

HB 2830-2
(LC 2380)
6/12/17 (CMT/ps)

Requested by JOINT COMMITTEE ON TAX REFORM

**PROPOSED AMENDMENTS TO
HOUSE BILL 2830**

1 In line 2 of the printed corrected bill, after “amending” delete the rest
2 of the line and delete line 3 and insert “ORS 63.810, 128.760, 184.484,
3 279B.045, 279B.110, 305.265, 305.270, 305.280, 305.380, 305.419, 305.565, 305.645,
4 305.850, 305.992, 308A.071, 311.473, 314.011, 314.135, 314.260, 314.276, 314.287,
5 314.300, 314.302, 314.364, 314.385, 314.400, 314.403, 314.430, 314.466, 314.520,
6 314.610, 314.712, 314.714, 314.716, 314.722, 314.727, 314.730, 314.732, 314.734,
7 314.736, 314.738, 314.744, 314.749, 314.752, 314.775, 314.781, 314.784, 314.840,
8 315.052, 315.054, 316.037, 316.267, 316.277, 316.695, 316.749, 317.061, 317.097,
9 317.131, 344.755, 366.505, 401.690, 461.560, 526.450, 526.455, 526.465, 526.475,
10 701.106, 723.586, 731.840 and 743B.012; repealing ORS 314.265, 314.505, 314.515,
11 314.525, 314.680, 314.688, 314.690, 314.725, 314.740, 314.742, 314.750, 316.043,
12 316.044, 316.279, 317.005, 317.010, 317.013, 317.018, 317.019, 317.025, 317.030,
13 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090, 317.122, 317.129,
14 317.151, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301, 317.303, 317.304,
15 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319, 317.322, 317.327,
16 317.329, 317.344, 317.349, 317.351, 317.356, 317.362, 317.374, 317.379, 317.388,
17 317.394, 317.398, 317.401, 317.476, 317.478, 317.479, 317.485, 317.488, 317.491,
18 317.625, 317.635, 317.650, 317.655, 317.665, 317.667, 317.705, 317.710, 317.713,
19 317.715, 317.716, 317.717, 317.720, 317.725, 317.850, 317.853, 317.920, 317.950,
20 317.991, 318.010, 318.020, 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and
21 318.130; prescribing an effective date; and providing for revenue raising that

1 requires approval by a three-fifths majority.”.

2 Delete lines 5 through 13 and insert:

3

4 **“PERSONAL INCOME AND CORPORATE EXCISE TAX RATES**

5

6 **“SECTION 1.** ORS 316.037 is amended to read:

7 “316.037. (1)(a) A tax is imposed for each taxable year on the entire tax-
8 able income of every resident of this state. The amount of the tax shall be
9 determined in accordance with the following table:

10 “

11 If taxable income is:	The tax is:
12	
13 Not over \$2,000	[5%] 4.5% of
14	taxable
15	income
16	
17 Over \$2,000 but not	
18 over \$5,000	[\$100] \$90 plus [7%] 6.5%
19	of the excess
20	over \$2,000
21	
22 Over \$5,000 but not	
23 over [\$125,000] \$25,000	[\$310] \$285 plus [9%] 8.75%
24	of the excess
25	over \$5,000
26	
27 Over \$25,000 but not	
28 over \$125,000	\$2,035 plus 9%
29	of the excess
30	over \$25,000

1 Over \$125,000 [~~\$11,110~~] **\$11,035** plus 9.9%
2 of the excess
3 over \$125,000

4 “ _____

5 “(b) For tax years beginning in each calendar year, the Department of
6 Revenue shall adopt a table that shall apply in lieu of the table contained
7 in paragraph (a) of this subsection, as follows:

8 “(A) Except as provided in subparagraph (D) of this paragraph, the mini-
9 mum and maximum dollar amounts for each bracket for which a tax is im-
10 posed shall be increased by the cost-of-living adjustment for the calendar
11 year.

12 “(B) The rate applicable to any rate bracket as adjusted under subpara-
13 graph (A) of this paragraph [*shall*] **may** not be changed.

14 “(C) The amounts setting forth the tax, to the extent necessary to reflect
15 the adjustments in the rate brackets, shall be adjusted.

16 “(D) The rate brackets applicable to taxable income in excess of \$125,000
17 may not be adjusted.

18 “(c) For purposes of paragraph (b) of this subsection, the cost-of-living
19 adjustment for any calendar year is the percentage (if any) by which the
20 monthly averaged U.S. City Average Consumer Price Index for the 12 con-
21 secutive months ending August 31 of the prior calendar year exceeds the
22 monthly averaged index for the second quarter of the calendar year 1992.

23 “(d) As used in this subsection, ‘U.S. City Average Consumer Price
24 Index’ means the U.S. City Average Consumer Price Index for All Urban
25 Consumers (All Items) as published by the Bureau of Labor Statistics of the
26 United States Department of Labor.

27 “(e) If any increase determined under paragraph (b) of this subsection is
28 not a multiple of \$50, the increase shall be rounded to the next lower mul-
29 tiple of \$50.

30 “(2) A tax is imposed for each taxable year upon the entire taxable income

1 of every part-year resident of this state. The amount of the tax shall be
2 computed under subsection (1) of this section as if the part-year resident
3 were a full-year resident and shall be multiplied by the ratio provided under
4 ORS 316.117 to determine the tax on income derived from sources within this
5 state.

6 “(3) A tax is imposed for each taxable year on the taxable income of every
7 full-year nonresident that is derived from sources within this state. The
8 amount of the tax shall be determined in accordance with the table set forth
9 in subsection (1) of this section.

10 **“SECTION 2.** ORS 317.061 is amended to read:

11 “317.061. The rate of the tax imposed by and computed under this chapter
12 is:

13 “(1) [*Six and six-tenths*] **Eight** percent of the first \$1 million of taxable
14 income, or fraction thereof; and

15 “(2) [*Seven and six-tenths*] **Nine** percent of any amount of taxable income
16 in excess of \$1 million.

17 **“SECTION 3. (1) The amendments to ORS 316.037 by section 1 of this**
18 **2017 Act apply to tax years beginning on or after January 1, 2019.**

19 **“(2) The amendments to ORS 317.061 by section 2 of this 2017 Act**
20 **apply to tax years beginning on or after January 1, 2017, and before**
21 **January 1, 2019.**

22

23 **“COMMERCIAL ACTIVITY TAX**

24

25 **“SECTION 4. Definitions. As used in sections 4 to 30 of this 2017**
26 **Act:**

27 **“(1) ‘Doing business’ means engaging in any activity, whether legal**
28 **or illegal, that is conducted for, or results in, gain, profit or income,**
29 **at any time during a calendar year.**

30 **“(2) ‘Excluded person’ means any of the following:**

1 “(a) Organizations described in sections 501(c) and 501(j) of the
2 Internal Revenue Code, unless the exemption is denied under section
3 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal Reve-
4 nue Code.

5 “(b) Organizations described in section 501(d) of the Internal Reve-
6 nue Code, unless the exemption is denied under section 502 or 503 of
7 the Internal Revenue Code.

8 “(c) Organizations described in section 501(e) of the Internal Reve-
9 nue Code.

10 “(d) Organizations described in section 501(f) of the Internal Reve-
11 nue Code.

12 “(e) Charitable risk pools described in section 501(n) of the Internal
13 Revenue Code.

14 “(f) Organizations described in section 521 of the Internal Revenue
15 Code.

16 “(g) Qualified state tuition programs described in section 529 of the
17 Internal Revenue Code.

18 “(h) Foreign or alien insurance companies, but only with respect
19 to the underwriting profit derived from writing wet marine and
20 transportation insurance subject to tax under ORS 731.824 and 731.828.

21 “(i) People’s utility districts established under ORS chapter 261.

22 “(j) Governmental entities.

23 “(k) Any person that has taxable gross receipts that do not exceed
24 \$150,000 for the tax period, other than a person that is part of a unitary
25 group as provided in section 6 of this 2017 Act that has taxable gross
26 receipts in excess of \$150,000.

27 “(3) ‘Financial institution’ has the meaning given that term in ORS
28 314.610, except that it does not include a credit union as defined in ORS
29 723.006, an interstate credit union as defined in ORS 723.001 or a federal
30 credit union.

1 **“(4)(a) ‘FR Y-9’ means the consolidated or parent-only financial**
2 **statements that a holding company is required to file with the Federal**
3 **Reserve Board pursuant to 12 U.S.C. 1844.**

4 **“(b) In the case of a holding company required to file both consol-**
5 **idated and parent-only financial statements, ‘FR Y-9’ means the con-**
6 **solidated financial statements that the holding company is required**
7 **to file.**

8 **“(5) ‘General contractor’ means a contractor as defined in ORS**
9 **701.410.**

10 **“(6) ‘Governmental entity’ means:**

11 **“(a) The United States and any of its unincorporated agencies and**
12 **instrumentalities.**

13 **“(b) Any incorporated agency or instrumentality of the United**
14 **States wholly owned by the United States or by a corporation wholly**
15 **owned by the United States.**

16 **“(c) The State of Oregon and any of its unincorporated agencies and**
17 **instrumentalities.**

18 **“(d) Any county, city, district or other political subdivision of the**
19 **state.**

20 **“(e) Any public corporation owned by a municipality.**

21 **“(7)(a) ‘Gross receipts’ means the total amount realized by a person,**
22 **without deduction for the cost of goods sold or other expenses in-**
23 **curring, that contributes to the production of gross income of the per-**
24 **son, including the fair market value of any property and any services**
25 **received, and any debt transferred or forgiven as consideration.**

26 **“(b) ‘Gross receipts’ does not include:**

27 **“(A) Interest income except interest on credit sales;**

28 **“(B) Receipts from the sale, exchange or other disposition of an**
29 **asset described in section 1221 or 1231 of the Internal Revenue Code,**
30 **without regard to the length of time the person held the asset;**

1 **“(C) Proceeds received attributable to the repayment, maturity or**
2 **redemption of the principal of a loan, bond, mutual fund, certificate**
3 **of deposit or marketable instrument;**

4 **“(D) The principal amount received under a repurchase agreement**
5 **or on account of any transaction properly characterized as a loan to**
6 **the person;**

7 **“(E) Contributions received by a trust, plan or other arrangement,**
8 **any of which is described in section 501(a) of the Internal Revenue**
9 **Code, or to which title 26, subtitle A, chapter 1, subchapter (D) of the**
10 **Internal Revenue Code applies;**

11 **“(F) Compensation, whether current or deferred, and whether in**
12 **cash or in kind, received or to be received by an employee, a former**
13 **employee or the employee’s legal successor for services rendered to**
14 **or for an employer, including reimbursements received by or for an**
15 **individual for medical or education expenses, health insurance premi-**
16 **ums or employee expenses, or on account of a dependent care spending**
17 **account, legal services plan, any cafeteria plan described in section 125**
18 **of the Internal Revenue Code or any similar employee reimbursement;**

19 **“(G) Proceeds received from the issuance of the taxpayer’s own**
20 **stock, options, warrants, puts or calls, or from the sale of the**
21 **taxpayer’s treasury stock;**

22 **“(H) Proceeds received on the account of payments from insurance**
23 **policies, except those proceeds received for the loss of business reve-**
24 **nue;**

25 **“(I) Gifts or charitable contributions received, membership dues**
26 **received by trade, professional, homeowners’ or condominium associ-**
27 **ations, payments received for educational courses, meetings or meals,**
28 **or similar payments to a trade, professional or other similar associ-**
29 **ation, and fundraising receipts received by any person when any excess**
30 **receipts are donated or used exclusively for charitable purposes;**

1 **“(J) Damages received as the result of litigation in excess of**
2 **amounts that, if received without litigation, would be gross receipts;**

3 **“(K) Property, money and other amounts received or acquired by**
4 **an agent on behalf of another in excess of the agent’s commission, fee**
5 **or other remuneration;**

6 **“(L) Tax refunds, other tax benefit recoveries and reimbursements**
7 **for the tax imposed under sections 4 to 30 of this 2017 Act made by**
8 **entities that are part of the same unitary group as provided under**
9 **section 6 of this 2017 Act, and reimbursements made by entities that**
10 **are not members of a unitary group that are required to be made for**
11 **economic parity among multiple owners of an entity whose tax obli-**
12 **gation under sections 4 to 30 of this 2017 Act is required to be reported**
13 **and paid entirely by one owner, as provided in section 6 of this 2017**
14 **Act;**

15 **“(M) Pension reversions;**

16 **“(N) Contributions to capital;**

17 **“(O) In the case of receipts from the sale, transfer, exchange or**
18 **other disposition of motor vehicle fuel as defined in ORS 319.010, an**
19 **amount equal to federal and state motor vehicle fuel excise taxes and**
20 **receipts from billing or invoicing the tax imposed under ORS 319.020**
21 **to another person;**

22 **“(P) In the case of receipts from the sale of cigarettes or tobacco**
23 **products by a wholesale dealer, retail dealer, distributor, manufacturer**
24 **or seller, an amount equal to the federal and state excise taxes paid**
25 **by any person on or for such cigarettes or tobacco products under**
26 **subtitle E of the Internal Revenue Code or ORS chapter 323;**

27 **“(Q) In the case of receipts from the sale of malt beverages, wine**
28 **or distilled liquor, all as defined in ORS 471.001, or cider, as defined in**
29 **ORS 471.023, by a person holding a license issued under ORS chapter**
30 **471, an amount equal to the federal and state excise taxes paid by any**

1 person on or for such beer or intoxicating liquor under subtitle E of
2 the Internal Revenue Code or ORS chapter 471;

3 “(R) In the case of receipts from the sale of marijuana items, as
4 defined in ORS 475B.015, by a person holding a license issued under
5 ORS 475B.010 to 475B.395, an amount equal to the federal and state
6 excise taxes paid by any person on or for such marijuana items under
7 subtitle E of the Internal Revenue Code or ORS 475B.700 to 475B.760;

8 “(S) Receipts realized by a vehicle dealer certified under ORS 822.020
9 from the sale or other transfer of a motor vehicle, as defined in ORS
10 801.360, to another vehicle dealer for the purpose of resale by the
11 transferee vehicle dealer, but only if the sale or other transfer was
12 based upon the transferee’s need to meet a specific customer’s pref-
13 erence for a motor vehicle;

14 “(T) Registration fees, taxes or other amounts collected by a vehicle
15 dealer certified under ORS 822.020 at the sale or other transfer of a
16 motor vehicle, as defined in ORS 801.360, that are owed to a third party
17 by the purchaser of the motor vehicle and passed to the third party
18 by the dealer.

19 “(U) Receipts from a financial institution for services provided to
20 the financial institution in connection with the issuance, processing,
21 servicing and management of loans or credit accounts, if the financial
22 institution and the recipient of the receipts have at least 50 percent
23 of their ownership interests owned or controlled, directly or con-
24 structively through related interests, by common owners;

25 “(V) In the case of amounts retained as commissions by a holder
26 of a license under ORS chapter 462, an amount equal to the amounts
27 specified under ORS chapter 462 that must be paid to or collected by
28 the Department of Revenue as a tax and the amounts specified under
29 ORS chapter 462 to be used as purse money;

30 “(W) Net revenue of hospitals subject to assessment under section

1 **2, chapter 736, Oregon Laws 2003, or long term care facilities subject**
2 **to assessment under section 16, chapter 736, Oregon Laws 2003;**

3 **“(X) Net revenue of residential care facilities as defined in ORS**
4 **443.400 or in-home care agencies as defined in ORS 443.305, to the ex-**
5 **tent that the revenue is derived from or received as compensation for**
6 **providing services to a medical assistance or Medicare recipient;**

7 **“(Y) Dividends exempted from federal taxation under section 243 or**
8 **245 of the Internal Revenue Code;**

9 **“(Z) Distributive income received from a pass-through entity;**

10 **“(AA) Receipts from sales to a wholesaler in this state, if the seller**
11 **receives certification from the wholesaler that the wholesaler intends**
12 **to sell the purchased property outside this state;**

13 **“(BB) Proceeds from the sale of a single unit of machinery used in**
14 **a production process, to the extent that the proceeds exceed \$5 million;**

15 **“(CC) Rebates paid to purchasers by retailers or wholesalers;**

16 **“(DD) Receipts realized from medications administered or dispensed**
17 **in a physician’s office pursuant to an oncological, HIV, hepatitis C,**
18 **rheumatologic, hematologic or end-stage renal disease protocol; or**

19 **“(EE) Receipts from transactions among members of a unitary**
20 **group.**

21 **“(8) ‘Internal Revenue Code,’ except where the Legislative Assembly**
22 **has provided otherwise, refers to the laws of the United States or to**
23 **the Internal Revenue Code as they are amended and in effect on De-**
24 **cember 31, 2016.**

25 **“(9) ‘Person’ includes individuals, combinations of individuals of**
26 **any form, receivers, assignees, trustees in bankruptcy, firms, compa-**
27 **nies, joint-stock companies, business trusts, estates, partnerships,**
28 **limited liability partnerships, limited liability companies, associations,**
29 **joint ventures, clubs, societies, for-profit corporations, S corporations,**
30 **qualified subchapter S subsidiaries, qualified subchapter S trusts,**

1 trusts, entities that are disregarded for federal income tax purposes
2 and any other entities.

