

House Bill 3481

Sponsored by Representative HOLVEY

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**.

Imposes severance tax on harvest of timber from forestlands in Oregon to fund income tax credit for milling of logs in Oregon, income tax credit for production or collection of biomass, fire suppression, watershed enhancement programs and woodstove certification program, and for distribution to counties.

Applies to tax years beginning on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a severance tax on the harvest of timber; creating new provisions; amending ORS
3 314.752, 318.031, 321.005, 321.550, 321.560, 321.570, 321.580, 321.600, 321.609, 321.682, 321.684,
4 321.824 and 321.991; prescribing an effective date; and providing for revenue raising that re-
5 quires approval by a three-fifths majority.

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

7 **SECTION 1. Sections 2 to 4 of this 2015 Act are added to and made a part of ORS chapter**
8 **321.**

9 **SECTION 2. (1) In addition to the taxes imposed under ORS 321.015 (1) to (4) and 321.017,**
10 **there is imposed a severance tax on the harvest of all timber from forestlands in this state**
11 **at a rate of \$20 per thousand feet, board measure.**

12 **(2) The severance tax imposed under subsection (1) of this section is due and payable to**
13 **the Department of Revenue in the manner and following the procedure, including penalties**
14 **and interest, set forth for the collection of the privilege tax imposed under ORS 321.005 to**
15 **321.185.**

16 **(3) The department shall adopt rules as necessary to effect the purposes of sections 2 to**
17 **4 of this 2015 Act.**

18 **SECTION 3. Revenue from the severance tax imposed under section 2 of this 2015 Act**
19 **shall be distributed as follows:**

20 **(1) Three percent of the total revenue shall be retained by the Department of Revenue**
21 **to reimburse the department for the costs of administering sections 2 to 4 of this 2015 Act.**

22 **(2) Three percent of the total revenue shall be transferred to the State Forestry De-**
23 **partment Account established under ORS 526.060 to reimburse the State Forester for the**
24 **costs of certifying taxpayers and performing other functions required under section 6 of this**
25 **2015 Act.**

26 **(3) The remainder of the revenue shall be paid over by the department to the State**
27 **Treasurer and deposited in a suspense account established under ORS 293.445.**

28 **(4)(a) Notwithstanding ORS 291.238, the amount of moneys necessary to pay refunds of**
29 **the severance tax imposed under section 2 of this 2015 Act is continuously appropriated to**

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 the department from the suspense account established under subsection (3) of this section,
 2 and shall be used by the department for the payment of all refunds of the severance tax
 3 imposed under section 2 of this 2015 Act that have been audited and approved by the de-
 4 partment.

5 (b) Any penalties, interest and taxes then due from the taxpayer shall be applied in that
 6 order in computing any refund, and only the balance due the taxpayer, if any, shall be re-
 7 funded.

8 (c) The department shall on its records charge each refund against the revenue from the
 9 tax with respect to which the refund is made.

10 (5) After payment of severance tax refunds under subsection (4) of this section, the bal-
 11 ance of the severance tax revenue in the suspense account shall be deposited in the Oregon
 12 Timber Industry Subsidy Account established under section 4 of this 2015 Act.

13 **SECTION 4.** (1) The Oregon Timber Industry Subsidy Account is established in the State
 14 Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Tim-
 15 ber Industry Subsidy Account shall be retained by the account.

