

House Bill 2138

Introduced and printed pursuant to House Rule 12.00. Presession 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**.

Requires corporation doing business in Oregon and obtaining certain state incentives to file tax disclosure statement with Secretary of State. Specifies information that must be disclosed by corporation. Declares that tax disclosure statements filed by corporations are public records. Directs Secretary of State to make tax disclosure statements publicly available via Internet. Allows Secretary of State to impose penalty for noncompliance with filing requirements.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax disclosures by corporations obtaining incentives; and prescribing an effective date.

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

4 **SECTION 1. Sections 2 to 5 of this 2015 Act are added to and made a part of ORS chapter**
5 **317.**

6 **SECTION 2. (1) A corporation doing business in this state shall file with the Secretary**
7 **of State the statement described in section 3 of this 2015 Act if the corporation:**

8 (a) **Is required to file an excise or income tax return under ORS chapter 317 or 318;**

9 (b) **During the most recent fiscal year, or, in the case of a tax expenditure, the most**
10 **recent tax year, has received the benefit of any of the incentives described in section 3 (2)**
11 **of this 2015 Act; and**

12 (c) **Is any of the following:**

13 (A) **A publicly traded corporation, including a corporation traded on a foreign stock ex-**
14 **change;**

15 (B) **An affiliate of a publicly traded corporation;**

16 (C) **A financial corporation or insurer; or**

17 (D) **Any other corporation if the corporation employs 25 or more full-time equivalent**
18 **employees in this state as of January 1 preceding the date a statement is required to be filed**
19 **under this section, or if the corporation had sales to customers located in this state in excess**
20 **of \$10 million in the tax year immediately preceding the year for which a statement is re-**
21 **quired to be filed under this section.**

22 (2) **A personal service corporation, as defined in section 269A of the Internal Revenue**
23 **Code, is exempt from the requirement of filing a statement under this section.**

24 (3) **For the fiscal year ending June 30, 2015, the statement required by this section must**
25 **be filed with the Secretary of State on or before March 15, 2016. Thereafter, the statement**
26 **must be filed on the same date that the corporation's state tax return is filed, but no later**
27 **than March 15 of the year following the end of the previous tax year.**

28 **SECTION 3. (1) A corporation required to file a disclosure statement under section 2 of**

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 this 2015 Act shall file the disclosure statement as provided in subsection (3) of this section.

2 (2) This section applies to all state loans and grants, to any tax expenditures that are
 3 listed in the tax expenditure report and the allowance of which is not required under the
 4 Oregon Constitution or by federal law and to any other state support that reasonably could
 5 give a corporation doing business in this state a monetary advantage over a competitor that
 6 did not receive the same benefit.

7 (3) The statement required under this section shall be on a form, and filed in a manner,
 8 prescribed by the Secretary of State and shall contain:

9 (a) The name of the corporation, the address of its principal executive office, the
 10 corporation's business activity code, the type of corporation and the name and address of its
 11 registered agent;

12 (b) The state excise or income tax liability of the corporation under ORS chapter 317 or
 13 318 for the tax year ending in the period beginning July 1 and ending June 30 immediately
 14 preceding the date the statement is required to be filed;

15 (c) The name and principal address of any corporation or other entity that owns, directly
 16 or indirectly, more than 50 percent of the voting stock of the corporation filing the state-
 17 ment;

18 (d) The most recent assessed value of the real and personal property that is owned by
 19 the corporation and located in Oregon and the amount of tax assessed on that property;

20 (e) The following information reported on the corporation's excise or income tax return
 21 filed under ORS chapter 317 or 318 or, in the case of a corporation included in a consolidated
 22 state return, reported on the consolidated state return:

23 (A) Total receipts of the corporation or consolidated group;

24 (B) Taxable income of the corporation or consolidated group prior to net operating loss
 25 deductions or apportionment;

26 (C) Sales apportionment factors of the corporation or consolidated group;