3 “(10) ‘Retailer’ means a person doing business by selling tangible
4 personal property for a purpose other than:

5 “(a) Reselling the property as tangible personal property in the
6 regular course of business;

7 “(b) Incorporating the property in the course of regular business
8 as an ingredient or component of real or personal property; or

9 “(c) Consuming the property in the production for sale of a new
10 article of tangible personal property.

11 “(11) ‘Services’ means services in the following industries as cate-
12 gorized by the North American Industry Classification codes:

13 “(a) Information services, as described in code 51;

14 “(b) Finance, insurance, real estate and professional services, as
15 described in codes 52 to 56;

16 “(c) Education, health and social services, as described in codes 61
17 and 62;

18 “(d) Entertainment, recreation, lodging and food services, as de-
19 scribed in codes 71 and 72; and

20 “(e) Personal services, public administration and other services, as
21 described in codes 81 and 92.

22 “(12) ‘Subcontractor’ has the meaning given that term in ORS
23 701.410.

24 “(13) ‘Taxable gross receipts’ means gross receipts sourced to this
25 state under section 12 of this 2017 Act.

26 “(14)(a) ‘Taxpayer’ means any person, or any group of persons in
27 the case of a unitary group treated as one taxpayer under section 6
28 of this 2017 Act, required to register or pay tax under sections 4 to 30
29 of this 2017 Act.

30 “(b) ‘Taxpayer’ does not include excluded persons.

1 “(15)(a) ‘Unitary business’ means a business enterprise in which
2 there exists directly or indirectly between the members or parts of the
3 enterprise a sharing or exchange of value as demonstrated by:

4 “(A) Centralized management or a common executive force;

5 “(B) Centralized administrative services or functions resulting in
6 economies of scale; or

7 “(C) Flow of goods, capital resources or services demonstrating
8 functional integration.

9 “(b) ‘Unitary business’ may include a business enterprise the ac-
10 tivities of which:

11 “(A) Are in the same general line of business, such as manufac-
12 turing, wholesaling or retailing; or

13 “(B) Constitute steps in a vertically integrated process, such as the
14 steps involved in the production of natural resources, which might
15 include exploration, mining, refining and marketing.

16 “(16) ‘Unitary group’ means a corporation or group of corporations
17 engaged in business activities that constitute a unitary business.

18 “(17) ‘Wholesaler’ means a person primarily doing business by
19 merchant distribution of tangible personal property to retailers or to
20 other wholesalers.

21 “SECTION 5. Accounting methods. A taxpayer’s method of ac-
22 counting for gross receipts for a tax period shall be the same as the
23 taxpayer’s method of accounting for federal income tax purposes for
24 the taxpayer’s federal tax year that includes the tax period. If a
25 taxpayer’s method of accounting for federal income tax purposes
26 changes, the taxpayer’s method of accounting for gross receipts under
27 sections 4 to 30 of this 2017 Act shall be changed accordingly.

28 “SECTION 6. Determination of unitary business. Whether two or
29 more corporations that are included in the same consolidated federal
30 return are engaged in a unitary business may be determined by mak-

1 ing reference to corporations that are doing business in the United
2 States and are subject to federal income taxation, whether or not
3 those corporations are includable in the consolidated return. No other
4 corporations may be taken into consideration in making such a de-
5 termination, except in a case in which the transactions or relation-
6 ships between such corporations are made in an attempt to evade or
7 avoid taxation.

8 **“SECTION 7. Taxation of property transferred into state.** (1) Except
9 as provided in subsection (2) of this section:

10 **“(a) A person shall include as taxable gross receipts the value of**
11 **property the person transfers into this state for the person’s own use**
12 **within one year after the person receives the property outside this**
13 **state; and**

14 **“(b) In the case of a unitary group, the taxpayer shall include as**
15 **taxable gross receipts the value of property that any of the taxpayer’s**
16 **members transferred into this state for the use of any of the**
17 **taxpayer’s members within one year after the taxpayer receives the**
18 **property outside this state.**

19 **“(2) Property brought into this state within one year after it is re-**
20 **ceived outside this state by a person or unitary group described in**
21 **subsection (1) of this section may not be included as taxable gross re-**
22 **ceipts as required under subsection (1) of this section if the Depart-**
23 **ment of Revenue ascertains that the property’s receipt outside this**
24 **state by the person or unitary group followed by its transfer into this**
25 **state within one year was not intended in whole or in part to avoid in**
26 **whole or in part the tax imposed under sections 4 to 30 of this 2017**
27 **Act.**

28 **“(3) The department may adopt rules necessary to administer this**
29 **section.**

30 **“SECTION 8. Joint and several liability. All members of a unitary**

1 group during the tax period or periods for which additional tax, pen-
2 alty or interest is owed are jointly and severally liable for such
3 amounts. Although the reporting person shall be assessed for the li-
4 ability, amounts due may be collected by assessment against any
5 member of the unitary group or pursued against any member of the
6 unitary group.

7 **“SECTION 9. Commercial activity tax imposed on gross receipts. (1)**
8 **A commercial activity tax is imposed on each person with taxable**
9 **gross receipts for the privilege of doing business in this state. Persons**
10 **on which the commercial activity tax is imposed include, but are not**
11 **limited to, persons with substantial nexus with this state. The tax**
12 **imposed under this section is not a transactional tax and is not subject**
13 **to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed**
14 **under this section is in addition to any other taxes or fees imposed**
15 **under the tax laws of this state. The tax imposed under this section**
16 **is imposed on the person receiving the gross receipts and is not a tax**
17 **imposed directly on a purchaser. The tax imposed by this section is**
18 **an annual privilege tax for the calendar year that, in the case of cal-**
19 **endar year taxpayers, is the annual tax period and, in the case of**
20 **calendar quarter taxpayers, contains all quarterly tax periods in the**
21 **calendar year. A taxpayer is subject to the annual commercial activity**
22 **tax for doing business during any portion of such calendar year. Rev-**
23 **enues from the tax imposed under this section shall be considered**
24 **revenues from corporate income and excise taxes under Article IX,**
25 **section 14, of the Oregon Constitution.**

26 **“(2) A person has substantial nexus with this state if any of the**
27 **following applies. The person:**

28 **“(a) Owns or uses a part or all of its capital in this state.**

29 **“(b) Holds a certificate of existence or authorization issued by the**
30 **Secretary of State authorizing the person to do business in this state.**

1 “(c) Has bright-line presence in this state.

2 “(d) Otherwise has nexus with this state to an extent that the per-
3 son can be required to remit the tax imposed under sections 4 to 30
4 of this 2017 Act under the United States Constitution.

5 “(3) A person has bright-line presence in this state for a reporting
6 period and for the remaining portion of the calendar year if any of the
7 following applies. The person:

8 “(a) Owns at any time during the calendar year property in this
9 state with an aggregate value of at least \$50,000. For purposes of this
10 paragraph, owned property is valued at original cost and rented prop-
11 erty is valued at eight times the net annual rental charge.

12 “(b) Has during the calendar year payroll in this state of at least
13 \$50,000. Payroll in this state includes the following:

14 “(A) Any amount subject to withholding by the person under ORS
15 316.167 and 316.172;

16 “(B) Any other amount the person pays as compensation to an in-
17 dividual under the supervision or control of the person for work done
18 in this state; and

19 “(C) Any amount the person pays for services performed in this
20 state on the person’s behalf by another.

21 “(c) Has during the calendar year taxable gross receipts of at least
22 \$500,000.

23 “(d) Has at any time during the calendar year within this state at
24 least 25 percent of the person’s total property, total payroll or total
25 gross receipts.

26 “(e) Is domiciled in this state as an individual or for corporate,
27 commercial or other business purposes.

28 “(4) The tax imposed by this section is a tax on the taxpayer and
29 may not be billed or invoiced to another person.

30 “SECTION 10. Rate of taxation. (1) Except as provided in subsection

1 (3) of this section, the commercial activity tax imposed under section
2 9 of this 2017 Act for each tax period shall equal \$250 plus the product
3 of a percentage multiplied by the taxpayer's taxable gross receipts in
4 excess of \$3 million for the tax period, based on the sector in which
5 the taxpayer is primarily doing business, as follows:

6 “(a) For a taxpayer in a services sector, 0.75 percent.

7 “(b) For a taxpayer in a retail sector, as described in North Ameri-
8 can Industry Classification System codes 44 and 45, or a general con-
9 tractor, 0.35 percent.

10 “(c) For a taxpayer in a wholesale sector, as described in North
11 American Industry Classification System code 42, or a subcontractor,
12 0.25 percent.

13 “(d) For a taxpayer in an agriculture, forestry, fishing or mining
14 sector, as described in North American Industry Classification System
15 codes 11 and 21, 0.15 percent.

16 “(e) For all other taxpayers, including utilities, as described in
17 North American Industry Classification System code 22, construction,
18 as described in code 23, and manufacturing, as described in codes 31
19 to 33, 0.48 percent.

20 “(2) If members of a unitary group do business in different sectors,
21 the unitary group shall be taxed at the rate prescribed in subsection
22 (1)(e) of this section, unless a plurality of the unitary group's gross
23 receipts are in a services sector, in which case the unitary group shall
24 be taxed at the rate prescribed in subsection (1)(a) of this section.

25 “(3) If the taxpayer's gross receipts for the calendar year are more
26 than \$150,000 but do not exceed \$3 million, the tax imposed under this
27 section is \$250 for the calendar year.

28 “(4) No tax is owed under this section if the taxpayer's gross re-
29 cepts do not exceed \$150,000.

30 “SECTION 11. Treatment of motor vehicle fuel. (1) As used in this

1 **section:**

2 **“(a) ‘Motor vehicle fuel or any other product used for the propul-**
3 **sion of motor vehicles’ means:**

4 **“(A) Motor vehicle fuel as defined in ORS 319.010; and**

5 **“(B) Fuel the use of which in a motor vehicle is subject to taxation**
6 **under ORS 319.530.**

7 **“(b) ‘Motor vehicle fuel or any other product used for the propul-**
8 **sion of motor vehicles’ does not mean:**

9 **“(A) Electricity; or**

10 **“(B) Electric batteries or any other mechanical or physical compo-**
11 **nent or accessory of a motor vehicle.**

12 **“(c) ‘Oregon sales’ means gross receipts sourced to this state under**
13 **section 12 of this 2017 Act.**

14 **“(d) ‘Subject sales’ means Oregon sales of motor vehicle fuel or any**
15 **other product used for the propulsion of motor vehicles.**

16 **“(e) ‘Taxpayer’ has the meaning given that term in section 4 of this**
17 **2017 Act.**

18 **“(2) Each taxpayer filing a return under section 23 of this 2017 Act,**
19 **for any tax year, that has subject sales shall separately report the**
20 **amount of the subject sales on the return.**

21 **“(3)(a) This subsection applies to a taxpayer that, for any tax year:**

22 **“(A) Reports subject sales under subsection (2) of this section; and**

23 **“(B) Is required to pay the commercial activity tax imposed under**
24 **section 9 of this 2017 Act.**

25 **“(b) As soon as practicable after the end of each fiscal quarter, the**
26 **Department of Revenue shall:**

27 **“(A) Multiply the amount of commercial activity tax paid by a**
28 **taxpayer for the tax year by a percentage equal to the subject sales**
29 **as reported on the return of the taxpayer under subsection (2) of this**
30 **section for the tax year divided by all Oregon sales reported on the**

1 return; and

2 “(B) Pay over to the State Treasurer the amount of commercial
3 activity tax calculated under subparagraph (A) of this paragraph for
4 deposit in the State Highway Fund established under ORS 366.505.

5 “(4)(a) If a taxpayer’s liability for any amount of commercial ac-
6 tivity tax paid over to the State Treasurer under subsection (3)(b)(B)
7 of this section is later changed, because the taxpayer is owed a refund
8 of any portion of the amount of commercial activity tax paid over, the
9 Department of Revenue shall notify the Department of Transportation
10 of the amount of the change in liability.

11 “(b) The Department of Transportation shall transfer the amount
12 stated in the notice under paragraph (a) of this subsection from the
13 State Highway Fund to the General Fund and the transferred amount
14 shall be, as applicable:

15 “(A) Appropriated to the Department of Revenue for payment of
16 any refund of the commercial activity tax owed to the taxpayer;

17 “(B) Credited by the Department of Revenue against the taxpayer’s
18 liability under section 9 of this 2017 Act; or

19 “(C) Transferred to the Education Strategic Investment Fund as
20 described in section 28 of this 2017 Act.

21 “(5) The Department of Revenue may consult with the Department
22 of Transportation for any purpose related to the duties of the Depart-
23 ment of Revenue under this section.

24 “SECTION 12. Sourcing of gross receipts. (1) For purposes of
25 sections 4 to 30 of this 2017 Act, gross receipts shall be sourced to this
26 state as follows:

27 “(a) In the case of the sale, rental, lease or license of real property,
28 if and to the extent the property is located in this state.

29 “(b) In the case of the rental, lease or license of tangible personal
30 property, if and to the extent the property is located in this state.

1 “(c) In the case of the sale of tangible personal property, if and to
2 the extent the property is delivered to a purchaser in this state.

3 “(d) In the case of the sale of a service, if and to the extent the
4 service is delivered to a location in this state.

5 “(e) In the case of the sale, rental, lease or license of intangible
6 property, if and to the extent the property is used in this state. If the
7 receipts are not based on the amount of use of the property, but rather
8 on the right to use the property, and the payor has the right to use
9 the property in this state, the receipts shall be sourced to this state
10 to the extent the receipts are based on the right to use the property
11 in this state.

12 “(2) If the sourcing provisions of subsection (1) of this section do
13 not fairly represent the extent of a person’s gross receipts attributable
14 to this state, the person may request, or the Department of Revenue
15 may require or permit, an alternative method. A request under this
16 subsection by a person must be made within the statute of limitations
17 applicable to sections 4 to 30 of this 2017 Act.

18 “(3) The department may adopt rules to provide additional guidance
19 to the application of this section, and to provide alternative methods
20 of sourcing gross receipts that apply to all persons, or a subset of
21 persons, that are engaged in similar business or trade activities.

22
23 **“FINANCIAL INSTITUTIONS**

24
25 **“SECTION 13. Financial institutions. As applied to a financial in-**
26 **stitution:**

27 “(1) ‘Gross receipts’ means all items of income, without deduction
28 for expenses. If the reporting person for a taxpayer is a holding com-
29 pany, ‘gross receipts’ includes all items of income reported on the FR
30 Y-9 filed by the holding company. If the reporting person for a tax-

1 payer is a bank organization, ‘gross receipts’ includes all items of in-
2 come reported on the call report filed by the bank organization. If the
3 reporting person for a taxpayer is a nonbank financial organization,
4 ‘gross receipts’ includes all items of income reported in accordance
5 with generally accepted accounting principles.

6 “(2) ‘Taxable gross receipts’ means:

7 “(a) Receipts from the lease, sublease, rental or subrental of real
8 property located in this state;

9 “(b) Receipts from the lease, sublease, rental or subrental of tangi-
10 ble personal property to the extent such property is used in this state;

11 “(c) Interest, fees, penalties and any other charge received from
12 loans secured by real property located within this state;

13 “(d) Interest, fees, penalties and any other charge received from
14 loans not secured by real property if the borrower is located in this
15 state;

16 “(e) The amount of net gains, but not less than zero, from the sale
17 of loans secured by real property located in this state;

18 “(f) The amount of net gains, but not less than zero, from the sale
19 of loans not secured by real property if the borrower is located in this
20 state;

21 “(g) Interest, annual fees, penalties and any other charges received
22 from credit card receivables and from cardholders if the billing address
23 of the cardholder is located in this state;

24 “(h) The amount of net gains, but not less than zero, from the sale
25 of credit card receivables if the billing address of the cardholder is lo-
26 cated in this state;

27 “(i) Reimbursement fees of a credit card issuer if the billing address
28 of the cardholder is located in this state;

29 “(j) Receipts from merchant discounts if the merchant is located in
30 this state;

1 “(k) Loan servicing fees derived from loans secured by real property
2 located in this state;

3 “(L) Loan servicing fees derived from loans not secured by real
4 property if the borrower is located in this state;

5 “(m) Loan servicing fees derived from servicing loans from other
6 financial institutions if the borrower is located in this state; and

7 “(n) All other receipts, if the payor of those receipts is located in
8 this state.