16 (2) Moneys are continuously appropriated from the Oregon Timber Industry Subsidy Ac-
 17 count to the Department of Revenue for use in making the following payments:

18 (a) An amount equal to \$3 per thousand feet, board measure, multiplied by the total
 19 harvest subject to the severance tax imposed under section 2 of this 2015 Act in a reporting
 20 period, to be transferred to the Oregon Forest Land Protection Fund, created under ORS
 21 477.750, for the purposes described in ORS 477.755;

22 (b) An amount equal to \$3 per thousand feet, board measure, multiplied by the total
 23 harvest subject to the severance tax imposed under section 2 of this 2015 Act in a reporting
 24 period, to be transferred to the Residential Solid Fuel Heating Air Quality Improvement
 25 Fund, established under ORS 468A.490, for the purposes described in that section;

26 (c) An amount equal to \$3 per thousand feet, board measure, multiplied by the total
 27 harvest subject to the severance tax imposed under section 2 of this 2015 Act in a reporting
 28 period, to be transferred to the Watershed Conservation Grant Fund, established under ORS
 29 541.947, for the purposes described in that section;

30 (d) An amount equal to the total credit allowed to taxpayers under ORS 315.141, as de-
 31 termined by the department on or before October 1 of each year, for tax years ending during
 32 the preceding calendar year, but not to exceed an amount equal to \$3 per thousand feet,
 33 board measure, multiplied by the total harvest subject to the severance tax imposed under
 34 section 2 of this 2015 Act in the preceding calendar year, to be transferred to the General
 35 Fund; and

36 (e) An amount equal to the total credit allowed to taxpayers under section 6 of this 2015
 37 Act, as determined by the department on or before October 1 of each year, for tax years
 38 ending during the preceding calendar year, to be transferred to the General Fund.

39 (3) Moneys in excess of the amounts required for the payments described in subsection
 40 (2) of this section, determined as of October 1 of each year, shall be distributed on or before
 41 December 31 of each year to each county so that the amount received by each county bears
 42 the same proportion to the amount received by all counties as the amount of severance tax
 43 revenue received from harvests in the county in the calendar year bears to the total
 44 severance tax revenue received from harvests in all counties in the calendar year.

45 **SECTION 5.** Section 6 of this 2015 Act is added to and made a part of ORS chapter 315.

1 **SECTION 6.** (1) A credit against taxes that are otherwise due under ORS chapter 316 or,
 2 if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer who
 3 is an owner of timber, for logs harvested and milled to a diameter of not more than 12 inches
 4 in Oregon during the tax year. The credit under this section is not allowed against the tax
 5 imposed under ORS 317.090. A taxpayer may claim the credit allowed under this section only
 6 for timber on which the severance tax imposed under section 2 of this 2015 Act has been
 7 paid.

8 (2) The amount of the credit is equal to \$3 per thousand feet, board measure.

9 (3) Prior to claiming the credit allowed under this section, a taxpayer is required to re-
 10 ceive written certification of eligibility from the State Forester.

11 (4) If the amount allowable as a credit under this section, when added to the sum of the
 12 amounts allowable as a payment of tax under ORS 314.505 to 314.525, 316.187 and 316.583,
 13 other payments of tax and other refundable credit amounts, exceeds the taxes imposed by
 14 ORS chapters 314 to 318 (reduced by any nonrefundable credits allowed for the tax year), the
 15 excess shall be treated as an overpayment of tax and shall be refunded or applied in the same
 16 manner as other tax overpayments.

17 (5) A nonresident shall be allowed the credit under this section. The credit shall be
 18 computed in the same manner and be subject to the same limitations as the credit granted
 19 to a resident. However, the credit shall be prorated using the proportion provided in ORS
 20 316.117.

21 (6) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 22 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
 23 the credit allowed by this section shall be prorated or computed in a manner consistent with
 24 ORS 314.085.

25 (7) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 26 ident to resident occurs, the credit allowed by this section shall be determined in a manner
 27 consistent with ORS 316.117.

28 (8) The State Forester, in consultation with the Department of Revenue, shall adopt rules
 29 for the purposes of this section, including policies and procedures for certifying taxpayers
 30 as eligible for the credit allowed under this section as provided in subsection (3) of this sec-
 31 tion.

32 **SECTION 7.** ORS 321.005 is amended to read:

33 321.005. As used in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460 **and**
 34 **sections 2 to 4 and 6 of this 2015 Act**, unless the context requires otherwise:

35 [(1) "Board" means the State Board of Forestry.]

