

Oppose the -3 Amendments to HB 2061

No higher taxes for Oregon's homegrown Main Street businesses

HB 2061's -3 amendments seek to restrict the use of the small business Pass-Through Entity (PTE) tax rates to certain industry sector businesses – and to further limit the number of eligible businesses by the number of workers they employ. LRO's preliminary revenue impact estimates show that these policy changes could amount to a [\\$196 million to \\$244 million tax increase on Oregon's small businesses](#) in the current and/or future biennia.

Background: The small business PTE tax rates were part of the Grand Bargain from the 2013 special session. The package of bills passed during the special session included [HB 3601](#), which among other provisions, increased the corporate tax rate from 6.6 percent to 7.6 percent on income between \$1 million and \$10 million and lowered rates (between 7 percent and 9.9 percent) for taxpayers with business income meeting the following criteria ([as presented by LRO on 12/12/2016](#)) with the policy objective being to provide a more favorable rate structure for business income earned by taxpayers who actively manage their own businesses:

- Taxpayers can have income from partnerships, S-corporations, and LLCs taxed at lower marginal rates
- Policy is NOT intended to benefit passive investment or rental income
- Primary requirement is the taxpayer must “materially participate” in the business (regular, continuous, and substantial participation in the business)
 - Have at least one full-time, non-investor employee
 - Qualifying employees must work at least 1,200 hours in Oregon

The net effect 2013's HB 3601 was an additional [\\$189 million](#) in revenue for the 13-15 biennium.

Tax year 2015 was the first year that the small business PTE rates went into effect. LRO reported that just over 13,000 taxpayers took advantage of the lower rates. Many more are excluded from using the small business PTE rates under current law, which is why the rate structure should be expanded to include sole proprietors and all small, family businesses – not further restricted by industry sector or employee count.

[Current proposals allow only some industries to continue using the PTE rates:](#)

Code	Industries Included
11	Agriculture, Forestry, Fishing and Hunting
21	Mining
31-33	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51	Information
72	Accommodation and Food Service

Provisions that require businesses to maintain **10 employees in each pay period throughout the year** would place the smallest of small businesses at a competitive disadvantage compared with the bigger businesses they compete with.

Code	Industries Excluded
22	Utilities
23	Construction
44-45	Retail Trade
52	Finance and Insurance
53	Real Estate Rental and Leasing
54	Professional, Scientific, and Technical Services
55	Management of Companies and Enterprises
56	Administrative and Support and Waste Management and Remediation Services
61	Educational Services
62	Health Care and Social Assistance
71	Arts, Entertainment, and Recreation
81	Other Services (except Public Administration)
92	Public Administration

Eliminating or restricting the future use of the small business PTE tax rates effectively nullifies the private sector's tax savings from the Grand Bargain but keeps all the tax increases.

Codes and Industry Descriptions as listed by the [North American Industry Classification System \(NAICS\)](#)