9 “(3) If the provisions of subsection (2) of this section do not fairly
10 represent the extent of a financial institution’s activity in this state,
11 the financial institution may request, or the Department of Revenue
12 may require or permit, an alternative method. A request under this
13 subsection by a financial institution must be made within the appli-
14 cable statute of limitations set forth in sections 4 to 30 of this 2017
15 Act.

16 “(4) The department may adopt rules to provide additional guidance
17 to the application of this section, and to provide alternative methods
18 of sourcing gross receipts that apply to all persons, or a subset of
19 persons, that are engaged in similar business or trade activities.

20

21 **“CREDIT FOR PASS-THROUGH ENTITIES**

22

23 **“SECTION 14. Pass-through entities; credit. The commercial activ-**
24 **ity tax imposed under section 9 of this 2017 Act is imposed at the entity**
25 **level. A pass-through entity shall be allowed an entity level credit**
26 **against the taxes otherwise due under ORS chapter 316. The total**
27 **credit allowed shall equal 50 percent of the total tax imposed on the**
28 **pass-through entity.**

29 **“SECTION 15.** Section 14 of this 2017 Act is amended to read:

30 **“Sec. 14.** The commercial activity tax imposed under section 9 of this

1 2017 Act is imposed at the entity level. A pass-through entity shall be al-
2 lowed an entity level credit against the taxes otherwise due under ORS
3 chapter 316. The total credit allowed shall equal [50] **25** percent of the total
4 tax imposed on the pass-through entity.

5

6

“REGISTRATION PROCEDURES

7

8 **“SECTION 16. Registration. (1) Any person who does business in**
9 **this state shall register with the Department of Revenue as provided**
10 **in and subject to sections 16 to 21 of this 2017 Act.**

11 **“(2) Each person described in subsection (1) of this section shall**
12 **apply for and obtain from the department a registration certificate for**
13 **the principal or main place of business of the person and a separate**
14 **registration certificate for any other business location of the person**
15 **in this state.**

16 **“(3) The application shall contain the names of the persons who**
17 **have an interest in the business, their addresses, the address of the**
18 **principal or main place of business and of any other business location**
19 **and other information as reasonably required by the department.**

20 **“(4) The department by rule may establish reasonable fees for pro-**
21 **cessing of applications and issuance of registration certificates under**
22 **sections 16 to 21 of this 2017 Act.**

23 **“SECTION 17. Registration certificate. (1) The Department of Rev-**
24 **enue shall examine an application submitted under section 16 of this**
25 **2017 Act and, if the information contained in the application is com-**
26 **plete and accurate, shall issue an original registration certificate for**
27 **the principal or main place of business and a branch registration cer-**
28 **tificate for each additional business location.**

29 **“(2)(a) Each registration certificate issued must be numbered and**
30 **must show the name, residence, place and character of business of the**

1 person, the business location for which it is issued and any other in-
2 formation required by the department. The registration certificate is-
3 sued for a business location must be displayed at the location in a
4 conspicuous place.

5 “(b) A registration certificate is personal and not assignable or
6 transferable.

7 “(3) If the principal or main place of business is outside this state,
8 the department shall issue the original registration certificate for that
9 location. The department shall issue a branch registration certificate
10 for each business location within this state.

11 “(4) The department may, but need not, consider as a separate
12 business location or place of business any store, mercantile, market,
13 outlet, shop, emporium, mart, establishment, office, studio, stand,
14 booth, stall, site, vending machine or other location.

15 “SECTION 18. Duration, suspension, revocation. (1) A registration
16 under section 16 of this 2017 Act remains valid and in effect for the
17 period during which the person registered engages in business at the
18 business location indicated by the registration certificate and pays the
19 commercial activity tax imposed under section 9 of this 2017 Act or
20 until the registration is suspended, revoked or canceled.

21 “(2)(a) Except in a case of loss, theft, destruction or damage or as
22 otherwise provided by rule, if the person registered or a business lo-
23 cation changes, the registration certificate must be returned to the
24 Department of Revenue and, if applicable, an application made for a
25 new or replacement registration certificate.

26 “(b) Except as provided in paragraph (c) of this subsection, a change
27 in the person registered occurs if the business is sold, transferred or
28 dissolved, a change in ownership occurs or the department otherwise
29 determines that the person registered has changed.

30 “(c) A change in the person registered does not occur:

1 “(A) Upon transfer of assets to an assignee for the benefit of cred-
2 itors or upon the appointment of a receiver or trustee in bankruptcy.

3 “(B) Upon the death of a sole proprietor in those cases where there
4 is a continuous operation of the business by the personal represen-
5 tative or trustee.

6 “(C) Upon any other transfer described by rule adopted by the de-
7 partment.

8 “(3) The department may suspend or revoke the registration of any
9 person that fails to pay the commercial activity tax or that fails to
10 comply with any provision of sections 4 to 30 of this 2017 Act. The de-
11 partment may not issue a new registration certificate to the person
12 unless the department is satisfied that the person will comply with
13 sections 4 to 30 of this 2017 Act and any rules of the department
14 adopted thereunder. If the department suspends or revokes the regis-
15 tration, the person may appeal to the tax court.

16 “(4) Notwithstanding ORS 305.280, an appeal of a decision of the
17 department under subsection (1) of this section may be made to the
18 magistrate division of the tax court within 30 days of the decision in
19 the manner provided in ORS 305.404 to 305.560.

20 “SECTION 19. Temporary registration certificate. A temporary
21 registration certificate may be issued to any person that engages in
22 business in this state under rules adopted by the Department of Rev-
23 enue.

24 “SECTION 20. Inactivity. The Department of Revenue may cancel
25 a registration if the person has not incurred any liability or obligation
26 under the commercial activity tax imposed under section 9 of this 2017
27 Act for at least two years or for any other reason that has been de-
28 termined by the department by rule to be an appropriate reason. Rules
29 adopted by the department shall afford an opportunity to the person
30 to demonstrate that registration should continue or resume.

1 **“SECTION 21. Records.** Every person doing business in this state
2 shall keep records, receipts, invoices and other pertinent papers re-
3 lated to the commercial activity tax imposed under section 9 of this
4 2017 Act in a form required by the Department of Revenue.

5
6 **“RETURNS AND PAYMENTS**

7
8 **“SECTION 22. Payment.** (1) The commercial activity tax imposed
9 under section 9 of this 2017 Act is due and payable to the Department
10 of Revenue as follows:

11 **“(a) If the tax due is \$250 as provided in section 10 (3) of this 2017**
12 **Act, the tax is due and payable to the department not later than the**
13 **last day of the calendar month next following the calendar year.**

14 **“(b) Except as provided in paragraph (a) of this subsection, the tax**
15 **is due and payable to the department quarterly as set forth in section**
16 **23 of this 2017 Act.**

17 **“(2) The commercial activity tax is due and payable as provided in**
18 **this section without regard to any extension of time for filing a return.**

19 **“SECTION 23. Returns, filing.** (1) Not later than the last day of the
20 calendar month next following the applicable tax period described in
21 section 22 of this 2017 Act, a return for the preceding tax period must
22 be filed with the Department of Revenue in a form prescribed by the
23 department.

24 **“(2)(a) For purposes of the commercial activity tax imposed under**
25 **section 9 of this 2017 Act, every person engaged in business in this**
26 **state shall file a return.**

27 **“(b) Notwithstanding paragraph (a) of this subsection, if a person’s**
28 **gross receipts in this state for the calendar year do not exceed \$150,000,**
29 **the person is not required to file a return under this section.**

30 **“(3) The department may by rule extend the time for making any**

1 return for good cause. If the time for filing a return is extended at the
2 request of a taxpayer, interest on any unpaid tax at the rate estab-
3 lished under ORS 305.220, for each month or fraction of a month from
4 the time the return was originally required to be filed to the time of
5 payment, shall be added and paid.

6 **“SECTION 24. Accounting, installment payment.** (1) Subject to
7 rules adopted by the Department of Revenue, the commercial activity
8 tax imposed under section 9 of this 2017 Act becomes payable in ac-
9 cordance with the system of accounting regularly employed by the
10 taxpayer.

11 **“(2) In the case of a lease, contract, sale or arrangement described**
12 **in section 4216(c) of the Internal Revenue Code, rules similar to the**
13 **rules of section 4217(e)(2) of the Internal Revenue Code shall apply for**
14 **purposes of the commercial activity tax.**

15 **“(3) A person is entitled to a credit or refund for taxes previously**
16 **paid on debts that are deductible as worthless for federal income tax**
17 **purposes.**

18

19

“COLLECTION

20

21 **“SECTION 25. Rules, uniformity.** (1) The Department of Revenue is
22 authorized to and shall adopt rules requiring uniformity in application,
23 reporting and collection and otherwise carrying out the purposes of
24 sections 4 to 30 of this 2017 Act.

25 **“(2) The department shall provide by rule for the effective admin-**
26 **istration of the commercial activity tax imposed under section 9 of this**
27 **2017 Act.**

28 **“SECTION 26. Quitting business, successor.** (1) For purposes of
29 sections 4 to 30 of this 2017 Act, ‘successor’ means any person to whom
30 another person quitting, selling out, exchanging or disposing of a

1 **business sells or otherwise conveys, directly or indirectly, in bulk and**
2 **not in the ordinary course of business, a major part of the materials,**
3 **supplies, merchandise, inventory, fixtures or equipment of the person.**
4 **Any person obligated to fulfill the terms of a contract shall be con-**
5 **sidered a successor to any contractor defaulting in the performance**
6 **of any contract as to which the person is a surety or guarantor.**

7 **“(2) If any person quits business or sells out, exchanges or other-**
8 **wise disposes of a business or stock of goods, any commercial activity**
9 **tax imposed under section 9 of this 2017 Act shall become immediately**
10 **due and payable. The person shall, within 10 days after the sale, ex-**
11 **change or disposition, make a return and pay the tax due.**

12 **“(3) Notwithstanding ORS 314.835, the successor is liable for the full**
13 **amount of the tax and may withhold from the purchase price a sum**
14 **sufficient to pay any tax due until a receipt or evidence from the De-**
15 **partment of Revenue showing payment in full of any tax due is pre-**
16 **sented to the successor. If a receipt or other evidence is not presented**
17 **to the successor within 10 days, the successor may pay the tax and the**
18 **amount paid shall, to the extent paid, be considered a payment of the**
19 **purchase price. If the tax paid by the successor is greater than the**
20 **purchase price, the amount of the difference is a debt due to the suc-**
21 **cessor from the seller or transferor.**

22 **“(4) A successor is not liable for any tax due from the person from**
23 **whom the successor has acquired a business or stock of goods if the**
24 **successor gives written notice to the department of the acquisition and**
25 **the department does not assess a deficiency against the seller or**
26 **transferor within one year of receipt of the notice of acquisition and**
27 **mail or deliver a copy of the assessment to the successor.**

28

29

“DISPOSITION OF PROCEEDS

30

1 **“SECTION 27. Payments to Department of Revenue.** For purposes
2 of sections 4 to 30 of this 2017 Act, and except as otherwise provided
3 by law, all taxes, interest and penalties imposed and all amounts of
4 commercial activity tax collected or required to be paid to the state
5 shall be paid to the Department of Revenue and upon receipt by the
6 department shall be turned over to the State Treasurer, to be dis-
7 bursed as provided in section 28 of this 2017 Act.

8 **“SECTION 28. Suspense account, other disposition.** (1) Except as
9 otherwise provided by law, all moneys received by the Department of
10 Revenue under sections 4 to 30 of this 2017 Act shall be deposited in
11 the State Treasury and credited to a suspense account established
12 under ORS 293.445 separate and distinct from the General Fund. Re-
13 funds, including refunds of erroneous overpayments or refunds of
14 other moneys received in which the department has no legal interest,
15 shall be paid out of the suspense account.

16 **“(2)** After payment of refunds and after payments required under
17 section 11 of this 2017 Act, the net revenue shall be transferred to the
18 Education Strategic Investment Fund established under section 32 of
19 this 2017 Act. A working balance of unreceipted revenue from the tax
20 imposed by sections 4 to 30 of this 2017 Act may be retained by the
21 department for the payment of refunds, but such working balance may
22 not at the close of any fiscal year exceed the amount of \$500,000.

23 **“(3)** There are continuously appropriated to the department
24 amounts necessary to pay the administrative expenses of the depart-
25 ment in administering, collecting and enforcing the commercial ac-
26 tivity tax imposed under section 9 of this 2017 Act.

27
28 **“PENALTIES**
29

30 **“SECTION 29. False or fraudulent return, failure to file return.** (1)

1 Any person that is required under sections 4 to 30 of this 2017 Act to
2 make, render, furnish, sign or verify any commercial activity tax re-
3 turn and that makes any false or fraudulent return or supplementary
4 return with intent to defeat or evade the determination of an amount
5 of tax due is subject to penalty and shall be punished as provided un-
6 der ORS 314.991 (1).

7 “(2) Failure or refusal to file any commercial activity tax return
8 or supplementary return, or to furnish any information required by
9 the Department of Revenue, is a Class A misdemeanor.

10 “(3) Violation of any provision contained in sections 4 to 30 of this
11 2017 Act, or any rule adopted thereunder, is a Class A misdemeanor.

12 “SECTION 30. Penalties additional to all other penalties. Any of
13 the penalties provided in section 29 of this 2017 Act are in addition to
14 all other penalties applicable to sections 4 to 30 of this 2017 Act.

15

16 **“APPLICABILITY OF CREDITS AGAINST TAX**

17

18 “SECTION 31. Limited applicability of tax credits. (1) Notwith-
19 standing ORS 285C.309, 285C.406, 285C.503, 285C.506, 315.004, 315.052,
20 315.053, 315.054, 315.068, 315.104, 315.113, 315.119, 315.138, 315.141, 315.144,
21 315.156, 315.163, 315.164, 315.169, 315.174, 315.204, 315.208, 315.213, 315.237,
22 315.271, 315.304, 315.326, 315.331, 315.336, 315.341, 315.354, 315.507, 315.514,
23 315.517, 315.521, 315.533, 315.536, 315.610, 315.675, 317.097, 317.111 or
24 469.720, and except as provided in subsection (2) of this section, a credit
25 against the taxes otherwise due under ORS chapter 317 or 318 may not
26 be allowed for any tax year that begins on or after January 1, 2018.

27 “(2)(a) A tax credit that is first allowed for a tax year beginning
28 before January 1, 2018, and that is intended to be claimed over multiple
29 years or that includes a carryforward provision may be claimed
30 against the commercial activities tax imposed in sections 4 to 30 of

1 **this 2017 Act.**

2 **“(b) In no event may any credit be claimed for any tax year begin-**
3 **ning on or after January 1, 2025. This paragraph does not apply to**
4 **credits allowed under ORS 317.097.**

5
6 **“EDUCATION STRATEGIC INVESTMENT FUND**

7
8 **“SECTION 32. The Education Strategic Investment Fund is estab-**
9 **lished in the State Treasury, separate and distinct from the General**
10 **Fund. Interest earned by the Education Strategic Investment Fund**
11 **shall be credited to the fund.**

12
13 **“CONFORMING AMENDMENTS**

14
15 **“SECTION 33. ORS 63.810 is amended to read:**

16 **“63.810. For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306,**
17 **307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and**
18 **324, a limited liability company formed under this chapter or qualified to do**
19 **business in this state as a foreign limited liability company shall be classi-**
20 **fied in the same manner as it is classified for federal income tax purposes.**
21 **For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308,**
22 **308A, 309, 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and 324, a**
23 **member or an assignee of a member of a limited liability company formed**
24 **under this chapter or qualified to do business in this state as a foreign lim-**
25 **ited liability company shall have the same status as the member or assignee**
26 **of a member has for federal income tax purposes.**

27 **“SECTION 34. ORS 128.760 is amended to read:**

28 **“128.760. (1) The Attorney General may issue an order disqualifying a**
29 **charitable organization from receiving contributions that are deductible as**
30 **charitable donations for the purpose of Oregon income tax [and corporate**

1 *excise tax*] if the Attorney General finds that the organization has failed to
2 expend at least 30 percent of the organization's total annual functional ex-
3 penses on program services when those expenses are averaged over the most
4 recent three fiscal years for which the Attorney General has reports con-
5 taining expense information. The calculation of program services expenses
6 and total functional expenses shall be based on the amounts of program
7 services expenses and total functional expenses identified by the organization
8 in the organization's Internal Revenue Service Form 990 return or other
9 Internal Revenue Service return required to be filed as part of the
10 organization's report to the Attorney General.