36 [(2) "Protected forestlands" means those lands which are protected from the starting or spread of
 37 fire thereon or therefrom by:]

38 [(a) The State Forester, with the approval of the board;]

39 [(b) The United States of America through contract with the State Forester;]

40 [(c) Any forest protective agency under contract with the State Forester or the board pursuant to
 41 ORS 477.406; or]

42 [(d) Any forest protective agency, described in paragraph (c) of this subsection, under an agreement
 43 with the United States of America wherein such agency agrees to protect specific federal forestlands
 44 and, in return, the United States of America agrees to protect specific lands of such agency.]

45 [(3) "Department" means the Department of Revenue.]

1 [(4) "Committee" means the Emergency Fire Cost Committee.]

2 [(5)] (1) "Forestland" means any land producing forest products.

3 [(6)] (2) "Forest products" means products from harvested timber[, *but does not include*] **other**
 4 **than** products from short rotation fiber grown under agricultural conditions as described in ORS
 5 321.267 (3) or 321.824 (3), western juniper or products from harvested western juniper.

6 [(7)] (3) "Harvest" means the point at which timber that has been cut, severed, or removed for
 7 purposes of sale or use is first measured in the ordinary course of business as determined by refer-
 8 ence to common practice in the timber industry.

9 [(8)] (4) "Merchantable stand of timber" means any stand on forestlands containing living or
 10 dead timber [*which*] **that** is being or can be harvested.

11 (5) "Owner of timber" means any individual or combination of individuals, partnership,
 12 firm, corporation or association of whatever nature holding title to harvested timber by
 13 virtue of:

14 (a) An instrument of conveyance;

15 (b) The harvesting of the timber; or

16 (c) The harvesting of the timber and payment therefor.

17 (6) "Protected forestlands" means lands that are protected from the starting or spread
 18 of fire on the lands or from the lands by:

19 (a) The State Forester, with the approval of the State Board of Forestry;

20 (b) The United States of America through contract with the State Forester;

21 (c) Any forest protective association under contract with the State Forester or the board
 22 pursuant to ORS 477.406; or

23 (d) Any forest protective association described in paragraph (c) of this subsection under
 24 an agreement with the United States of America pursuant to which the association agrees
 25 to protect specific federal forestlands and, in return, the United States of America agrees
 26 to protect specific lands of the agency.

27 [(9) "Taxpayer" means the owner of timber at time of harvest.]

28 [(10)] (7) "Taxes" means the taxes provided for in ORS 321.015 and **section 2 of this 2015**
 29 **Act.**

30 [(11) "Owner of timber" means any individual or combination of individuals, partnership, firm,
 31 corporation or association of whatever nature holding title to harvested timber by virtue of:]

32 [(a) An instrument of conveyance;]

33 [(b) The harvesting of the timber; or]

34 [(c) The harvesting of the timber and payment therefor.]

35 (8) "Taxpayer" means the owner of timber at time of harvest.

36 [(12)] (9) "Timber" means all logs [*which*] **that** can be measured in board feet and other forest
 37 products as determined by Department of Revenue rule.

38 **SECTION 8.** ORS 321.550 is amended to read:

39 321.550. (1) No person shall harvest or cause to be harvested any timber from land in Oregon
 40 without first having notified the State Forester in writing with a copy to the Department of Revenue
 41 on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS
 42 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754 **and section 2 of this 2015 Act.**

43 (2) The notification shall specify where and when the harvest will take place and the nature of
 44 the harvest and shall include maps and other data as required by the State Forester and the de-
 45 partment. The department shall establish by rule procedures to assure the receipt of the tax returns

1 sent out or a report of nonharvest from the person. The department shall conduct field and office
2 audits to ascertain the correctness of any timber tax return.