27 (D) Calculated overall apportionment factor for the corporation or consolidated group;

28 (E) Total business income of the corporation apportioned to the state;

29 (F) Net operating loss deduction, if any, of the corporation or consolidated group appor-
 30 tioned to the state;

31 (G) Total nonbusiness income of the corporation and the amount of nonbusiness income
 32 allocated to the state;

33 (H) Total taxable income of the corporation;

34 (I) Total tax of the corporation before credits;

35 (J) Tax credits claimed by the corporation, with each credit individually enumerated;

36 (K) Tax due from the corporation; and

37 (L) Tax paid by the corporation; and

38 (f) The following additional information:

39 (A) The total deductions for management services fees and for payments, such as royal-
 40 ties, interest and license fees, made for the use of intangible property to any affiliated entity
 41 that is not included in the consolidated state return, if any, that includes the corporation,
 42 and the names of the entities to which the payments were made;

43 (B) The sales factor that would be calculated for this state if the corporation or consol-
 44 idated group were required to treat as sales in this state sales of tangible personal property
 45 to the federal government and sales of tangible personal property shipped or delivered to a

1 customer in a state in which the selling corporation is neither subject to a state corporate
 2 income tax or state franchise tax measured by net income nor could be subjected to such a
 3 tax were the state to impose the tax;

4 (C) A description of the source of any nonbusiness income reported on the return and
 5 the identification of the state or states to which such income was reported;

6 (D) A listing of all corporations included in the consolidated state return that includes
 7 the corporation, if such a return is filed, and their taxpayer identification numbers;

8 (E) The number of full-time equivalent employees of the corporation in this state on the
 9 last day of the tax year for which the return is being filed and for the three previous tax
 10 years;

11 (F) In the case of a publicly traded corporation incorporated in the United States or an
 12 affiliate of such a publicly traded corporation, the profits before tax reported on the Securi-
 13 ties and Exchange Commission Form 10-K for the corporation, or the consolidated group of
 14 which the corporation is a member, for the corporate fiscal year that contains the last day
 15 of the tax year for which the return is filed; and

16 (G) Accumulated tax credit carryovers, enumerated by credit.

17 **SECTION 4.** Any corporation filing a statement required by section 2 of this 2015 Act
 18 shall be permitted to submit supplemental information that, in its sole judgment, can facili-
 19 tate proper interpretation of the information included in the statement.

20 **SECTION 5.** If a corporation required to file a disclosure statement under section 2 of
 21 this 2015 Act files an amended tax return, the corporation shall file a revised statement
 22 within 60 calendar days after the amended return is filed. If a corporation's tax liability for
 23 a tax year is changed as the result of an uncontested audit adjustment or final determination
 24 of the Department of Revenue or by the Oregon Tax Court or Supreme Court, the corpo-
 25 ration shall file a revised statement within 60 calendar days after the final determination of
 26 liability.

27 **SECTION 6.** A statement filed under sections 2 to 5 of this 2015 Act is a public record
 28 to be maintained in the Office of the Secretary of State. The Secretary of State shall make
 29 all information contained in the statements for all filing corporations available to the public
 30 on an ongoing basis in the form of a searchable database accessible through the Internet.

31 **SECTION 7.** (1) The accuracy of a statement submitted under sections 2 to 5 of this 2015
 32 Act shall be attested to in writing by the chief operating officer of the corporation and shall
 33 be subject to audit by the Department of Revenue under the normal procedures applicable
 34 to corporate income tax returns.

35 (2) The Secretary of State may impose a penalty of up to \$_____ on any corporation
 36 that fails to comply with the requirements of sections 2 to 5 of this 2015 Act. The Secretary
 37 of State shall publish the names of any corporations subject to such a penalty.

38 (3) The Secretary of State may promulgate any rules necessary to implement this section
 39 and sections 2 to 5 and 6 of this 2015 Act.

40 **SECTION 8.** This 2015 Act takes effect on the 91st day after the date on which the 2015
 41 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.