11 “(2) A charitable organization may request a contested case hearing
12 within 60 days after notification from the Attorney General that the Attor-
13 ney General proposes to issue a disqualification order under this section.
14 Notwithstanding a finding that the charitable organization's program ser-
15 vices expenses fall below the minimum percentage specified in subsection (1)
16 of this section, the Attorney General may decline to issue a disqualification
17 order if the organization establishes:

18 “(a) That the organization made payments to affiliates that should be
19 considered in calculating the organization's program services expenses;

20 “(b) That the organization is accumulating revenue for a specific program
21 purpose consistent with representations in solicitations; or

22 “(c) Such other mitigating circumstances as may be identified by the At-
23 torney General by rule.

24 “(3) A disqualification order under this section remains in effect until
25 such time as the charitable organization submits sufficient information to
26 the Attorney General to demonstrate that the organization's program ser-
27 vices expenses meet the minimum percentage specified in subsection (1) of
28 this section. A charitable organization may submit information under this
29 subsection no earlier than one year after the disqualification order becomes
30 final, and may not submit information under this subsection more than once

1 each year after the initial submission is made. The information submitted
2 under this subsection must include all Internal Revenue Service Form 990
3 returns, or equivalent Internal Revenue Service returns, filed by the organ-
4 ization after the disqualification order became final.

5 “(4) A disqualification order under this section may not be issued to:

6 “(a) A private foundation as defined in section 509 of the Internal Reve-
7 nue Code, as in effect on October 7, 2013;

8 “(b) A community trust or foundation operating as described in 26 C.F.R.
9 1.170A-9(f)(10) and (11), as in effect on October 7, 2013;

10 “(c) A qualified charitable remainder trust described in section 664 of the
11 Internal Revenue Code, as in effect on October 7, 2013;

12 “(d) An organization that does not qualify to receive tax deductible con-
13 tributions;

14 “(e) An organization that is not required to file annual reports with the
15 Attorney General;

16 “(f) An organization that is not required to file an Internal Revenue
17 Service Form 990 return or an equivalent Internal Revenue Service return;

18 “(g) An organization that receives less than 50 percent of the
19 organization’s total annual revenues from contributions or grants identified
20 in accordance with Internal Revenue Service Form 990 or an equivalent form;
21 and

22 “(h) An organization that has been in existence for less than four years.

23 “(5) When a disqualification order is issued under this section, the char-
24 itable organization that is the subject of the order does not qualify for and
25 may not claim exemption from taxation under ORS 307.130 for the tax year
26 following the tax year in which the order went into effect and subsequent
27 tax years in which the order remains in effect.

28 **“SECTION 35.** ORS 184.484, as amended by section 8, chapter 112, Oregon
29 Laws 2016, is amended to read:

30 “184.484. (1) For each statute that authorizes a tax expenditure with a

1 purpose connected to economic development and that is listed in subsection
2 (2) of this section, the state agency charged with certifying or otherwise
3 administering the tax expenditure shall submit a report to the State Chief
4 Information Officer. If a statute does not exist to authorize a state agency
5 to certify or otherwise administer the tax expenditure, or if a statute does
6 not provide for certification or administration of the tax expenditure, the
7 Department of Revenue shall submit the report.

8 “(2) This section applies to:

9 “(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331,
10 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124[,] **and**
11 317.391 [*and 317.394*] and sections 1 to 5, chapter 112, Oregon Laws 2016.

12 “(b) Grants awarded under ORS 469B.256 in any tax year in which certi-
13 fied renewable energy contributions are received as provided in ORS 315.326.

14 “(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

15 “(d) ORS 316.116, if the allowed credit exceeds \$2,000.

16 “(3) The following information, if the information is already available in
17 an existing database the state agency maintains, must be included in the
18 report required under this section:

19 “(a) The name of each taxpayer or applicant approved for the allowance
20 of a tax expenditure or a grant award under ORS 469B.256.

21 “(b) The address of each taxpayer or applicant.

22 “(c) The total amount of credit against tax liability, reduction in taxable
23 income or exemption from property taxation granted to each taxpayer or
24 applicant.

25 “(d) Specific outcomes or results required by the tax expenditure program
26 and information about whether the taxpayer or applicant meets those re-
27 quirements. This information must be based on data the state agency has
28 already collected and analyzed in the course of administering the tax ex-
29 penditure. Statistics must be accompanied by a description of the methodol-
30 ogy employed in the statistics.

1 “(e) An explanation of the state agency’s certification decision for each
2 taxpayer or applicant, if applicable.

3 “(f) Any additional information that the taxpayer or applicant submits
4 and that the state agency relies on in certifying the determination.

5 “(g) Any other information that state agency personnel deem valuable as
6 providing context for the information described in this subsection.

7 “(4) The information reported under subsection (3) of this section may not
8 include proprietary information or information that is exempt from disclo-
9 sure under ORS 192.410 to 192.505 or 314.835.

10 “(5) No later than September 30 of each year, a state agency described in
11 subsection (1) of this section shall submit to the State Chief Information
12 Officer the information required under subsection (3) of this section as ap-
13 plicable to applications for allowance of tax expenditures the state agency
14 approved during the agency fiscal year ending during the current calendar
15 year. The information must then be posted on the Oregon transparency
16 website described in ORS 184.483 no later than December 31 of the same year.

17 “(6)(a) In addition to the information described in subsection (3) of this
18 section, the State Chief Information Officer shall post on the Oregon trans-
19 parency website:

20 “(A) Copies of all reports that the State Chief Information Officer, the
21 Department of Revenue or the Oregon Business Development Department
22 receives from counties and other local governments relating to properties in
23 enterprise zones that have received tax exemptions under ORS 285C.170,
24 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS
25 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone; and

26 “(B) Copies of any annual reports that agencies described in subsection
27 (1) of this section are required by law to produce regarding the adminis-
28 tration of statutes listed in subsection (2) of this section.

29 “(b) The reports must be submitted to the State Chief Information Officer
30 in a manner and format that the State Chief Information Officer prescribes.

1 “(7) The information described in this section that is available on the
2 Oregon transparency website must be accessible in the format and manner
3 required by the State Chief Information Officer.

4 “(8) The information described in this section must be provided to the
5 Oregon transparency website by posting reports and providing links to ex-
6 isting information systems applications in accordance with standards estab-
7 lished by the State Chief Information Officer.

8 “**SECTION 36.** ORS 279B.045 is amended to read:

9 “279B.045. Every public contract that is subject to this chapter must in-
10 clude a representation and warranty from the contractor that the contractor
11 has complied with the tax laws of this state or a political subdivision of this
12 state, including but not limited to ORS 305.620 and ORS [*chapters 316, 317*
13 *and 318*] **chapter 316 and sections 4 to 30 of this 2017 Act.** The public
14 contract must also require a covenant from the contractor to continue to
15 comply with the tax laws of this state or a political subdivision of this state
16 during the term of the public contract and provide that a contractor’s failure
17 to comply with the tax laws of this state or a political subdivision of this
18 state before the contractor executed the public contract or during the term
19 of the public contract is a default for which a contracting agency may ter-
20 minate the public contract and seek damages and other relief available under
21 the terms of the public contract or under applicable law.

22 “**SECTION 37.** ORS 279B.110 is amended to read:

23 “279B.110. (1) As part of a contracting agency’s evaluation of a bid or
24 proposal, the contracting agency shall determine whether the bidder or
25 proposer is responsible in accordance with the standards of responsibility set
26 forth in subsection (2) of this section. If the contracting agency determines
27 that a bidder or proposer is not responsible, the contracting agency shall
28 provide the bidder or proposer with written notice of the contracting
29 agency’s determination.

30 “(2) In order for a contracting agency to determine that a bidder or

1 proposer is responsible, the bidder or proposer must demonstrate to the
2 contracting agency that the bidder or proposer:

3 “(a) Has available the appropriate financial, material, equipment, facility
4 and personnel resources and expertise, or has the ability to obtain the re-
5 sources and expertise, necessary to meet all contractual responsibilities.

6 “(b) Completed previous contracts of a similar nature with a satisfactory
7 record of performance. For purposes of this paragraph, a satisfactory record
8 of performance means that to the extent that the costs associated with and
9 time available to perform a previous contract remained within the bidder’s
10 or proposer’s control, the bidder or proposer stayed within the time and
11 budget allotted for the procurement and otherwise performed the contract in
12 a satisfactory manner. The contracting agency shall document the bidder’s
13 or proposer’s record of performance if the contracting agency finds under
14 this paragraph that the bidder or proposer is not responsible.

15 “(c) Has a satisfactory record of integrity. The contracting agency in
16 evaluating the bidder’s or proposer’s record of integrity may consider, among
17 other things, whether the bidder or proposer has previous criminal con-
18 victions for offenses related to obtaining or attempting to obtain a contract
19 or subcontract or in connection with the bidder’s or proposer’s performance
20 of a contract or subcontract. The contracting agency shall document the
21 bidder’s or proposer’s record of integrity if the contracting agency finds un-
22 der this paragraph that the bidder or proposer is not responsible.

23 “(d) Is legally qualified to contract with the contracting agency.

24 “(e) Complied with the tax laws of the state or a political subdivision of
25 the state, including ORS 305.620 and ORS [*chapters 316, 317 and 318*] **chapter**
26 **316 and sections 4 to 30 of this 2017 Act**. The bidder or proposer shall
27 demonstrate compliance by attesting to the bidder’s or proposer’s compliance
28 in any way the contracting agency deems credible and convenient.

29 “(f) Possesses an unexpired certificate that the Oregon Department of
30 Administrative Services issued under ORS 279A.167 if the bidder or proposer

1 employs 50 or more full-time workers and submitted a bid or proposal for a
2 procurement with an estimated contract price that exceeds \$500,000 in re-
3 sponse to an advertisement or solicitation from a state contracting agency.

4 “(g) Supplied all necessary information in connection with the inquiry
5 concerning responsibility. If a bidder or proposer fails to promptly supply
6 information concerning responsibility that the contracting agency requests,
7 the contracting agency shall determine the bidder’s or proposer’s responsi-
8 bility based on available information or may find that the bidder or proposer
9 is not responsible.

10 “(h) Was not debarred by the contracting agency under ORS 279B.130.

11 “(3) A contracting agency may refuse to disclose outside of the contract-
12 ing agency confidential information furnished by a bidder or proposer under
13 this section when the bidder or proposer has clearly identified in writing the
14 information the bidder or proposer seeks to have treated as confidential and
15 the contracting agency has authority under ORS 192.410 to 192.505 to with-
16 hold the identified information from disclosure.

17 **“SECTION 38.** ORS 305.265 is amended to read:

18 “305.265. (1) Except as provided in ORS 305.305, the provisions of this
19 section apply to all reports or returns of tax or tax liability filed with the
20 Department of Revenue under the revenue and tax laws administered by it,
21 except those filed under ORS 320.005 to 320.150.

22 “(2) As soon as practicable after a report or return is filed, the depart-
23 ment shall examine or audit it, if required by law or the department deems
24 such examination or audit practicable. If the department discovers from an
25 examination or an audit of a report or return or otherwise that a deficiency
26 exists, it shall compute the tax and give notice to the person filing the return
27 of the deficiency and of the department’s intention to assess the deficiency,
28 plus interest and any appropriate penalty. Except as provided in subsection
29 (3) of this section, the notice shall:

30 “(a) State the reason for each adjustment;

1 “(b) Give a reference to the statute, regulation or department ruling upon
2 which the adjustment is based; and

3 “(c) Be certified by the department that the adjustments are made in good
4 faith and not for the purpose of extending the period of assessment.

5 “(3) When the notice of deficiency described in subsection (2) of this sec-
6 tion results from the correction of a mathematical or clerical error and
7 states what would have been the correct tax but for the mathematical or
8 clerical error, such notice need state only the reason for each adjustment to
9 the report or return.

10 “(4) With respect to any tax return filed under ORS chapter 314, 316, 317
11 or 318 **or sections 4 to 30 of this 2017 Act**, deficiencies shall include but
12 not be limited to the assertion of additional tax arising from:

13 “(a) The failure to report properly items or amounts of income subject to
14 or which are the measure of the tax;

15 “(b) The deduction of items or amounts not permitted by law;

16 “(c) Mathematical errors in the return or the amount of tax shown due
17 in the records of the department; or

18 “(d) Improper credits or offsets against the tax claimed in the return.

19 “(5)(a) The notice of deficiency shall be accompanied by a statement ex-
20 plaining the person’s right to make written objections, the person’s right to
21 request a conference and the procedure for requesting a conference. The
22 statement, and an accompanying form, shall also explain that conference
23 determinations are routinely transmitted via regular mail and that a person
24 desiring to have conference determinations transmitted by certified mail may
25 do so by indicating on the form the person’s preference for certified mail and
26 by returning the form with the person’s written objections as described in
27 paragraph (b) of this subsection.

28 “(b) Within 30 days from the date of the notice of deficiency, the person
29 given notice shall pay the deficiency with interest computed to the date of
30 payment and any penalty proposed. Or within that time the person shall

1 advise the department in writing of objections to the deficiency, and may
2 request a conference with the department, which shall be held prior to the
3 expiration of the one-year period set forth in subsection (7) of this section.

4 “(6) If a request for a conference is made, the department shall notify the
5 person of a time and place for conference and appoint a conference officer
6 to meet with the person for an informal discussion of the matter. After the
7 conference, the conference officer shall send the determination of the issues
8 to the person. The determination letter shall be sent by regular mail, or by
9 certified mail if the person given notice has indicated a preference for
10 transmission of the determination by certified mail. The department shall
11 assess any deficiency in the manner set forth in subsection (7) of this section.
12 If no conference is requested and written objections are received, the de-
13 partment shall make a determination of the issues considering such ob-
14 jections, and shall assess any deficiency in the manner provided in
15 subsection (7) of this section. The failure to request or have a conference
16 shall not affect the rights of appeal otherwise provided by law.

17 “(7) If neither payment nor written objection to the deficiency is received
18 by the department within 30 days after the notice of deficiency has been
19 mailed, the department shall assess the deficiency, plus interest and penal-
20 ties, if any, and shall send the person a notice of assessment, stating the
21 amount so assessed, and interest and penalties. The notice of assessment
22 shall be mailed within one year from the date of the notice of deficiency
23 unless an extension of time is agreed upon as described in subsection (8) of
24 this section. The notice shall advise the person of the rights of appeal.

25 “(8) If, prior to the expiration of any period of time prescribed in sub-
26 section (7) of this section for giving of notice of assessment, the department
27 and the person consent in writing to the deficiency being assessed after the
28 expiration of such prescribed period, such deficiency may be assessed at any
29 time prior to the expiration of the period agreed upon. The period so agreed
30 upon may be extended by subsequent agreements in writing made before the

1 expiration of the period agreed upon.

2 “(9) The failure to hold a requested conference within the one-year period
3 prescribed in subsection (5) of this section shall not invalidate any assess-
4 ment of deficiency made within the one-year period pursuant to subsection
5 (7) of this section or within any extension of time made pursuant to sub-
6 section (8) of this section, but shall invalidate any assessment of interest or
7 penalties attributable to the deficiency. After an assessment has been made,
8 the department and the person assessed may still hold a conference within
9 90 days from the date of assessment. If a conference is held, the 90-day period
10 under ORS 305.280 (2) shall run from the date of the conference officer’s
11 written determination of the issues.

12 “(10)(a) In the case of a failure to file a report or return on the date
13 prescribed therefor (determined with regard to any extension for filing), the
14 department shall determine the tax according to the best of its information
15 and belief, assess the tax plus appropriate penalty and interest, and give
16 written notice of the failure to file the report or return and of the determi-
17 nation and assessment to the person required to make the filing. The amount
18 of tax shall be reduced by the amount of any part of the tax which is paid
19 on or before the date prescribed for payment of the tax and by the amount
20 of any credit against the tax which may be lawfully claimed upon the return.

21 “(b) Notwithstanding subsection (14) of this section and ORS 305.280, and
22 only to the extent allowed by rules adopted by the department, the depart-
23 ment may accept the filing of a report or return submitted by a person who
24 has been assessed a tax under paragraph (a) of this subsection.

25 “(c) The department may reject a report or return:

26 “(A) That is not verified as required by ORS 305.810;

27 “(B) That the department determines is not true and correct as to every
28 material matter as required by ORS 305.815; or

29 “(C) If the department may impose a penalty under ORS 316.992 (1) with
30 respect to the report or return.