3 (3)(a) If a person fails to file a written notice as required in subsection (1) of this section with
4 respect to any harvest over 5,000 board feet, the department shall notify the person. If, after the
5 person has been notified, the person fails to file a written notice as required in subsection (1) of this
6 section with respect to any subsequent harvest over 5,000 board feet, there shall be added to the
7 amount of the timber tax required to be shown on the return as a result of the subsequent harvest
8 a delinquency penalty of \$250 for each violation occurring within a calendar year. The department
9 shall collect the penalty in the same manner as taxes are collected.

10 (b) No penalty shall be imposed under this subsection if a penalty for failure to file the notice
11 with the State Forester has been imposed under ORS 527.992.

12 (c) The delinquency penalty shall first be added to the small tract forestland timber severance
13 tax imposed under ORS 321.700 to 321.754, if applicable to the harvest. If the small tract forestland
14 timber severance tax is not applicable, the delinquency penalty shall be added to the forest products
15 harvest tax imposed under ORS 321.005 to 321.185 **or the severance tax imposed under section**
16 **2 of this 2015 Act, as applicable.**

17 **SECTION 9.** ORS 321.560 is amended to read:

18 321.560. (1) The provisions of ORS chapters 305 and 314 as to the audit and examination of re-
19 ports and returns, determination of deficiencies, liens, assessments, claims for refund, conferences
20 and appeals to the Oregon Tax Court, and the procedures relating thereto, apply to the determi-
21 nation of taxes, penalties and interest imposed under ORS 321.005 to 321.185, 321.560 to 321.600 or
22 321.700 to 321.754 **or sections 2 to 4 of this 2015 Act**, except where the context requires otherwise.

23 (2) If a taxpayer fails to file a return required [by] **under** ORS 321.045 or 321.700 to 321.754 **or**
24 **section 2 of this 2015 Act**, or fails to pay a tax at the time the tax becomes due, there shall be
25 added to the amount of tax required to be shown on the return a delinquency penalty of five percent
26 of the amount of such tax.

27 (3) If the failure to file a return continues for a period in excess of three months after the due
28 date, there shall be added to the amount of tax required to be shown on the return a failure to file
29 penalty of 20 percent of the amount of such tax. This penalty is in addition to the delinquency
30 penalty imposed by subsection (2) of this section.

31 (4) If all or any part of the delinquency or deficiency for which a determination is made is due
32 to fraud or an intent to evade the provisions of ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700
33 to 321.754 **or sections 2 to 4 of this 2015 Act**, or the rules adopted thereunder, a penalty of 100
34 percent of such delinquency or deficiency shall be added, plus interest at the rate established under
35 ORS 305.220 for each month, or any fraction thereof, computed on the full amount of the delinquency
36 or deficiency plus penalty, from the time the return was due.

37 (5) For purposes of this section, the amount of tax required to be shown on the return shall be
38 reduced by the amount of any part of the tax that is paid on or before the date prescribed for pay-
39 ment of the tax and by the amount of any credit against the tax that may be lawfully claimed upon
40 the return.

41 (6) A delinquent tax or a deficiency shall bear interest at the rate established under ORS 305.220
42 for each month, or any fraction thereof, from the time the return was due.

43 **SECTION 10.** ORS 321.570 is amended to read:

44 321.570. (1) If any tax imposed by ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754
45 **or section 2 of this 2015 Act**, or any portion of the tax, is not paid within 30 days after the date

1 that the written notice and demand for payment required under ORS 305.895 is mailed, the Depart-
 2 ment of Revenue may issue a warrant for the payment of the amount of the tax, with the added
 3 penalties, interest and cost of executing the warrant. A copy of the warrant shall be mailed or de-
 4 livered to the taxpayer by the department at the taxpayer's last-known address.

