject to the provisions of sections 1 to 13 of this 2015 Act, except that the tax imposed  
42 under this section shall be imposed at the rate described in subsection (2) of this section.

43  
44 **MISCELLANEOUS**