1 “(d) If the department rejects a report or return of a person assessed a
2 tax under paragraph (a) of this subsection, the department shall issue a no-
3 tice of rejection to the person. The person may appeal the rejection to the
4 magistrate division of the Oregon Tax Court only if:

5 “(A) The report or return was filed within 90 days of the date the
6 department’s assessment under paragraph (a) of this subsection was issued;
7 and

8 “(B) The appeal is filed within 90 days of the date shown on the notice
9 of rejection.

10 “(e) If the person assessed under paragraph (a) of this subsection submits
11 a report or return to the department and appeals the assessment to the tax
12 court, the department may request a stay of action from the court pending
13 review of the report or return. If the department:

14 “(A) Accepts the filing of the report or return, the appeal shall be dis-
15 missed as moot.

16 “(B) Rejects the report or return, the stay of action on the appeal shall
17 be lifted.

18 “(f) If the department accepts the filing of a report or return, the de-
19 partment may reduce the assessment issued under paragraph (a) of this sub-
20 section. A report or return filed under this subsection that is accepted by the
21 department, whether or not the assessment has been reduced, shall be con-
22 sidered a report or return described in subsection (1) of this section and shall
23 be subject to the provisions of this section, including but not limited to ex-
24 amination and adjustment pursuant to subsection (2) of this section.

25 “(g) The department may refund payments made with respect to a report
26 or return filed and accepted pursuant to this subsection. If the report or
27 return is filed within three years of the due date for filing the report or re-
28 turn, excluding extensions, the refund shall be made as provided by ORS
29 305.270 and 314.415. If the report or return is not filed within three years of
30 the due date for filing the report or return, excluding extensions, the refund

1 shall be limited to payments received within the two-year period ending on
2 the date the report or return is received by the department and payments
3 received after the date the report or return is received by the department.
4 Interest shall be paid at the rate established under ORS 305.220 for each
5 month or fraction of a month from the date the report or return is received
6 by the department to the time the refund is made.

7 “(11) Mailing of notice to the person at the person’s last-known address
8 shall constitute the giving of notice as prescribed in this section.

9 “(12) If a return is filed with the department accompanied by payment of
10 less than the amount of tax shown on or from the information on the return
11 as due, the difference between the tax and the amount submitted is consid-
12 ered as assessed on the due date of the report or return (determined with
13 regard to any extension of time granted for the filing of the return) or the
14 date the report or return is filed, whichever is later. For purposes of this
15 subsection, the amount of tax shown on or from the information on the re-
16 turn as due shall be reduced by the amount of any part of the tax that is
17 paid on or before the due date prescribed for payment of the tax, and by any
18 credits against the tax that are claimed on the return. If the amount required
19 to be shown as tax on a return is less than the amount shown as tax on the
20 return, this subsection shall be applied by substituting the lesser amount.

21 “(13) Every deficiency shall bear interest at the rate established under
22 ORS 305.220 for each month or fraction of a month computed from the due
23 date of the return to date of payment. If the return was falsely prepared and
24 filed with intent to evade the tax, a penalty equal to 100 percent of the de-
25 ficiency shall be assessed and collected. All payments received shall be
26 credited first to penalty, then to interest accrued, and then to tax due.

27 “(14) If the deficiency is paid in full before a notice of assessment is is-
28 sued, the department is not required to send a notice of assessment, and the
29 tax shall be considered as assessed as of the date which is 30 days from the
30 date of the notice of deficiency or the date the deficiency is paid, whichever

1 is the later. A partial payment of the deficiency shall constitute only a credit
2 to the account of the person assessed. Assessments and billings of taxes shall
3 be final after the expiration of the appeal period specified in ORS 305.280,
4 except to the extent that an appeal is allowed under ORS 305.280 (3) follow-
5 ing payment of the tax.

6 “(15) Appeal may be taken to the tax court from any notice of assessment.
7 The provisions of this chapter with respect to appeals to the tax court apply
8 to any deficiency, penalty or interest assessed.

9 **“SECTION 39.** ORS 305.270 is amended to read:

10 “305.270. (1) If the amount of the tax shown as due on a report or return
11 originally filed with the Department of Revenue with respect to a tax im-
12 posed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318 or 321 **or**
13 **sections 4 to 30 of this 2017 Act**, or collected pursuant to ORS 305.620, or
14 as corrected by the department, is less than the amount theretofore paid, or
15 if a person files a claim for refund of any tax paid to the department under
16 such laws within the period specified in subsection (2) of this section, any
17 excess tax paid shall be refunded by the department with interest as provided
18 in this section and ORS 314.415.

19 “(2) The claim shall be made on a form prescribed by the department,
20 except that an amended report or return showing a refund due and filed
21 within the time allowed by this subsection for the filing of a claim for re-
22 fund, shall constitute a claim for refund. The claim shall be filed within the
23 period specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310,
24 314, 316, 317 and 318 **and sections 4 to 30 of this 2017 Act**, or collected
25 pursuant to ORS 305.620 (except where any applicable ordinance specifies
26 another period), within the period specified in ORS 118.100 (2) for taxes im-
27 posed under ORS chapter 118 and within two years of the payment of any
28 tax under ORS chapter 308, 308A or 321.

29 “(3) Upon receipt of a claim for refund, or original report or return
30 claiming a refund, the department shall either refund the amount requested

1 or send to the claimant a notice of any proposed adjustment to the refund
2 claim, stating the basis upon which the adjustment is made. A proposed ad-
3 justment may either increase or decrease the amount of the refund claim or
4 result in the finding of a deficiency. If the proposed adjustment results in a
5 determination by the department that some amount is refundable, the de-
6 partment may send the claimant the adjusted amount with the notice.

7 “(4)(a) The notice of proposed adjustment shall be accompanied by a
8 statement explaining the claimant’s right to make written objections to the
9 refund adjustment, the claimant’s right to request a conference and the pro-
10 cedure for requesting a conference. The statement, and an accompanying
11 form, shall also explain that conference determinations are routinely trans-
12 mitted via regular mail and that a claimant desiring to have conference de-
13 terminations transmitted by certified mail may do so by indicating on the
14 form the claimant’s preference for certified mail and by returning the form
15 with the claimant’s written objections as described in paragraph (b) of this
16 subsection.

17 “(b) The claimant may, within 30 days of the date of the notice of pro-
18 posed adjustment, advise the department in writing of objections to the re-
19 fund adjustment and may request a conference with the department, which
20 shall be held within one year of the date of the notice. The department shall
21 notify the claimant of a time and place for the conference, and appoint a
22 conference officer to meet with the claimant for an informal discussion of
23 the claim. After the conference, the conference officer shall send a determi-
24 nation of the matter to the claimant. The determination letter shall be sent
25 by regular mail, or by certified mail if the claimant has indicated a prefer-
26 ence for transmission of the determination by certified mail. The department
27 shall issue either a notice of refund denial or payment of any amount found
28 to be refundable, together with any applicable interest provided by this sec-
29 tion. If the conference officer determines that a deficiency exists, the de-
30 partment shall issue a notice of assessment.

1 “(5) If no conference is requested, and the adjustments have not resulted
2 in the finding of a deficiency, the following shall apply:

3 “(a) If written objections have been made by the claimant, the department
4 shall consider the objections, determine any issues raised and send the
5 claimant a notice of refund denial or payment of any amount found to be
6 refundable, together with any interest provided by this section.

7 “(b) If no written objections are made, the notice of any proposed ad-
8 justment shall be final after the period for requesting a conference or filing
9 written objections has expired.

10 “(6) If no conference is requested, and the notice of proposed adjustment
11 has asserted a deficiency, the department shall consider any objections made
12 by the person denied the refund, make a determination of any issues raised,
13 pay any refunds found due, with applicable interest, or assess any deficiency
14 and mail a notice thereof within one year from the date of the notice of de-
15 ficiency, unless an extension of time is agreed upon as described in sub-
16 section (7) of this section.

17 “(7) If, prior to the expiration of any period of time prescribed in sub-
18 section (6) of this section for giving of notice of assessment, the department
19 and the person consent in writing to the deficiency being assessed after the
20 expiration of such prescribed period, such deficiency may be assessed at any
21 time prior to the expiration of the period agreed upon. The period so agreed
22 upon may be extended by subsequent agreements in writing made before the
23 expiration of the period agreed upon.

24 “(8) If the department refunds the amount requested as provided in sub-
25 section (3) of this section, without examination or audit of the refund claim,
26 the department shall give notice of this to the claimant at the time of mak-
27 ing the refund. Thereafter, the department shall have one year in which to
28 examine or audit the refund claim, and send the notice of proposed adjust-
29 ment provided for in subsection (3) of this section, in addition to any time
30 permitted in ORS 314.410 or 314.415.

1 “(9) The failure to hold a requested conference within the one-year period
2 prescribed in subsection (4) of this section shall not invalidate any assess-
3 ment of deficiency made within the one-year period pursuant to subsection
4 (8) of this section or within any extension of time made pursuant to sub-
5 section (7) of this section, but shall invalidate any assessment of interest or
6 penalties attributable to the deficiency. After an assessment has been made,
7 the department and the person assessed may still hold a conference within
8 90 days from the date of assessment. If a conference is held, the 90-day period
9 under ORS 305.280 (2) shall run from the date of the conference officer’s
10 written determination of the issues.

11 “(10) The claimant may appeal any notice of proposed adjustment, refund
12 denial or notice of assessment in the manner provided in ORS 305.404 to
13 305.560. The failure to file written objections or to request or have a con-
14 ference shall not affect the rights of appeal so provided. All notices and de-
15 terminations shall set forth rights of appeal.

16 **“SECTION 40.** ORS 305.280 is amended to read:

17 “305.280. (1) Except as otherwise provided in this section, an appeal under
18 ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission,
19 order or determination becomes actually known to the person, but in no
20 event later than one year after the act or omission has occurred, or the order
21 or determination has been made. An appeal under ORS 308.505 to 308.681
22 shall be filed within 90 days after the date the order is issued under ORS
23 308.584 (3). An appeal from a supervisory order or other order or determi-
24 nation of the Department of Revenue shall be filed within 90 days after the
25 date a copy of the order or determination or notice of the order or determi-
26 nation has been served upon the appealing party by mail as provided in ORS
27 306.805.

28 “(2) An appeal under ORS 323.416 or 323.623 or from any notice of as-
29 sessment or refund denial issued by the Department of Revenue with respect
30 to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318,

1 321 or this chapter **or sections 4 to 30 of this 2017 Act**, or collected pur-
2 suant to ORS 305.620, shall be filed within 90 days after the date of the no-
3 tice. An appeal from a proposed adjustment under ORS 305.270 shall be filed
4 within 90 days after the date the notice of adjustment is final.

5 “(3) Notwithstanding subsection (2) of this section, an appeal from a no-
6 tice of assessment of taxes imposed under ORS chapter 314, 316, 317 or 318
7 **or sections 4 to 30 of this 2017 Act** may be filed within two years after the
8 date the amount of tax, as shown on the notice and including appropriate
9 penalties and interest, is paid.

10 “(4) Except as provided in subsection (2) of this section or as specifically
11 provided in ORS chapter 321, an appeal to the tax court under ORS chapter
12 321 or from an order of a county board of property tax appeals shall be filed
13 within 30 days after the date of the notice of the determination made by the
14 department or date of mailing of the order, date of publication of notice of
15 the order, date the order is personally delivered to the taxpayer or date of
16 mailing of the notice of the order to the taxpayer, whichever is applicable.

17 “(5) If the tax court denies an appeal made pursuant to this section on
18 the grounds that it does not meet the requirements of this section or ORS
19 305.275 or 305.560, the tax court shall issue a written decision rejecting the
20 petition and shall set forth in the decision the reasons the tax court con-
21 sidered the appeal to be defective.

22 **“SECTION 41.** ORS 305.380 is amended to read:

23 “305.380. As used in ORS 305.385:

24 “(1) ‘Agency’ means any department, board, commission, division or au-
25 thority of the State of Oregon, or any political subdivision of this state
26 which imposes a local tax administered by the Department of Revenue under
27 ORS 305.620.

28 “(2) ‘License’ means any written authority required by law or ordinance
29 as a prerequisite to the conduct of a business, trade or profession.

30 “(3) ‘Provider’ means any person who contracts to supply goods, services

1 or real estate space to an agency.

2 “(4) ‘Tax’ means a state tax imposed by ORS 320.005 to 320.150 and 403.200
3 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and **sections**
4 **4 to 30 of this 2017 Act and** local taxes administered by the Department of
5 Revenue under ORS 305.620.

6 **“SECTION 42.** ORS 305.419 is amended to read:

7 “305.419. (1) Except as provided in subsection (3) of this section, in any
8 appeal from an order, act, omission or determination of the Department of
9 Revenue involving a deficiency of taxes [*imposed upon or measured by net*
10 *income*] **as prescribed in ORS 305.265**, the tax assessed, and all penalties
11 and interest due, shall be paid to the department on or before the filing of
12 a complaint with the regular division of the Oregon Tax Court under ORS
13 305.560 or within 30 days after entry of an order specially designating a
14 complaint for hearing in the regular division under ORS 305.501. If a dispute
15 exists as to whether the matter involves a deficiency of taxes [*imposed upon*
16 *or measured by net income*] **as prescribed in ORS 305.265**, the tax assessed
17 and all penalties and interest shall be paid within 30 days after entry of a
18 decision or order finding that the matter involves a deficiency of taxes [*im-*
19 *posed upon or measured by net income*] **as prescribed in ORS 305.265**. The
20 complaint shall be filed as a claim for refund.

21 “(2) Penalty and interest due under subsection (1) of this section are the
22 amounts stated in the order, notice of assessment, notice of refund denial or
23 proposed adjustment under ORS 305.270 by the department from which the
24 appeal is taken.

25 “(3) Where payment of the tax, penalty and interest would be an undue
26 hardship, plaintiff may file an affidavit alleging undue hardship within the
27 time described in subsection (1) of this section. A plaintiff’s failure to file
28 an affidavit alleging hardship is not grounds for dismissal of the complaint,
29 provided the plaintiff files the affidavit within 30 days after receiving notice
30 of lack of an affidavit alleging undue hardship from the court. If the tax

1 court finds undue hardship, the tax court judge may stay all or any part of
2 the payment of tax, penalty and interest required under subsection (1) of this
3 section. If the tax court judge finds no undue hardship, the tax court judge
4 may grant the plaintiff up to 30 days from the date of determination to pay
5 the tax, penalty and interest. Failure by the plaintiff to pay the tax, penalty
6 and interest or to establish undue hardship will be cause for dismissing the
7 complaint.

8 “(4) If, in any appeal to the Oregon Tax Court for which payment of tax,
9 penalty and interest assessed is required before filing of a complaint, the tax
10 court orders that all or any part of the amount paid be refunded by the de-
11 partment, the amount so ordered to be refunded shall bear interest at the
12 rate established for refunds in ORS 305.220. Interest shall be computed from
13 the date of payment to the department.

14 **“SECTION 43.** ORS 305.565 is amended to read:

15 “305.565. (1) Except as provided in subsection (2) of this section, pro-
16 ceedings for the collection of any taxes, interest or penalties resulting from
17 an assessment of additional taxes imposed by ORS chapter 118, 310, 314, 316,
18 317, 318, 321 or this chapter **or sections 4 to 30 of this 2017 Act** shall be
19 stayed by the taking or pendency of any appeal to the tax court.

20 “(2) Notwithstanding subsection (1) of this section, the Department of
21 Revenue may proceed to collect any taxes, interest or penalties described in
22 subsection (1) of this section if the department determines that collection
23 will be jeopardized if collection is delayed or that the taxpayer has taken a
24 frivolous position in the appeal. For purposes of this subsection:

25 “(a) Collection of taxes, interest or penalties will be jeopardized if the
26 taxpayer designs quickly to depart from the state or to remove the taxpayer’s
27 property from the state, or to do any other act tending to prejudice or to
28 render wholly or partially ineffectual proceedings to collect the tax.

29 “(b) A taxpayer’s position in an appeal is frivolous if that position is of
30 the kind described in ORS 316.992 (5).

1 “(3) No proceeding for the apportionment, levy or collection of taxes on
2 any property shall be stayed by the taking or pendency of any appeal to the
3 tax court, or from an order of the county board of property tax appeals or
4 the Oregon Tax Court, unless the assessor or tax collector either as a party
5 to the suit or an intervenor, requests a stay and it appears to the satisfaction
6 of the court that a substantial public interest requires the issuance of a stay.