5 (2) At any time after issuing a warrant under this section, the department may record the war-
 6 rant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the
 7 effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff
 8 for the county in which the warrant is recorded to levy upon and sell the real and personal property
 9 of the taxpayer found within that county, and to levy upon any currency of the taxpayer found
 10 within that county, for the application of the proceeds or currency against the amount reflected in
 11 the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant
 12 in the same manner prescribed by law for executions issued against property pursuant to a judg-
 13 ment, and is entitled to the same fees as provided for executions issued against property pursuant
 14 to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant li-
 15 ability.

16 (3) In the discretion of the department a warrant under this section may be directed to any
 17 agent authorized by the department to collect this tax. In the execution of the warrant the agent
 18 has the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess
 19 of actual expenses paid in the performance of such duty.

20 (4) Until a warrant issued under this section is satisfied in full, the department has the same
 21 remedies to enforce the claim for taxes against the taxpayer as if the state had recovered judgment
 22 against the taxpayer for the amount of the tax.

23 **SECTION 11.** ORS 321.580 is amended to read:

24 321.580. If any taxpayer neglects or refuses to make a return required to be made [by] **under**
 25 ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754 **or section 2 of this 2015 Act**, the
 26 Department of Revenue is authorized to determine the tax due, based upon any information in its
 27 possession or that may come into its possession. The department shall give the taxpayer written
 28 notice of the tax and delinquency charges and the tax and delinquency charges shall be a lien from
 29 the time of severance. If the tax and delinquency charges are not paid within 30 days from the
 30 mailing of the notice, the department shall proceed to collect the tax in the manner provided in ORS
 31 321.570.

32 **SECTION 12.** ORS 321.600 is amended to read:

33 321.600. All taxes, interest and penalties due and unpaid under ORS 321.005 to 321.185, 321.560
 34 to 321.600 or 321.700 to 321.754 **or section 2 of this 2015 Act** constitute a debt due the State of
 35 Oregon and may be collected, together with interest, penalty and costs, by appropriate judicial
 36 proceeding, which remedy is in addition to all other existing remedies. However, no proceeding for
 37 the collection of taxes under ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754 **or**
 38 **section 2 of this 2015 Act** shall be instituted after the expiration of six years from the date the
 39 taxes were due.

40 **SECTION 13.** ORS 321.609 is amended to read:

41 321.609. (1) ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754 **and sections 2 to**
 42 **4 of this 2015 Act** shall be enforced and the taxes imposed by ORS 321.005 to 321.185, 321.560 to
 43 321.600 and 321.700 to 321.754 **and sections 2 to 4 of this 2015 Act** shall be collected by the De-
 44 partment of Revenue, which shall have the power to prescribe forms and to adopt rules for the
 45 ascertainment, assessment and collection of the taxes imposed by ORS 321.005 to 321.185, 321.560

1 to 321.600 or 321.700 to 321.754 **or sections 2 to 4 of this 2015 Act.**

2 (2) For the purpose of determining the taxes imposed by ORS 321.005 to 321.185, 321.560 to
3 321.600 or 321.700 to 321.754 **or sections 2 to 4 of this 2015 Act**, the department may:

4 (a) Require any person to furnish any information deemed necessary.

5 (b) Examine the books, records and files of such person.

6 (c) Subpoena and examine witnesses and administer oaths.

7 (d) Enter upon and inspect the land of any owner of the land from which any timber has been
8 harvested.

9 **SECTION 14.** ORS 321.682 is amended to read:

10 321.682. (1) Except as otherwise specifically provided by law, it shall be unlawful for the De-
11 partment of Revenue or any officer or employee of the department to divulge or make known in any
12 manner the amount of the tax or any particulars set forth or disclosed in any report or return re-
13 quired to be filed under ORS 321.045 or 321.741 **or section 2 of this 2015 Act** or any appraisal data
14 collected to make determinations of specially assessed value of forestland pursuant to ORS 321.201
15 to 321.222. It shall be unlawful for any person or entity to whom information is disclosed or given
16 by the department pursuant to ORS 321.684 (2) or any other provision of state law to divulge or use
17 such information for any purpose other than that specified in the provisions of law authorizing the
18 use or disclosure. No subpoena or judicial order shall be issued compelling the department or any
19 of its officers or employees, or any person who has acquired information pursuant to ORS 321.684
20 (2) or any other provision of state law, to divulge or make known the amount of tax or any partic-
21 ulars set forth or disclosed in any report or return except where the taxpayer's liability for timber
22 tax is to be adjudicated by the court from which such process issues.

