

# House Bill 2099

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

## 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 **as introduced**.

Modifies list of jurisdictions of incorporation for which income must be included on Oregon corporate excise tax return, if corporation is member of unitary group with Oregon corporation.

Applies to tax years beginning on or after January 1, 2015.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax reporting of multinational corporations; creating new provisions; amending ORS  
3 317.715; and prescribing an effective date.

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

5 **SECTION 1.** ORS 317.715 is amended to read:

6 317.715. (1) If a corporation required to make a return under this chapter is a member of an  
7 affiliated group of corporations making a consolidated federal return under sections 1501 to 1505  
8 of the Internal Revenue Code, the corporation's Oregon taxable income shall be determined begin-  
9 ning with federal consolidated taxable income of the affiliated group as provided in this section.

10 (2)(a) For purposes of determining Oregon taxable income, the taxable income or loss of any  
11 corporation that is a member of a unitary group and that is incorporated in any of the following  
12 jurisdictions shall be added to federal consolidated taxable income:

13 (b) Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize,  
14 Bermuda, the British Virgin Islands, the Cayman Islands, the Cook Islands, Cyprus, Dominica,  
15 Gibraltar, Grenada, **Guatemala**, Guernsey-Sark-Alderney, **Hong Kong**, the Isle of Man, Jersey, **the**  
16 **Kingdom of the Netherlands**, Liberia, Liechtenstein, Luxembourg, Malta, the Marshall Islands,  
17 Mauritius, [*Monaco*,] Montserrat, Nauru, [*the Netherlands Antilles*,] Niue, Samoa, San Marino,  
18 Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, **Trinidad and Tobago**,  
19 the Turks and Caicos Islands, the U.S. Virgin Islands and Vanuatu.

20 (3) If the affiliated group, of which the corporation subject to taxation under this chapter is a  
21 member, consists of more than one unitary group, before the additions, subtractions, adjustments and  
22 modifications to federal taxable income provided for in this chapter are made, and before allocation  
23 and apportionment as provided in ORS 317.010 (10), if any, modified federal consolidated taxable  
24 income shall be computed. Modified federal consolidated taxable income shall be determined by  
25 eliminating from the federal consolidated taxable income of the affiliated group the separate taxable  
26 income, as determined under Treasury Regulations adopted under section 1502 of the Internal Re-  
27 venue Code, and any deductions or additions or items of income, expense, gain or loss for which  
28 consolidated treatment is prescribed under Treasury Regulations adopted under section 1502 of the  
29 Internal Revenue Code, attributable to the member or members of any unitary group of which the  
30 corporation is not a member.

**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 (4)(a) After modified federal consolidated taxable income is determined under subsection (3) of  
 2 this section, the additions, subtractions, adjustments and modifications prescribed by this chapter  
 3 shall be made to the modified federal consolidated taxable income of the remaining members of the  
 4 affiliated group, where applicable, as if all such members were subject to taxation under this chap-  
 5 ter. After those modifications are made, Oregon taxable income or loss shall be determined as pro-  
 6 vided in ORS 317.010 (10)(a) to (c), if necessary.

7 (b) In the computation of the Oregon apportionment percentage for a corporation that is a  
 8 member of an affiliated group filing a consolidated federal return, there shall be taken into consid-  
 9 eration only the property, payroll, sales or other factors of those members of the affiliated group,  
 10 and of those corporations described in subsection (2) of this section, whose items of income, expense,  
 11 gain or loss remain in modified federal consolidated taxable income after the eliminations required  
 12 under subsection (3) of this section. Those members of an affiliated group making a consolidated  
 13 federal return or a consolidated state return may not be treated as one taxpayer for purposes of  
 14 determining whether any member of the group is taxable in this state or any other state with re-  
 15 spect to questions of jurisdiction to tax or the composition of the apportionment factors used to at-  
 16 tribute income to this state under ORS 314.280 or 314.605 to 314.675.

17 (5) The Department of Revenue shall adopt rules:

18 (a) To determine the computation of income or loss for a corporation that is a member of a  
 19 unitary group and that is not otherwise required to file a consolidated federal return.

20 (b) To prevent double taxation or double deduction of any amount included in the computation  
 21 of income under this section.

22 **SECTION 2. The amendments to ORS 317.715 by section 1 of this 2015 Act apply to tax**  
 23 **years beginning on or after January 1, 2015.**

24 **SECTION 3. This 2015 Act takes effect on the 91st day after the date on which the 2015**  
 25 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**