7 “(4) The tax court may, as a condition of a stay, require the posting of
8 a bond sufficient to guarantee payment of the tax. Payment of taxes while
9 appeal is pending shall not operate as a waiver of the appeal or of a right
10 to refund of taxes found to be excessively charged or assessed.

11 **“SECTION 44.** ORS 305.645 is amended to read:

12 “305.645. If a political subdivision of this state imposes a tax on or
13 measured by income as determined under ORS chapter 316[, 317 or 318] **or**
14 **section 11 of the Internal Revenue Code**, the Department of Revenue shall
15 provide to the political subdivision, at the request of the political subdivi-
16 sion, collection, enforcement, administration and distribution services for the
17 tax in the manner provided in ORS 305.620.

18 **“SECTION 45.** ORS 305.850 is amended to read:

19 “305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320
20 and 305.610, the [*Director of the*] Department of Revenue may engage the
21 services of a collection agency to collect any taxes, interest and penalties
22 resulting from an assessment of taxes or additional taxes imposed by ORS
23 chapter 118, 310, 314, 316, 317, 318, 321 or 323 or ORS 320.005 to 320.150 **or**
24 **sections 4 to 30 of this 2017 Act** and any other tax laws administered by
25 the department [*of Revenue*]. The [*director*] **department** may engage the
26 services of a collection agency by entering into an agreement to pay rea-
27 sonable charges on a contingent fee or other basis.

28 “(2) The [*director*] **department** shall cause to be collected, in the same
29 manner as provided in subsection (1) of this section, assessments, taxes and
30 penalties due under ORS chapter 656. All amounts collected pursuant to this

1 subsection shall be credited as provided in ORS 293.250.

2 “(3) The [*director*] **department** may assign to the collection agency, for
3 collection purposes only, any of the taxes, penalties, interest and moneys due
4 the state.

5 “(4) The collection agency may bring such action or take such pro-
6 ceedings, including but not limited to attachment and garnishment pro-
7 ceedings, as may be necessary.

8 **“SECTION 46.** ORS 305.992 is amended to read:

9 “305.992. (1) If any returns required to be filed under ORS 475B.700 to
10 475B.760 or ORS chapter 118, 314, 316, 317, 318, 321 or 323 **or sections 4 to**
11 **30 of this 2017 Act** or under a local tax administered by the Department of
12 Revenue under ORS 305.620 are not filed for three consecutive years by the
13 due date (including extensions) of the return required for the third consec-
14 utive year, there shall be a penalty for each year of 100 percent of the tax
15 liability determined after credits and prepayments for each such year.

16 “(2) The penalty imposed under this section is in addition to any other
17 penalty imposed by law. However, the total amount of penalties imposed for
18 any taxable year under this section, ORS 305.265 (13), 314.400, 323.403, 323.585
19 or 475B.755 may not exceed 100 percent of the tax liability.

20 **“SECTION 47.** ORS 308A.071 is amended to read:

21 “308A.071. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a
22 farm parcel that is not within an area zoned for exclusive farm use is not
23 used exclusively for farm use unless all of the prerequisites of subsections
24 (2) to (5) of this section are met.

25 “(2)(a) Except as provided in subsection (6) of this section, in three out
26 of the five full calendar years immediately preceding the assessment date, the
27 farmland or farm parcel was operated as a part of a farm unit that has
28 produced a gross income from farm uses in the following amount for a cal-
29 endar year:

30 “(A) If the farm unit consists of 6-1/2 acres or less, the gross income from

1 farm use shall be at least \$650.

2 “(B) If the farm unit consists of more than 6-1/2 acres but less than 30
3 acres, the gross income from farm use shall be at least equal to the product
4 of \$100 times the number of acres and any fraction of an acre of land in-
5 cluded.

6 “(C) If the farm unit consists of 30 acres or more, the gross income from
7 farm use shall be at least \$3,000.

8 “(b) For purposes of determining the number of acres to be considered
9 under paragraph (a) of this subsection, the land described in ORS 308A.056
10 (3) and the land, not exceeding one acre, used as a homestead shall not be
11 included.

12 “(c) If a farm parcel is operated as part of a farm unit and the farmland
13 of the farm unit is not all under the same ownership, the gross income re-
14 quirements applicable to the farm parcel shall be as provided under para-
15 graph (a) of this subsection. In addition, the gross income from farm use of
16 a farm parcel described under this paragraph must be at least:

17 “(A) One-half of the gross income requirements described under paragraph
18 (a) of this subsection that would be required if the farm parcel were the only
19 farmland of the farm unit; or

20 “(B) A cash or net share crop rental of one-quarter of the gross income
21 requirements described under paragraph (a) of this subsection that would be
22 required if the farm parcel were the only farmland of the farm unit. For
23 purposes of this subparagraph, ‘net share crop rental’ means the value of any
24 crop received by the owner of the farm parcel less any costs borne by the
25 owner of the farm parcel.

26 “(3) [*Excise or income*] Tax returns are filed [*with the Department of Rev-*
27 *enue*] for purposes of ORS chapter 316[, 317 or 318] **or section 11 of the**
28 **Internal Revenue Code** by the farmland owner or the operator of the farm
29 unit that include a Schedule F and, if applicable, by the owner of a farm
30 parcel that include a schedule or schedules showing rental income received

1 by the owner of the farm parcel, during the years to which the income re-
2 quirements of this section apply.

3 “(4) Upon request, a copy of the returns or the schedules of the returns
4 showing the gross income received from farm use is furnished by the tax-
5 payer to the county assessor.

6 “(5) The burden of proving the gross income of the farm unit for the years
7 described in subsection (2) of this section is upon the person claiming special
8 assessment for the land.

9 “(6) The failure of a farm unit to produce the amount of gross income
10 required by subsection (2) of this section shall not prevent the farm unit from
11 meeting the qualifications of this section if:

12 “(a) The failure is because:

13 “(A) The effect of flooding substantially precludes normal and reasonable
14 farming during the year; or

15 “(B) Severe drought conditions are declared under ORS 536.700 to 536.780;
16 and

17 “(b) The farm unit produces the required amount of gross income in three
18 out of the last five nonflood or nondrought years.

19 “(7) As used in this section:

20 “(a) ‘Farm parcel’ means the contiguous land under the same ownership,
21 whether assessed as one or more than one tax lot.

22 “(b) ‘Gross income’ includes the value of any crop or livestock that is
23 used by the owner personally or in the farming operation of the owner, but
24 does not include:

25 “(A) The value of any crop or livestock so used unless records accurately
26 reflecting both value and use of the crop or livestock are kept by the owner
27 in a manner consistent with generally accepted accounting principles; and

28 “(B) The purchase cost of livestock.

29 “(c) ‘Owner’ or ‘ownership’ means any person described under ORS
30 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an

1 owner as tenant in common or other joint ownership interest.

2 **“SECTION 48.** ORS 311.473 is amended to read:

3 **“311.473. (1) As used in this section:**

4 **“(a) ‘Financial institution’ means a person, corporation or other**
5 **business entity that is any of the following:**

6 **“(A) A bank holding company under the laws of this state or under**
7 **the federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq.,**
8 **as amended.**

9 **“(B) A savings and loan holding company under the National**
10 **Housing Act, 12 U.S.C. 1701 et seq., as amended.**

11 **“(C) A national bank organized and existing as a national bank as-**
12 **sociation under the National Bank Act, 12 U.S.C. 21 et seq., as**
13 **amended.**

14 **“(D) A savings association, as defined in 12 U.S.C. 1813(b)(1), as**
15 **amended.**

16 **“(E) A bank or thrift institution incorporated or organized under**
17 **the laws of any state.**

18 **“(F) An entity organized under the provisions of 12 U.S.C. 611 to**
19 **631, as amended.**

20 **“(G) An agency or branch of a foreign bank, as defined in 12 U.S.C.**
21 **3101, as amended.**

22 **“(H) A state credit union with loan assets that exceed \$50,000,000**
23 **as of the first day of the tax year of the state credit union.**

24 **“(I) A production credit association subject to 12 U.S.C. 2071 et**
25 **seq., as amended.**

26 **“(J) A corporation, more than 50 percent of the voting stock of**
27 **which is owned, directly or indirectly, by a person, corporation or**
28 **other business entity described in subparagraphs (A) to (I) of this**
29 **paragraph, provided that the corporation is not an insurer taxable**
30 **under sections 4 to 30 of this 2017 Act.**

1 **“(K) An entity that is not otherwise described in this subsection**
2 **that is not an insurer taxable under sections 4 to 30 of this 2017 Act**
3 **and that derives more than 50 percent of its gross income from activ-**
4 **ities that a person, corporation or entity described in subparagraph**
5 **(C), (D), (E), (F), (G), (H), (I) or (L) of this paragraph is authorized to**
6 **conduct, not taking into account any income derived from nonrecur-**
7 **ring extraordinary sources.**

8 **“(L) A person that derives at least 50 percent of the person’s annual**
9 **average gross income, for financial accounting purposes for the cur-**
10 **rent tax year and the two preceding tax years, from finance leases,**
11 **excluding any gross income from incidental or occasional transactions.**
12 **For purposes of this subparagraph, ‘finance lease’ means:**

13 **“(i) A lease transaction that is the functional equivalent of an ex-**
14 **tension of credit and that transfers substantially all of the benefits and**
15 **risks of the ownership of the leased property;**

16 **“(ii) A direct financing lease or a leverage lease that meets the**
17 **criteria of Financial Accounting Standards Board Statement No. 13;**
18 **or**

19 **“(iii) Any other lease that is accounted for as a financing by a les-**
20 **sor under generally accepted accounting principles.**

21 **“(b) ‘Financial institution’ does not include a credit union as de-**
22 **finied in ORS 723.006, an interstate credit union as defined in ORS**
23 **723.001 or a federal credit union.**

24 **“[(1)] (2) Any financial institution[,** *as defined in ORS 317.010,***] or agent**
25 **or representative of a financial institution, that, in the process of foreclosing**
26 **any security interest or other lien on taxable personal property, including**
27 **property classified as real property machinery and equipment, or after the**
28 **lien is foreclosed, causes the property to be removed, or is knowledgeable**
29 **that the property will be removed by another after the foreclosure sale, from**
30 **the county in which the property is assessed or seized, shall notify the tax**

1 collector of that county prior to the removal. The notice shall be mailed to
2 the tax collector, return receipt requested, and shall contain a description
3 of the property that is the subject of the foreclosure, together with the name
4 and address of the owner or owners of the property.

5 “[2] (3) Failure to give the notice required under subsection [(1)] (2) of
6 this section shall not affect the foreclosure, but the tax collector shall have
7 recourse against the financial institution on behalf of the taxing units for
8 any damages sustained on account of failure to mail the notice.

9 **“SECTION 49.** ORS 314.011, as amended by section 17, chapter 33, Oregon
10 Laws 2016, is amended to read:

11 “314.011. (1) As used in this chapter, unless the context requires other-
12 wise, ‘department’ means the Department of Revenue.

13 “(2) As used in this chapter:

14 “(a) Any term has the same meaning as when used in a comparable con-
15 text in the laws of the United States relating to federal income taxes, unless
16 a different meaning is clearly required or the term is specifically defined in
17 this chapter.

18 “(b) Except where the Legislative Assembly has provided otherwise, a
19 reference to the laws of the United States or to the Internal Revenue Code
20 refers to the laws of the United States or to the Internal Revenue Code as
21 they are amended and in effect:

22 “(A) On December 31, 2015; or

23 “(B) If related to the definition of taxable income, as applicable to the tax
24 year of the taxpayer.

25 “(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lob-
26 bing expenditures), 314.260 (1)(b), [314.265 (1)(b),] 314.302, 314.306, 314.330,
27 314.360, 314.362, 314.385, 314.402, 314.410, 314.412[, 314.525, 314.742 (7),
28 314.750] and 314.752 and other provisions of this chapter, except those de-
29 scribed in paragraph (b) of this subsection, any reference to the laws of the
30 United States or to the Internal Revenue Code means the laws of the United

1 States relating to income taxes or the Internal Revenue Code as they are
2 amended on or before December 31, 2015, even when the amendments take
3 effect or become operative after that date, except where the Legislative As-
4 sembly has specifically provided otherwise.

5 “(3) Insofar as is practicable in the administration of this chapter, the
6 department shall apply and follow the administrative and judicial interpre-
7 tations of the federal income tax law. When a provision of the federal income
8 tax law is the subject of conflicting opinions by two or more federal courts,
9 the department shall follow the rule observed by the United States Commis-
10 sioner of Internal Revenue until the conflict is resolved. Nothing contained
11 in this section limits the right or duty of the department to audit the return
12 of any taxpayer or to determine any fact relating to the tax liability of any
13 taxpayer.

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

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

1 return that would otherwise be prevented by operation of law or rule, the
2 adjustment shall be made, notwithstanding any law or rule to the contrary,
3 in the manner provided under ORS 314.135.

4 “(b) As used in this subsection, ‘Act or Title’ includes any subtitle, divi-
5 sion or other part of an Act or Title.

6 **“SECTION 50.** ORS 314.135 is amended to read:

7 “314.135. (1)(a) In computing the amount of an adjustment under ORS
8 314.105 to 314.135 there shall first be ascertained the tax previously deter-
9 mined for the taxable year with respect to which the error was made. The
10 amount of the tax previously determined shall be the excess of:

11 “(A) The sum of the amount shown as the tax by the taxpayer on the re-
12 turn of the taxpayer, if a return was made by the taxpayer and an amount
13 was shown as the tax by the taxpayer thereon, plus the amounts previously
14 assessed (or collected without assessment) as a deficiency, over

15 “(B) The amount of refunds (as defined in ORS 314.415) made.

16 “(b) There shall then be ascertained the increase or decrease in tax pre-
17 viously determined which results solely from the correct treatment of the
18 item in the computation of gross income, taxable income, and other matters
19 under ORS 316.317 or [ORS chapter 317 or 318] **sections 4 to 30 of this 2017**
20 **Act.** A similar computation shall be made for any other taxable year af-
21 fected, or treated as affected, by an Oregon net loss for prior years [(as pro-
22 vided by ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws
23 1987)], by a net operating loss deduction (as defined in the federal Internal
24 Revenue Code) or by a capital loss carryback or carryover (as defined in the
25 federal Internal Revenue Code) determined with reference to the taxable year
26 with respect to which the error was made. The amount so ascertained (to-
27 gether with any amounts wrongfully collected as additions to the tax or in-
28 terest, as a result of such error) for each taxable year shall be the amount
29 of the adjustment for that taxable year.

30 “(2) The adjustment authorized in ORS 314.115 (1) shall be made by as-

1 sessing and collecting, or refunding or crediting, the amount thereof in the
2 same manner as if it were a deficiency determined by the Department of
3 Revenue with respect to the taxpayer as to whom the error was made or an
4 overpayment claimed by such taxpayer, as the case may be, for the taxable
5 year or years with respect to which an amount is ascertained under sub-
6 section (1) of this section and as if on the date of the determination one year
7 remained before the expiration of the periods of limitation upon assessment
8 or filing claim for refund for such taxable year or years. If, as a result of a
9 determination described in ORS 314.105 (1)(d), an adjustment has been made
10 by the assessment and collection of a deficiency of the refund or credit of
11 an overpayment, and subsequently such determination is altered or revoked,
12 the amount of the adjustment ascertained under subsection (1) of this section
13 shall be redetermined on the basis of such alteration or revocation and any
14 overpayment or deficiency resulting from such redetermination shall be re-
15 funded or credited, or assessed and collected, as the case may be, as an ad-
16 justment under this part. In the case of an adjustment resulting from an
17 increase or decrease in a net operating loss or net capital loss which is
18 carried back to the year of adjustment, interest [*shall*] **may** not be collected
19 or paid for any period prior to the close of the taxable year in which the net
20 operating loss or net capital loss arises.

21 “(3) The amount to be assessed and collected in the same manner as a
22 deficiency, or to be refunded or credited in the same manner as an overpay-
23 ment, under ORS 314.105 to 314.135, shall not be diminished by any credit
24 or setoff based upon any item other than the one which was the subject of
25 the adjustment. The amount of the adjustment under ORS 314.105 to 314.135,
26 if paid, shall not be recovered by a claim or suit for refund or suit for er-
27 roneous refund based upon any item other than the one which was the sub-
28 ject of the adjustment.