23 (2) As used in this section, "officer," "employee" or "person" includes an authorized represen-
24 tative of the officer, employee or person, or any former officer, employee or person, or an authorized
25 representative of such former officer, employee or person.

26 **SECTION 15.** ORS 321.684 is amended to read:

27 321.684. (1) The Department of Revenue may:

28 (a) Furnish to any taxpayer or authorized representative, upon request of the taxpayer or au-
29 thorized representative, a copy of the taxpayer's forest products harvest tax report or return re-
30 quired by ORS 321.045 or 321.741, **or severance tax report or return required by section 2 of**
31 **this 2015 Act**, that is filed with the department for any year, or a copy of any report filed by the
32 taxpayer in connection with the return.

33 (b) Publish a list of taxpayers who are entitled to unclaimed tax refunds.

34 (c) Publish statistics classified so as to prevent the identification of taxable value or any partic-
35 ulars contained in any report or return.

36 (d) Disclose a taxpayer's name, address and Social Security number or employer identification
37 number to the extent necessary in connection with the processing and mailing of forms for any re-
38 port or return required in the administration of ORS 321.045 and 321.741 **and section 2 of this 2015**
39 **Act.**

40 (e) Disclose to the State Forester, upon request of the forester, for the purpose of soliciting
41 nominations and recommendations referred to in ORS 526.610, the names of producers meeting pro-
42 ducer class qualifications established under ORS 526.610 who filed forest products harvest tax re-
43 turns.

44 (f) Disclose appraisal data collected to make determinations of specially assessed value of
45 forestland under ORS 321.201 to 321.222 to any member of a forestland value advisory committee the

1 department has convened under ORS 321.213.

2 (2) The department also may disclose and give access to information described in ORS 321.682
3 to:

4 (a) The Commissioner of Internal Revenue or authorized representative, for tax purposes only.

5 (b) The United States Forest Service, Bureau of Land Management and the State Forestry De-
6 partment pursuant to their regulatory programs and for investigative purposes related to timber
7 theft.

8 (c) The Attorney General, assistants and employees in the Department of Justice or other legal
9 representative of the State of Oregon, to the extent the department considers disclosure or access
10 necessary for the performance of the duties of advising or representing the department pursuant to
11 ORS 321.045 and 321.741 **and sections 2 to 4 of this 2015 Act.**

12 (d) Employees of the State of Oregon, other than the Department of Revenue or Department of
13 Justice, to the extent the department considers disclosure or access necessary for such employees
14 to perform their duties under contracts or agreements between the department and any other de-
15 partment, agency or subdivision of the State of Oregon in the department's administration of the tax
16 laws.

17 (e) The Legislative Revenue Officer or the authorized representative of the Legislative Revenue
18 Officer upon compliance with ORS 173.850. The officer or representative may not remove from the
19 premises of the department any materials that would reveal the identity of any taxpayer or any
20 other person or the volume of harvest and value reported on individual returns and reports.

21 (f) Any agency of the State of Oregon, or any person, or any officer or employee of the agency
22 or person to whom disclosure or access is given by state law and not otherwise referred to in this
23 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
24 section 2, Article VI of the Constitution of the State of Oregon.

