

House Bill 3019

Sponsored by 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**.

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

1
2 Relating to connection to federal tax law; creating new provisions; amending ORS 314.011, 316.012,
3 316.013, 317.010 and 317.018; prescribing an effective date; and providing for revenue raising that
4 requires approval by a three-fifths majority.

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

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

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

12 (a) **An estimate of the revenue impact of amending, with the updated connection date of**
13 **December 31 of the previous year, all Oregon statutes that contain connection dates to fed-**
14 **eral tax law.**

15 (b) **An estimate of the revenue impact of automatic connection of Oregon statutes that**
16 **are related to the definition of taxable income to provisions of the Internal Revenue Code,**
17 **including ORS 314.011, 316.012, 316.013, 317.010 and 317.018.**

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

20 314.011. (1) As used in this chapter, unless the context requires otherwise, "department" means
21 the Department of Revenue.

22 (2) As used in this chapter:

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

26 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of
27 the United States or to the Internal Revenue Code refers to the laws of the United States or to the
28 Internal Revenue Code as they are amended and in effect[:]

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

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

2 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260
3 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,
4 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described
5 in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal
6 Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue
7 Code as they are amended on or before December 31, 2013, even when the amendments take effect
8 or become operative after that date, except where the Legislative Assembly has specifically provided
9 otherwise.

10 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and
11 follow the administrative and judicial interpretations of the federal income tax law. When a pro-
12 vision of the federal income tax law is the subject of conflicting opinions by two or more federal
13 courts, the department shall follow the rule observed by the United States Commissioner of Internal
14 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of
15 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-
16 ability of any taxpayer.

17 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-
18 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
19 then such rules or regulations shall be regarded as rules adopted by the department under and in
20 accordance with the provisions of this chapter, whenever they are prescribed or amended.

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

32 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an
33 Act or Title.

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

36 316.012. Any term used in this chapter has the same meaning as when used in a comparable
37 context in the laws of the United States relating to federal income taxes, unless a different meaning
38 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
39 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
40 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
41 Code as they are amended and in effect[:]

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

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

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

45 316.013. Unless the context requires otherwise and notwithstanding ORS 316.012, whenever, in

1 the calculation of Oregon taxable income, reference to the taxpayer's federal adjusted gross income
 2 is required to be made, the taxpayer's federal adjusted gross income shall be as determined under
 3 the provisions of the Internal Revenue Code as they may be in effect [*for the tax year of the*
 4 *taxpayer*] **on December 31, 2014**, without any of the additions, subtractions or other modifications
 5 or adjustments required under this chapter and other laws of this state applicable to personal in-
 6 come taxation.

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

9 317.010. As used in this chapter, unless the context requires otherwise:

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

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

13 (3)(a) "Consolidated federal return" means the return permitted or required to be filed by a
 14 group of affiliated corporations under section 1501 of the Internal Revenue Code.

15 (b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

16 (4) "Doing business" means any transaction or transactions in the course of its activities con-
 17 ducted within the state by a national banking association, or any other corporation; provided, how-
 18 ever, that a foreign corporation whose activities in this state are confined to purchases of personal
 19 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be
 20 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-
 21 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-
 22 termined as provided in section 1504 of the Internal Revenue Code.

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

26 (6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does
 27 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
 28 723.001 or a federal credit union.

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

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

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

34 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS
 35 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
 36 ORS 317.650 to 317.665.

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

39 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a
 40 corporation for which no federal taxable income or loss is determined, as would be determined, un-
 41 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States
 42 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,
 43 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-
 44 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or
 45 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a

1 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of
 2 income from transactions or activities carried on both within and without the state) applies, to
 3 derive taxable income or loss, the following shall occur:

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

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

9 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
 10 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to
 11 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to
 12 314.645. The resulting figure is “taxable income or loss” for those corporations carrying on taxable
 13 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 domestic, foreign or
 15 alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its at-
 16 torney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting
 17 as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or
 18 interinsurance exchange. However, “insurer” does not include title insurers or health care service
 19 contractors operating pursuant to ORS 750.005 to 750.095.

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

21 317.018. It is the intent of the Legislative Assembly:

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

28 (2) To achieve the results desired under subsection (1) of this section by application of the var-
 29 ious provisions of the federal Internal Revenue Code relating to the definitions for corporations, of
 30 income, deductions, accounting methods, accounting periods, taxation of corporations, basis and
 31 other pertinent provisions relating to gross income. It is not the intent of the Legislative Assembly
 32 to adopt federal Internal Revenue Code provisions dealing with the computation of tax, tax credits
 33 or any other provisions designed to mitigate the amount of tax due.