29 **“SECTION 51.** ORS 314.260 is amended to read:

30 “314.260. (1)(a) An entity described in section 860D of the Internal Reve-

1 nue Code (a real estate mortgage investment conduit or REMIC) is not sub-
2 ject to a tax under ORS chapter 316[, 317 or 318 (] **or sections 4 to 30 of**
3 **this 2017 Act** and may not be treated as a corporation, partnership or trust
4 for purposes of ORS chapter 316[, 317 or 318)] **or sections 4 to 30 of this**
5 **2017 Act.**

6 “(b) If a REMIC engages in a prohibited transaction as defined in section
7 860F(a)(2) of the Internal Revenue Code, the REMIC shall be subject to a tax
8 equal to six and six-tenths percent of the net income derived from the pro-
9 hibited transaction. The tax imposed under this paragraph shall be assessed
10 and collected under this chapter and ORS chapter 305 and shall be credited
11 to the General Fund to be made available for general governmental expenses.

12 “(2) The income of any REMIC shall be taxable to the holders of the in-
13 terests in the REMIC under ORS chapter 316[, 317 or 318,] **or sections 4 to**
14 **30 of this 2017 Act**, whichever is applicable.

15 “(3) Taxable income or loss with respect to income received as the holder
16 of any interest in a REMIC shall be determined under sections 860A to 860G
17 of the Internal Revenue Code.

18 “(4) To determine the portion of the income of a REMIC that is taxable
19 to a nonresident holder of an interest in the REMIC, there shall be included
20 only that part derived from or connected with sources in this state, as such
21 part is determined under rules adopted by the Department of Revenue in
22 accordance with the general rules in ORS 316.352 (1987 Replacement Part).

23 **“SECTION 52.** ORS 314.276 is amended to read:

24 “314.276. (1) The method of accounting of a partnership, REMIC (real es-
25 tate mortgage investment conduit)[, *FASIT* (*financial asset securitization in-*
26 *vestment trust*)] or taxpayer shall be the same as the method of accounting
27 [*which*] **that** the partnership, REMIC[, *FASIT*] or taxpayer uses for federal
28 income tax purposes for the taxable year.

29 “(2) Notwithstanding subsection (1) of this section, if the method of ac-
30 counting used by the partnership, REMIC[, *FASIT*] or taxpayer does not

1 clearly reflect income, the computation of taxable income shall be made un-
2 der such method as the Department of Revenue may prescribe.

3 “(3) If the method of accounting is changed for federal income tax pur-
4 poses, the partnership, REMIC[, *FASIT*] or taxpayer shall adopt the same
5 method of accounting for purposes of ORS chapter 316[, *317 or 318*] **or**
6 **sections 4 to 30 of this 2017 Act** and shall use that method beginning with
7 the return filed which corresponds to the first federal return filed [*which*]
8 **that** is required to use the new method. Any adjustments required to prevent
9 amounts from being duplicated or omitted shall be taken into account for
10 state tax purposes in the same manner as for federal tax purposes.

11 “(4) Subsections (1) and (3) of this section [*shall*] **do** not apply with re-
12 spect to methods of accounting which are disallowed for purposes of ORS
13 chapter 316[, *317 or 318*] **or sections 4 to 30 of this 2017 Act**.

14 **“SECTION 53.** ORS 314.287 is amended to read:

15 “314.287. (1) In the computation of state taxable income, costs allocable
16 to inventory shall be the same as those allocable to inventory under section
17 263A of the Internal Revenue Code as of the close of the tax year for which
18 a return is filed and shall not be adjusted for any addition, subtraction,
19 modification or other adjustment contained in this chapter or ORS chapter
20 316[, *317 or 318*] or other law governing the imposition of state taxes imposed
21 upon or measured by net income.

22 “(2) If any provision of ORS chapter 316[, *317 or 318*] appears to require
23 an adjustment to inventory costs contrary to the provisions of this section,
24 that adjustment shall not be made.

25 “(3) The additions, subtractions, modifications or other adjustments to
26 federal taxable income required in determining Oregon taxable income under
27 ORS chapter 316[, *317 or 318*] shall be made to federal taxable income not-
28 withstanding that such adjustments are properly attributable to costs
29 allocable to inventory.

30 **“SECTION 54.** ORS 314.300 is amended to read:

1 “314.300. For purposes of applying section 469 of the Internal Revenue
2 Code to the laws of this state imposing taxes upon or measured by income:

3 “(1) Passive activity loss shall be determined with respect to the activities
4 of the taxpayer under section 469 of the Internal Revenue Code and related
5 federal law and then shall be adjusted by the additions, subtractions, mod-
6 ifications and other adjustments as allocated to passive activity loss under
7 subsection (2) of this section.

8 “(2) Those additions, subtractions, modifications and other adjustments
9 required to be made to federal taxable income under this chapter or ORS
10 **chapter 316** [*chapters 316, 317 and 318*], or other law governing the imposi-
11 tion of state taxes imposed upon or measured by income, shall be allocated
12 to passive activity loss as provided by rule of the Department of Revenue.

13 “(3) Passive activity loss, as determined under subsections (1) and (2) of
14 this section, shall not be allowed for the taxable year of the taxpayer. Pas-
15 sive activity loss shall be treated as a deduction allocable to passive activity
16 in the next succeeding year, and except as otherwise adjusted under sub-
17 section (1) of this section, shall be treated in the same manner as passive
18 activity loss is treated under section 469 of the Internal Revenue Code, and
19 related sections.

20 “(4) For state personal income tax purposes, in the case of a nonresident,
21 passive activity loss attributable to Oregon sources shall be treated in the
22 same manner as described under subsections (1) to (3) of this section.

23 “**SECTION 55.** ORS 314.302 is amended to read:

24 “314.302. (1) Subject to subsections (2) to (4) of this section, if interest on
25 deferred tax liability with respect to an installment obligation is required to
26 be paid for federal income tax purposes under section 453A of the Internal
27 Revenue Code, then interest on that same deferred tax liability shall be paid
28 in the same manner (including the pledging rules under section 453A(d) of
29 the Internal Revenue Code) for state tax purposes and shall, in the amount
30 added, increase the tax imposed under ORS chapter 316[, 317 or 318, *which-*

1 *ever is appropriate*].

2 “(2) Interest added to tax pursuant to subsection (1) of this section shall
3 be determined in the same manner as interest is determined under section
4 453A(c) of the Internal Revenue Code except that in determining the interest
5 to be added using section 453A(c) of the Internal Revenue Code:

6 “(a) The interest rate in effect under ORS 305.220 for deficiencies for the
7 month with or within which the taxable year of the taxpayer ends shall be
8 substituted for the underpayment rate referred to in section 453A(c)(2)(B);
9 and

10 “(b) The maximum rate of tax in effect under ORS chapter 316[, 317 or
11 318, whichever is appropriate,] shall be substituted for the federal rates of tax
12 referred to in section 453A(c)(3)(B).

13 “(3) The Department of Revenue shall adopt rules consistent with those
14 adopted under section 453A of the Internal Revenue Code and with laws of
15 this state as may be necessary to carry out the provisions of this section,
16 including rules providing for the application of this subsection in the case
17 of contingent payments, short taxable years, pass-through entities and deri-
18 vation, attribution or apportionment of installment obligations or income
19 from installment obligations.

20 “(4) In the case of a nonresident subject to taxation under ORS chapter
21 316, in determining whether or not interest is to be added to tax under this
22 section, and the amount of interest to be added, only those installment obli-
23 gations that arise from dispositions of property in this state shall be taken
24 into consideration.

25 “(5) For purposes of determining interest under ORS 314.395 or penalties
26 under ORS 314.400 or other law, and for purposes of refund, estimated and
27 other prepayments of tax, credits and all other purposes, the interest added
28 under this section shall be considered as any other increase in the tax im-
29 posed under ORS chapter 316[, 317 or 318, whichever is appropriate].

30 “(6) The interest added to tax imposed under this section shall be assessed

1 and collected under the applicable provisions of this chapter and ORS chap-
2 ters 305[,] **and** 316[, 317 and 318] and shall be paid over to the State Treas-
3 urer and held in the General Fund as miscellaneous receipts available
4 generally to meet any expense or obligation of the State of Oregon lawfully
5 incurred.

6 **“SECTION 56.** ORS 314.364 is amended to read:

7 “314.364. (1) As used in this section:

8 “(a) ‘Electronic means’ includes computer-generated electronic or mag-
9 netic media, Internet-based applications or similar computer-based methods
10 or applications.

11 “(b) ‘Paid tax preparer’ means a person who prepares a tax return for
12 another or advises or assists in the preparation of a tax return for another,
13 or who employs or authorizes another to do the same, for valuable consid-
14 eration.

15 “(c) ‘Tax return’ means a return filed under ORS chapter 314[,] **or** 316[,
16 317 or 318] **or sections 4 to 30 of this 2017 Act.**

17 “(2) The Department of Revenue may by rule:

18 **“(a)** Require a paid tax preparer to file tax returns by electronic means
19 if the paid tax preparer is required to file federal tax returns by electronic
20 means.

21 “[3] **(b)** [*The department may by rule*] Require a corporation to file tax
22 returns by electronic means if the corporation is required to file federal tax
23 returns by electronic means.

24 **“(c) Require a taxpayer subject to the tax imposed under sections**
25 **4 to 30 of this 2017 Act to file tax returns by electronic means.**

26 “[4] **(d)** [*The department may by rule*] Establish exceptions to the elec-
27 tronic filing requirements of this section.

28 **“SECTION 57.** ORS 314.385, as amended by section 17a, chapter 33,
29 Oregon Laws 2016, is amended to read:

30 “314.385. (1)(a) For purposes of ORS chapter 316, returns shall be filed

1 with the Department of Revenue on or before the due date of the corre-
2 sponding federal return for the tax year as prescribed under the Internal
3 Revenue Code and the regulations adopted pursuant thereto.

4 “*[(b) For purposes of ORS chapters 317 and 318, returns shall be filed with*
5 *the department on or before the 15th day of the month following the due date*
6 *of the corresponding federal return for the tax year, as prescribed under the*
7 *Internal Revenue Code and the regulations adopted pursuant thereto.]*

8 “**(b) For purposes of sections 4 to 30 of this 2017 Act and except as**
9 **provided in section 23 of this 2017 Act, returns shall be filed with the**
10 **department on or before the last day of the month following the close**
11 **of the calendar quarter.**

12 “(c) The department may allow further time for filing returns equal in
13 length to the extension periods allowed under the Internal Revenue Code and
14 its regulations.

15 “(d) If no return is required to be filed for federal income tax purposes,
16 the due date or extension period for a return **for purposes of ORS chapter**
17 **316** shall be the same as the due date, or extension period, would have been
18 if the taxpayer had been required to file a return for federal income tax
19 purposes for the tax year. *[However, the due date for returns filed for purposes*
20 *of ORS chapter 317 or 318 shall be on or before the 15th day of the month*
21 *following what would have been the federal return due date for the tax year.]*

22 “(2) There shall be annexed to the return a statement verified as provided
23 under ORS 305.810 by a declaration of the taxpayer making the return to the
24 effect that the statements contained therein are true.

25 “(3) Returns shall be in the form the department may, from time to time,
26 prescribe. The department shall prepare blank forms for the returns and
27 distribute them throughout the state. The forms shall be furnished the tax-
28 payer upon request, but failure to receive or secure a form does not relieve
29 the taxpayer from the obligation of making any return required by law.

30 “(4)(a) The department may by rule authorize the filing of a return in

1 alternative formats to those described in subsection (3) of this section and
2 may prescribe the conditions, requirements and technical standards for a
3 filing under this subsection.

4 “(b) Notwithstanding subsections (1) to (3) of this section, the department
5 may by rule prescribe a different due date for a return filed in an alternative
6 format.

7 “(c) The policy of the Legislative Assembly in granting the department
8 rulemaking authority under paragraph (b) of this subsection is to have the
9 department prescribe due dates that mirror the due dates that apply to fed-
10 eral returns filed in alternative formats for federal tax purposes.

11 **“SECTION 58.** ORS 314.400 is amended to read:

12 “314.400. (1) If a taxpayer fails to file a report or return or fails to pay
13 a tax by the date on which the filing or payment is due, the Department of
14 Revenue shall add to the amount required to be shown as tax on the report
15 or return a delinquency penalty of five percent of the amount of the unpaid
16 tax.

17 “(2) In the case of a report or return that is required to be filed annually
18 or for a one-year period, if the failure to file the report or return continues
19 for a period in excess of three months after the due date:

20 “(a) There shall be added to the amount of tax required to be shown on
21 the report or return a failure to file penalty of 20 percent of the amount of
22 the tax; and

23 “(b) Thereafter the department may send a notice and demand to the
24 person to file a report or return within 30 days of the mailing of the notice.
25 If after the notice and demand no report or return is filed within the 30 days,
26 the department may determine the tax according to the best of its informa-
27 tion and belief, assess the tax with appropriate penalty and interest plus an
28 additional penalty of 25 percent of the tax deficiency determined by the de-
29 partment and give written notice of the determination and assessment to the
30 person required to make the filing.

1 “(3) In the case of a report or return that is required to be filed more
2 frequently than annually and the failure to file the report or return contin-
3 ues for a period in excess of one month after the due date:

4 “(a) There shall be added to the amount of tax required to be shown on
5 the report or return a failure to file penalty of 20 percent of the amount of
6 the tax; and

7 “(b) Thereafter the department may send a notice and demand to the
8 person to file a report or return within 30 days of the mailing of the notice.
9 If after the notice and demand no report or return is filed within the 30 days,
10 the department may determine the tax according to the best of its informa-
11 tion and belief, assess the tax with appropriate penalty and interest plus an
12 additional penalty of 25 percent of the tax deficiency determined by the de-
13 partment and give written notice of the determination and assessment to the
14 person required to make the filing.

15 “(4) Notwithstanding subsections (2) and (3) of this section, if a taxpayer
16 is required to file a federal income tax return for a period of less than 12
17 months under section 443 of the Internal Revenue Code, the Oregon personal
18 income or corporate excise or income tax return required to be filed for that
19 period shall be subject to subsection (2) of this section.

20 “(5) If a report or return that is subject to a failure to file penalty de-
21 scribed in subsection (2) or (3) of this section is filed before a notice of de-
22 termination and assessment is issued by the department, the failure to file
23 penalty referred to in subsection (2)(a) or (3)(a) of this section shall be added
24 to the amount of tax shown on the report or return.

25 “(6) A penalty equal to 100 percent of any deficiency determined by the
26 department shall be assessed and collected if:

27 “(a) There is a failure to file a report or return with intent to evade the
28 tax; or

29 “(b) A report or return was falsely prepared and filed with intent to evade
30 the tax.

1 “(7) Interest shall be collected on the unpaid tax at the rate established
2 under ORS 305.220 for each month or fraction of a month, computed from the
3 time the tax became due, during which the tax remains unpaid.

4 “(8) Each penalty imposed under this section is in addition to any other
5 penalty imposed under this section. However, the total amount of penalty
6 imposed under this section and ORS 305.265 (13) with respect to any defi-
7 ciency shall not exceed 100 percent of the deficiency.

8 “(9) For purposes of subsections (1) to (3) of this section, the amount of
9 tax required to be shown or that is shown on the report or return shall be
10 reduced by the amount that is paid on or before the date prescribed for
11 payment of the tax and by the amount of any credit against the tax that is
12 claimed on the report or return. If the amount required to be shown as tax
13 on the report or return is less than the amount that is actually shown as tax
14 on the report or return, this subsection shall be applied by substituting the
15 lower amount.

16 “(10) Notwithstanding subsection (1) of this section, the five percent
17 penalty for failure to file a report or return or pay a tax at the time the tax
18 becomes due may not be imposed if:

19 “(a) The taxpayer pays the full amount of the tax plus accrued interest
20 within 30 days of the date shown on the department’s notice sent to the
21 taxpayer; and

22 “(b)(A) The taxpayer had filed an amended individual tax return or an
23 amended [*corporate return of income or excise tax*] **commercial activity tax**
24 **return** accompanied by less than full payment of the tax shown on the re-
25 turn plus accrued interest; or

26 “(B) The department issues a notice of tax deficiency to the taxpayer
27 under ORS 305.265.

28 “**SECTION 59.** ORS 314.403 is amended to read:

29 “314.403. (1) If a taxpayer has a listed transaction understatement for a
30 tax year, there shall be added to the tax liability of the taxpayer for the tax

1 year a penalty equal to 60 percent of the amount of the understatement.

2 “(2) The penalty imposed under this section applies to listed transaction
3 understatements discovered or reported on or after January 1, 2008, and is
4 in addition to and not in lieu of any other penalty.