25 (3) Each officer or employee of the department and each person described or referred to in
26 subsection (2)(b) to (f) of this section to whom disclosure or access to the tax information is given
27 under subsection (2) of this section or any other provision of state law, prior to beginning employ-
28 ment or the performance of duties involving such disclosure or access, shall be advised in writing
29 of the provisions of ORS 321.682 and 321.686 relating to penalties for the violation of ORS 321.682,
30 and shall, as a condition of employment or performance of duties, execute a certificate for the de-
31 partment, in a form prescribed by the department, stating in substance that the person has read
32 these provisions of law, that the person has had them explained and that the person is aware of the
33 penalties for the violation of ORS 321.682.

34 **SECTION 16.** ORS 321.991 is amended to read:

35 321.991. Violation of any provision of ORS 321.005 to 321.185 and 321.560 to 321.600 **and section**
36 **2 of this 2015 Act** is a Class A misdemeanor.

37 **SECTION 17.** ORS 314.752 is amended to read:

38 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
39 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
40 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
41 allowable to the shareholders of the S corporation.

42 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
43 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
44 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
45 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-

1 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
2 manner prescribed under section 1377(a) of the Internal Revenue Code.

3 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
4 of this section shall be determined as if such item were realized directly from the source from which
5 realized by the corporation, or incurred in the same manner as incurred by the corporation.

6 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
7 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
8 316.117, then that provision shall apply to the nonresident shareholder.

9 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
10 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
11 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
12 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
13 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
14 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
15 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
16 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
17 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
18 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
19 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
20 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
21 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
22 merce), ORS 315.533 (low income community jobs initiative) and ORS 317.115 (fueling stations nec-
23 essary to operate an alternative fuel vehicle) **and section 6 of this 2015 Act (milling of timber).**

24 **SECTION 18.** ORS 318.031 is amended to read:

25 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
26 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
27 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
28 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
29 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 6 of this 2015**
30 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

31 **SECTION 19.** ORS 321.824 is amended to read:

32 321.824. (1) Lands assessed by the Department of Revenue pursuant to ORS 308.505 to 308.665
33 or 308.805 to 308.820 may not be assessed under ORS 321.805 to 321.855.

34 (2) Land used exclusively for growing cultured Christmas trees may not be assessed under ORS
35 321.805 to 321.855.

36 (3) Land that is used to grow hardwood timber, including but not limited to hybrid cottonwood,
37 may not be assessed under ORS 321.805 to 321.855 if:

38 (a) The land is prepared using intensive cultivation methods and is cleared of competing vege-
39 tation for at least three years after tree planting;

40 (b) The timber is of a species marketable as fiber for inclusion in the furnish for manufacturing
41 paper products;

42 (c) The timber is harvested on a rotation cycle within 12 years after planting; and

43 (d) The land and timber are subject to intensive agricultural practices such as fertilization, in-
44 sect and disease control, cultivation and irrigation.

45 (4) Nothing contained in ORS 321.805 to 321.855 shall prevent:

1 (a) The collection of ad valorem property taxes that became a lien against timber prior to July
2 1, 1962.

3 (b) The collection of taxes, charges or assessments made pursuant to law for protection.

4 (c) The collection of taxes levied under the provisions of ORS 321.005 to 321.185 and 321.560 to
5 321.600 **and section 2 of this 2015 Act.**

6 **SECTION 20. If any provision of this 2015 Act or its application to any person or cir-**
7 **cumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect**
8 **other provisions or applications of this 2015 Act that can be given effect without the invalid**
9 **provision or application, and to this end the provisions of this 2015 Act are severable.**

10 **SECTION 21. Sections 2 to 4 and 6 of this 2015 Act and the amendments to ORS 314.752,**
11 **318.031, 321.005, 321.550, 321.560, 321.570, 321.580, 321.600, 321.609, 321.682, 321.684, 321.824 and**
12 **321.991 by sections 7 to 19 of this 2015 Act apply to tax years beginning on or after January**
13 **1, 2016.**

14 **SECTION 22. 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.**

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