

House Bill 2059

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**.

For purposes of corporate minimum tax, modifies definition of Oregon sales to exclude sales made from Oregon to state in which taxpayer is not taxable and sales of intangible property unless attributable to this state's marketplace.

Applies to tax years beginning on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1 Relating to definition of "Oregon sales" as used in determining corporate minimum tax; creating new
2 provisions; amending ORS 317.090; and prescribing an effective date.

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

4 **SECTION 1.** ORS 317.090 is amended to read:

5 317.090. (1) As used in this section:

6 (a) "Oregon sales" means:

7 (A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax
8 purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes
9 of ORS 314.665;

10 (B) If the corporation does not apportion business income for Oregon tax purposes, the total
11 sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if
12 the taxpayer were required to apportion business income for Oregon tax purposes; or

13 (C) If the corporation apportions business income using a method different from the method
14 prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by
15 rule.

16 **(b) Notwithstanding ORS 314.665 (2)(b) and (4), "Oregon sales" does not include:**

17 **(A) Sales of tangible personal property shipped from this state by a taxpayer that is not**
18 **taxable in the state of the purchaser; or**

19 **(B) Sales of other than tangible personal property, unless the sales are derived from**
20 **customers within this state or otherwise attributable to this state's marketplace.**

21 *[(b)]* (c) If the corporation is an agricultural cooperative that is a cooperative organization de-
22 scribed in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales repre-
23 senting business done with or for members of the agricultural cooperative.

24 (2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall
25 pay annually to the state, for the privilege of carrying on or doing business by it within this state,
26 a minimum tax as follows:

27 (a) If Oregon sales properly reported on a return are:

28 (A) Less than \$500,000, the minimum tax is \$150.
29

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) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.
- 2 (C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.
- 3 (D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.
- 4 (E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.
- 5 (F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.
- 6 (G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.
- 7 (H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.
- 8 (I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.
- 9 (J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.
- 10 (K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.
- 11 (L) \$100 million or more, the minimum tax is \$100,000.

12 (b) If a corporation is an S corporation, the minimum tax is \$150.

13 (3) The minimum tax is not apportionable (except in the case of a change of accounting periods),
 14 is payable in full for any part of the year during which a corporation is subject to tax, and may not
 15 be reduced, paid or otherwise satisfied through the use of any tax credit.

16 **SECTION 2.** ORS 317.090, as amended by section 44, chapter 701, Oregon Laws 2015, is
 17 amended to read:

18 317.090. (1) As used in this section:

19 (a) "Oregon sales" means:

20 (A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax
 21 purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes
 22 of ORS 314.665;

23 (B) If the corporation does not apportion business income for Oregon tax purposes, the total
 24 sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if
 25 the taxpayer were required to apportion business income for Oregon tax purposes; or

26 (C) If the corporation apportions business income using a method different from the method
 27 prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by
 28 rule.

29 **(b) Notwithstanding ORS 314.665 (2)(b) and (4), "Oregon sales" does not include:**

30 **(A) Sales of tangible personal property shipped from this state by a taxpayer that is not**
 31 **taxable in the state of the purchaser; or**

32 **(B) Sales of other than tangible personal property, unless the sales are derived from**
 33 **customers within this state or otherwise attributable to this state's marketplace.**

34 [(b)] (c) If the corporation is an agricultural cooperative that is a cooperative organization de-
 35 scribed in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales repre-
 36 senting business done with or for members of the agricultural cooperative.

37 (2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall
 38 pay annually to the state, for the privilege of carrying on or doing business by it within this state,
 39 a minimum tax as follows:

40 (a) If Oregon sales properly reported on a return are:

41 (A) Less than \$500,000, the minimum tax is \$150.

42 (B) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.

43 (C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.

44 (D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.

45 (E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.

1 (F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.

2 (G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.

3 (H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.

4 (I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.

5 (J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.

6 (K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.

7 (L) \$100 million or more, the minimum tax is \$100,000.

8 (b) If a corporation is an S corporation, the minimum tax is \$150.

9 (3) The minimum tax is not apportionable (except in the case of a change of accounting periods),
10 and is payable in full for any part of the year during which a corporation is subject to tax.

11 **SECTION 3.** (1) **The amendments to ORS 317.090 by section 1 of this 2017 Act apply to tax**
12 **years beginning on or after January 1, 2018, and before January 1, 2021.**

13 (2) **The amendments to ORS 317.090 by section 2 of this 2017 Act apply to tax years be-**
14 **ginning on or after January 1, 2021.**

15 **SECTION 4.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**
16 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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