34 (3) To impose on each corporation doing business within this state an excise tax for the privi-
 35 lege of carrying on or doing that business measured by its federal taxable income as adjusted in this
 36 chapter.

37 **SECTION 8.** ORS 314.011, as amended by section 22, chapter 52, Oregon Laws 2014, and section
 38 3 of this 2015 Act, is amended to read:

39 314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means
 40 the Department of Revenue.

41 (2) As used in this chapter:

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

45 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of

1 the United States or to the Internal Revenue Code refers to the laws of the United States or to the
2 Internal Revenue Code as they are amended and in effect:

3 (A) On December 31, 2014; or

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

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

14 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and
15 follow the administrative and judicial interpretations of the federal income tax law. When a pro-
16 vision of the federal income tax law is the subject of conflicting opinions by two or more federal
17 courts, the department shall follow the rule observed by the United States Commissioner of Internal
18 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of
19 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-
20 ability of any taxpayer.

21 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-
22 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
23 then such rules or regulations shall be regarded as rules adopted by the department under and in
24 accordance with the provisions of this chapter, whenever they are prescribed or amended.

25 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
26 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
27 States Congress designated as an Act or Title making technical corrections, then notwithstanding
28 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
29 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
30 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title
31 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
32 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
33 adjustment is required to an Oregon return that would otherwise be prevented by operation of law
34 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
35 manner provided under ORS 314.135.

36 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an
37 Act or Title.

38 **SECTION 9.** ORS 316.012, as amended by section 24, chapter 52, Oregon Laws 2014, and section
39 4 of this 2015 Act, is amended to read:

40 316.012. Any term used in this chapter has the same meaning as when used in a comparable
41 context in the laws of the United States relating to federal income taxes, unless a different meaning
42 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
43 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
44 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
45 Code as they are amended and in effect:

1 (1) On December 31, 2014; or

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

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

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

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

14 317.010. As used in this chapter, unless the context requires otherwise:

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

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

18 (3)(a) "Consolidated federal return" means the return permitted or required to be filed by a
 19 group of affiliated corporations under section 1501 of the Internal Revenue Code.

20 (b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

21 (4) "Doing business" means any transaction or transactions in the course of its activities con-
 22 ducted within the state by a national banking association, or any other corporation; provided, how-
 23 ever, that a foreign corporation whose activities in this state are confined to purchases of personal
 24 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be
 25 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-
 26 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-
 27 termined as provided in section 1504 of the Internal Revenue Code.

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

31 (6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does
 32 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
 33 723.001 or a federal credit union.

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

37 (a) On December 31, 2014; or

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

40 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS
 41 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
 42 ORS 317.650 to 317.665.

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

45 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a

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

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

12 (b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon ap-
 13 portionment percentage defined under ORS 314.280, 314.650 or 314.667, whichever is applicable. The
 14 resulting product shall be Oregon apportioned income or loss.

15 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
 16 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to
 17 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to
 18 314.645. The resulting figure is "taxable income or loss" for those corporations carrying on taxable
 19 transactions or activities both within and without Oregon.

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

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

27 317.018. It is the intent of the Legislative Assembly:

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

34 (2) To achieve the results desired under subsection (1) of this section by application of the var-
 35 ious provisions of the federal Internal Revenue Code relating to the definitions for corporations, of
 36 income, deductions, accounting methods, accounting periods, taxation of corporations, basis and
 37 other pertinent provisions relating to gross income. It is not the intent of the Legislative Assembly
 38 to adopt federal Internal Revenue Code provisions dealing with the computation of tax, tax credits
 39 or any other provisions designed to mitigate the amount of tax due.

40 (3) To impose on each corporation doing business within this state an excise tax for the privi-
 41 lege of carrying on or doing that business measured by its federal taxable income as adjusted in this
 42 chapter.

43 **SECTION 13.** (1)(a) **The amendments to ORS 314.011, 316.012, 316.013, 317.010 and 317.018**
 44 **by sections 3 to 7 of this 2015 Act become operative on the date that the Legislative Revenue**
 45 **Officer first submits a report described in section 2 (1)(b) of this 2015 Act indicating that**

1 **automatic connection to federal law will have a negative revenue impact for the tax year in**
2 **which the report is submitted.**

3 **(b) The amendments to ORS 314.011, 316.012, 316.013, 317.010 and 317.018 by sections 3 to**
4 **7 of this 2015 Act apply to tax years beginning during the calendar year of the operative date**
5 **specified in paragraph (a) of this subsection.**

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

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

14 **SECTION 14. This 2015 Act takes effect on the 91st day after the date on which the 2015**
15 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

16