

HOUSE AMENDMENTS TO HOUSE BILL 2060

By COMMITTEE ON REVENUE

June 21

1 On page 1 of the printed bill, line 3, after the second semicolon insert “repealing ORS
2 316.044;”.

3 Delete lines 5 through 30 and delete page 2 and insert:

4 “**SECTION 1.** ORS 316.043 is amended to read:

5 “316.043. (1) As used in this section:

6 “(a) ‘Material participation’ has the meaning given that term in section 469 of the Internal Re-
7 venue Code.

8 “(b) ‘Nonpassive income’ means income other than income from passive activity as determined
9 under section 469 of the Internal Revenue Code. ‘Nonpassive income’ does not include wages, in-
10 terest, dividends or capital gains.

11 “(c) ‘Nonpassive loss’ means loss other than loss from passive activity as determined under
12 section 469 of the Internal Revenue Code.

13 “(2) If a taxpayer that meets the conditions of subsection [(6)] (5) of this section has nonpassive
14 income attributable to any partnership or S corporation after reduction for nonpassive losses, that
15 portion of the taxpayer’s income that meets the conditions of subsection [(6)] (5) of this section shall
16 be taxed at:

17 “(a) The rate applicable under ORS 316.037; or

18 “(b) At the election of the taxpayer, a rate of:

19 “(A) Seven percent of the first \$250,000 of taxable income, or fraction thereof;

20 “(B) Seven and two-tenths percent of taxable income exceeding \$250,000 but not exceeding
21 \$500,000;

22 “(C) Seven and six-tenths percent of taxable income exceeding \$500,000 but not exceeding \$1
23 million;

24 “(D) Eight percent of taxable income exceeding \$1 million but not exceeding \$2.5 million;

25 “(E) Nine percent of taxable income exceeding \$2.5 million but not exceeding \$5 million; and

26 “(F) Nine and nine-tenths percent of taxable income exceeding \$5 million.

27 “[3] *The reduced rates allowed under subsection (2)(b) of this section may be adjusted as provided*
28 *in ORS 316.044.*]

29 “[4] (3) A taxpayer shall use the subtractions, deductions or additions otherwise allowed under
30 this chapter in the calculation of income that is taxed at the rates otherwise applicable under ORS
31 316.037. The only addition or subtraction allowed in the calculation of nonpassive income for which
32 the taxpayer uses the reduced rates allowed under subsection (2)(b) of this section shall be any de-
33 preciation adjustment directly related to the partnership or S corporation.

34 “[5] (4) The election under subsection (2)(b) of this section shall be irrevocable and shall be
made on the taxpayer’s original return. If the taxpayer uses the reduced rates allowed under sub-

1 section (2)(b) of this section, the calculation of income shall be substantiated on a form prescribed
2 by the Department of Revenue and filed with the taxpayer's tax return for the tax year or at such
3 other time and manner as the department may prescribe by rule. A taxpayer who uses the reduced
4 rates available under subsection (2)(b) of this section may not join in the filing of a composite return
5 under ORS 314.778.

6 “[6] (5) The rates listed in subsection (2)(b) of this section apply to nonpassive income attrib-
7 utable to a partnership or S corporation only if **all of the following conditions are met:**

8 “(a) The taxpayer materially participates in the trade or business[;].

9 “(b) The partnership or S corporation employs at least *[one person who is not an owner, member*
10 *or limited partner]* **10 persons during each pay period who are not owners, members or limited**
11 **partners** of the partnership or S corporation[; and].

12 “(c) *[At least 1,200 aggregate hours of work in Oregon are performed, by the close of the tax year*
13 *for which the reduced rate is allowed, by employees who meet the requirements of paragraph (b) of this*
14 *subsection and who are employed by the partnership or S corporation.]* **Each of the employees who**
15 **are employed by the partnership or S corporation and who are described in paragraph (b) of**
16 **this subsection performs at least 1,200 aggregate hours of work in Oregon by the close of the**
17 **tax year for which the reduced rate is allowed.** In determining whether this requirement is met,
18 only hours worked in a week in which a worker works at least 30 hours may be considered.

19 “(d) **The employees perform the required hours of employment in an industry in any of**
20 **the following sectors, as denoted by the corresponding North American Industry Classifica-**
21 **tion System code:**

22 “(A) **Agriculture, Forestry, Fishing and Hunting, (11).**

23 “(B) **Mining, Quarrying and Oil and Gas Extraction, (21).**

24 “(C) **Manufacturing, (31-33).**

25 “(D) **Wholesale Trade, (42).**

26 “(E) **Transportation and Warehousing, (48-49).**

27 “(F) **Information, (51).**

28 “(G) **Accommodation and Food Services, (72).**

29 “[7(a)] (6)(a) A nonresident may apply the reduced rates allowed under subsection (2)(b) of this
30 section only to income earned in Oregon.

31 “(b) A part-year resident shall calculate the tax due using the reduced rates allowed under
32 subsection (2)(b) of this section by first applying those rates to the taxpayer's nonpassive income
33 that meets the requirements of subsection [(6)] (5) of this section, and then multiplying that amount
34 by the ratio of the taxpayer's nonpassive income in Oregon divided by nonpassive income from all
35 sources.

36 “**SECTION 2.** The amendments to ORS 316.043 by section 1 of this 2017 Act apply to tax
37 years beginning on or after January 1, 2017.

38 “**SECTION 3.** The Department of Revenue shall waive any interest that would otherwise
39 apply to taxes due if the interest is based on underpayment or underreporting that results
40 solely from the amendments to ORS 316.043 by section 1 of this 2017 Act.

41 “**SECTION 4.** Section 3 of this 2017 Act applies to tax years beginning on or after January
42 1, 2017, and before January 1, 2018.

43 “**SECTION 5.** ORS 316.044 is repealed.

44 “**SECTION 6.** This 2017 Act takes effect on the 91st day after the date on which the 2017
45 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.”.