5 “(3) As used in this section, ‘listed transaction understatement’ means the
6 sum of:

7 “(a) The amount determined by multiplying the highest rate of tax im-
8 posed on the taxpayer under ORS chapter 316 [*or, if the taxpayer is a corpo-*
9 *ration, under ORS chapter 317 or 318,*] by any net increase in taxable income
10 that results from a difference between the proper tax treatment of a listed
11 transaction and the treatment of the transaction on the return of the tax-
12 payer; and

13 “(b) The amount of any decrease in the aggregate amount of credits de-
14 termined for purposes of ORS chapter 316 [*or, if the taxpayer is a corporation,*
15 *for purposes of ORS chapter 317 or 318,*] that results from the taxpayer’s
16 treatment of a listed transaction and the proper tax treatment of that
17 transaction.

18 “(4) The Department of Revenue may by rule further define ‘listed trans-
19 action understatement’ consistent with ORS 314.307 and subsection (3) of this
20 section.

21 **“SECTION 60.** ORS 314.430 is amended to read:

22 “314.430. (1) If any tax imposed under ORS chapter 118[,] **or** 316[, 317 *or*
23 *318*] **or sections 4 to 30 of this 2017 Act** or any portion of the tax is not
24 paid within 30 days after the date that the written notice and demand for
25 payment required under ORS 305.895 is mailed (or within five days after the
26 tax becomes due, in the case of the termination of the tax year by the De-
27 partment of Revenue under the provisions of ORS 314.440), or any amount
28 payable by a transferee under ORS 311.695 is not paid as required under ORS
29 311.686, and no provision is made to secure the payment thereof by bond,
30 deposit or otherwise, pursuant to regulations promulgated by the department,

1 the department may issue a warrant for the payment of the amount of the
2 tax or amount payable under ORS 311.695, with the added penalties, interest
3 and any collection charge incurred. A copy of the warrant shall be mailed
4 or delivered to the taxpayer or transferee by the department at the taxpayer's
5 or transferee's last-known address.

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

20 “(3) In the discretion of the department a warrant under this section may
21 be directed to any agent authorized by the department to collect taxes, and
22 in the execution of the warrant the agent has all of the powers conferred
23 by law upon sheriffs, but is entitled to no fee or compensation in excess of
24 actual expenses paid in the performance of such duty.

25 “(4) Until a warrant issued under this section is satisfied in full, the de-
26 partment has the same remedies to enforce the claim for taxes against the
27 taxpayer or for amounts payable by the transferee as if the state had recov-
28 ered judgment against the taxpayer for the amount of the tax or against the
29 transferee for the amount payable under ORS 311.695.

30 **“SECTION 61.** ORS 314.466 is amended to read:

1 “314.466. The provisions of ORS chapter 305 as to the audit and exam-
2 ination of reports and returns, [*determination of deficiencies, assessments,*
3 *claims for refund, conferences and appeals to the Oregon Tax Court, and the*
4 *procedures relating thereto, shall*] **periods of limitation, determination of**
5 **and notices of deficiencies, assessments, collections, liens, delinquen-**
6 **cies, claims for refund and refunds, conferences, appeals to the Oregon**
7 **Tax Court, stays of collection pending appeal, confidentiality of re-**
8 **turns and the penalties relative thereto, and the procedures relating**
9 **thereto**, apply to the determination of taxes, penalties and interest imposed
10 under this chapter and ORS chapters 315[,] **and** 316[, *317 and 318*] **and**
11 **sections 4 to 30 of this 2017 Act**, except where the context requires other-
12 wise.

13 **“SECTION 62.** ORS 314.712 is amended to read:

14 “314.712. (1) Except as provided in ORS 314.722 or 314.723, a partnership
15 as such is not subject to the tax imposed by ORS chapter 316[, *317 or 318*].
16 Partnership income shall be computed pursuant to section 703 of the Internal
17 Revenue Code, with the modifications, additions and subtractions provided
18 in this chapter and ORS chapter 316. Persons carrying on business as part-
19 ners are liable for the tax imposed by ORS chapter 316[, *317 or 318*] on their
20 distributive shares of partnership income only in their separate or individual
21 capacities.

22 “(2) If a partner engages in a transaction with a partnership other than
23 in the partner’s capacity as a member of the partnership, the transaction
24 shall be treated in the manner described in section 707 of the Internal Rev-
25 enue Code.

26 “(3) If a partnership is an electing large partnership under section 775 of
27 the Internal Revenue Code, the modifications of law applicable to an electing
28 large partnership for federal tax purposes are applicable to the electing large
29 partnership for purposes of the tax imposed by this chapter or ORS chapter
30 316[, *317 or 318*].

1 **“SECTION 63.** ORS 314.714 is amended to read:

2 “314.714. (1) Each item of partnership income, gain, loss or deduction has
3 the same character for a partner as it has for federal income tax purposes.
4 If an item is not characterized for federal income tax purposes, it has the
5 same character for a partner as if realized directly from the source from
6 which realized by the partnership or incurred in the same manner as in-
7 curred by the partnership.

8 “(2) A partner’s distributive share of an item of partnership income, gain,
9 loss or deduction (or item thereof) shall be that partner’s distributive share
10 of partnership income, gain, loss or deduction (or item thereof) for federal
11 income tax purposes as determined under section 704 of the Internal Revenue
12 Code and adjusted for the modifications, additions and subtractions provided
13 in this chapter and ORS [*chapters 316, 317 and 318*] **chapter 316.**

14 “(3) A partner shall, on the partner’s return, treat a partnership item in
15 a manner that is consistent with the treatment of the partnership item on
16 the partnership return, unless the partner notifies the Department of Reve-
17 nue of the inconsistency. The department shall prescribe by rule the method
18 for notification of an inconsistency. A partner of an electing large partner-
19 ship under section 775 of the Internal Revenue Code must treat a partnership
20 item in a manner that is consistent with the treatment of the partnership
21 item on the partnership return.

22 **“SECTION 64.** ORS 314.716 is amended to read:

23 “314.716. (1) The adjusted basis of a partner’s interest in a partnership
24 shall be determined pursuant to the method described in sections
25 704(c)(1)(B)(iii), 705 and 733 of the Internal Revenue Code, and shall be in-
26 creased or decreased as provided in this chapter and ORS chapter 316[, 317
27 or 318], whichever is applicable.

28 “(2) Upon the sale or exchange of an interest in a partnership, gain or
29 loss shall be recognized to the transferor partner pursuant to section 741 of
30 the Internal Revenue Code.

1 “(3) If a partnership elects to adjust the basis of its assets under section
2 754 of the Internal Revenue Code, then upon a transfer of an interest in the
3 partnership by sale or exchange or upon a death of a partner, that election
4 shall also be effective for Oregon income tax purposes.

5 **“SECTION 65.** ORS 314.722 is amended to read:

6 “314.722. (1) As used in this section, ‘publicly traded partnership’ means
7 a partnership treated as a corporation for federal income tax purposes under
8 section 7704 of the Internal Revenue Code for the tax year.

9 “(2) Persons carrying on business as partners in a publicly traded part-
10 nership are not subject to tax under ORS chapter 316[, 317 or 318] on their
11 distributive shares of partnership income, but the publicly traded partnership
12 is taxable as a corporation under [*ORS chapter 317 or 318 as provided under*
13 *ORS chapter 317 or 318*] **sections 4 to 30 of this 2017 Act.**

14 **“SECTION 66.** ORS 314.727 is amended to read:

15 “314.727. The Department of Revenue may disclose to a partner of a
16 partnership those items of partnership gain, loss or other particulars relating
17 to the partnership that are necessary to determine or administer the tax
18 imposed by ORS chapter 316[, 317 or 318] if the department considers the
19 disclosure necessary to facilitate the audit of the partner’s income [*or*
20 *excise*] tax return.

21 **“SECTION 67.** ORS 314.730 is amended to read:

22 “314.730. For purposes of this chapter and [*ORS chapters 316, 317 and*
23 *318*] **ORS chapter 316 and sections 4 to 30 of this 2017 Act:**

24 “(1) ‘C corporation’ means, with respect to any taxable year, a corporation
25 which is not an S corporation for such year.

26 “(2) ‘S corporation’ means, with respect to any taxable year, a corporation
27 for which an election under section 1362(a) of the Internal Revenue Code is
28 in effect for such year.

29 **“SECTION 68.** ORS 314.732 is amended to read:

30 “314.732. (1) [*Except as otherwise provided in ORS 314.740, 314.742 and*

1 317.090,] An S corporation [*shall*] **is** not [*be*] subject to the taxes imposed by
2 ORS chapter 316[, 317 or 318].

3 “(2)(a) Subject to paragraphs (b) to (d) of this subsection, the taxable in-
4 come of an S corporation shall be computed pursuant to section 1363(b) of
5 the Internal Revenue Code, with the modifications, additions and sub-
6 tractions provided in this chapter and ORS chapter 316.

7 “(b) Except as otherwise provided under this chapter and ORS chapter
8 316[, 317 or 318], and except as inconsistent with ORS 314.730 to 314.752,
9 subchapter C, chapter 1, Internal Revenue Code, shall apply to an S corpo-
10 ration and its shareholders for Oregon tax purposes. For Oregon tax pur-
11 poses, the provisions of section 1371 of the Internal Revenue Code shall
12 apply, subject to the modifications, additions and subtractions under this
13 chapter or ORS chapter 316[, 317 or 318] and any provisions to the contrary
14 in this chapter or ORS chapter 316[, 317 or 318].

15 “(c) [*Notwithstanding ORS 317.476, 317.478 or 317.479,*] No carryforward,
16 arising for a taxable year for which a corporation is a C corporation, may
17 be carried to a taxable year for which such corporation is an S corporation.

18 “(d) [*Notwithstanding ORS 317.476 or other law,*] No carryforward, and
19 no carryback, shall arise at the corporate level for a taxable year for which
20 a corporation is an S corporation.

21 **“SECTION 69.** ORS 314.736 is amended to read:

22 “314.736. A distribution of property made by an S corporation with respect
23 to its stock shall be treated in the manner provided under section 1368 of the
24 Internal Revenue Code, subject to modifications, additions and subtractions
25 under ORS chapter 316[, 317 or 318].

26 **“SECTION 70.** ORS 314.738 is amended to read:

27 “314.738. (1) For purposes of employee fringe benefits, and subject to this
28 chapter and ORS chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712
29 to 314.722, 314.726 and 316.124, section 1372 of the Internal Revenue Code
30 shall apply to an S corporation and its shareholders.

1 “(2) For purposes of foreign income, and subject to this chapter and ORS
2 chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712 to 314.722, 314.726
3 and 316.124 **and sections 4 to 30 of this 2017 Act**, section 1373 of the
4 Internal Revenue Code shall apply to an S corporation and its shareholders.

5 **“SECTION 71.** ORS 314.744 is amended to read:

6 “314.744. (1) Subject to subsection (2) of this section, if the Internal Rev-
7 enue Code requires or permits an election or revocation to be made by an
8 S corporation, then that election or revocation shall apply for Oregon tax
9 purposes. If the Internal Revenue Code requires or permits an election or
10 revocation to be made by a shareholder or shareholders of an S corporation,
11 then that election or revocation shall apply for Oregon tax purposes.

12 “(2) The Department of Revenue may adopt rules that contravene sub-
13 section (1) of this section if the election or revocation does not carry out the
14 purposes of this chapter and ORS chapter 305[,] **or 316[, 317 or 318] or**
15 **sections 4 to 30 of this 2017 Act.**

16 **“SECTION 72.** ORS 314.749 is amended to read:

17 “314.749. The Department of Revenue may disclose to the shareholder of
18 an S corporation those items of S corporation gain, loss or other particulars
19 relating to the S corporation that are necessary to administer the tax im-
20 posed by ORS chapter 316[, 317 or 318] if the department considers the dis-
21 closure necessary to facilitate the audit of the shareholder’s income tax
22 return.

23 **“SECTION 73.** ORS 314.752 is amended to read:

24 “314.752. (1) *[Except as provided in ORS 314.740 (5)(b), the tax credits al-*
25 *lowed or allowable to a C corporation for purposes of ORS chapter 317 or 318*
26 *shall not be allowed to an S corporation.]* The business tax credits allowed
27 or allowable for purposes of ORS chapter 316 shall be allowed or are allow-
28 able to the shareholders of the S corporation.

29 “(2) In determining the tax imposed under ORS chapter 316, as provided
30 under ORS 314.734, on income of the shareholder of an S corporation, there

1 shall be taken into account the shareholder's pro rata share of business tax
2 credit (or item thereof) that would be allowed to the corporation (but for
3 subsection (1) of this section) or recapture or recovery thereof. The credit (or
4 item thereof), recapture or recovery shall be passed through to shareholders
5 in pro rata shares as determined in the manner prescribed under section
6 1377(a) of the Internal Revenue Code.

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

11 “(4) If the shareholder is a nonresident and there is a requirement appli-
12 cable for the business tax credit that in the case of a nonresident the credit
13 be allowed in the proportion provided in ORS 316.117, then that provision
14 shall apply to the nonresident shareholder.

15 “(5) As used in this section, ‘business tax credit’ means [*a tax credit*
16 *granted to personal income taxpayers to encourage certain investment, to create*
17 *employment, economic opportunity or incentive or for charitable, educational,*
18 *scientific, literary or public purposes that is listed under this subsection as a*
19 *business tax credit or is designated as a business tax credit by law or by the*
20 *Department of Revenue by rule and includes but is not limited to]* the fol-
21 lowing credits: ORS 285C.309 (tribal taxes on reservation enterprise zones
22 and reservation partnership zones), ORS 315.104 (forestation and
23 reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS
24 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS
25 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (dependent
26 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-
27 tributions for child care), **ORS 315.237 (employee and dependent scholar-**
28 **ships), ORS 315.271 (individual development accounts),** ORS 315.304
29 (pollution control facility), ORS 315.326 (renewable energy development con-
30 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-

1 portation projects), ORS 315.341 (renewable energy resource equipment
2 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-
3 cilities), ORS 315.507 (electronic commerce) [*and ORS 315.533 (low income*
4 *community jobs initiative).*], **ORS 315.514 (film production development**
5 **contributions), ORS 315.521 (university venture development funds),**
6 **ORS 315.533 (low-income community jobs initiative) and ORS 315.675**
7 **(Trust for Cultural Development Account contributions), ORS 317.097**
8 **(loans for affordable housing), ORS 317.124 (long term enterprise zone**
9 **facilities), ORS 317.147 (loans for agriculture workforce housing), ORS**
10 **317.152 (qualified research expenses) and ORS 317.154 (alternative**
11 **qualified research expenses) and section 9, chapter 774, Oregon Laws**
12 **2013 (alternative fuel vehicle contributions).**

13 **“SECTION 74.** ORS 314.775 is amended to read:

14 “314.775. As used in ORS 314.775 to 314.784:

15 “(1) ‘Distributive income’ means the net amount of income, gain, de-
16 duction or loss of a pass-through entity for the tax year of the entity.

17 “(2) ‘Lower-tier pass-through entity’ means a pass-through entity, an
18 ownership interest of which is held by another pass-through entity.

19 “(3) ‘Nonresident’ means:

20 “(a) An individual who is not a resident of this state;

21 “(b) [*A corporation*] **An S corporation**, partnership or other business
22 entity that has a commercial domicile, as defined in ORS 314.610, that is
23 outside this state; or

24 “(c) A trust that is not a resident trust or qualified funeral trust under
25 ORS 316.282.

26 “(4) ‘Owner’ means a person that owns an interest in a pass-through en-
27 tity.

28 “(5) ‘Pass-through entity’ means any entity that is recognized as a sepa-
29 rate entity for federal income tax purposes, for which the owners are re-
30 quired to report income, gains, losses, deductions or credits from the entity

1 for federal income tax purposes. ‘Pass-through entity’ does not include any
2 trust except a form of trust that the Department of Revenue has determined
3 by rule to have been established or maintained primarily for tax avoidance
4 purposes.

5 “(6) ‘Upper-tier pass-through entity’ means a pass-through entity that
6 owns an interest in another pass-through entity.

7 **“SECTION 75.** ORS 314.781 is amended to read:

8 “314.781. (1) A pass-through entity shall withhold tax as prescribed in this
9 section if:

10 “(a) The pass-through entity has distributive income from Oregon sources;
11 and

12 “(b) One or more owners of the entity are nonresidents and do not have
13 other Oregon source income.

14 “(2) For each taxpayer described in subsection (1)(b) of this section who
15 is subject to tax under ORS chapter 316, the entity shall withhold tax at the
16 highest marginal rate applicable for the tax year under ORS 316.037. The
17 withheld tax shall be computed based on the taxpayer’s share of the entity’s
18 distributive income from Oregon sources for the entity’s tax year.

19 “[~~(3)~~ *For each corporation described in subsection (1)(b) of this section, the*
20 *entity shall withhold tax at the rate applicable for the tax year under ORS*
21 *317.061 and 318.020. The tax shall be computed based on the corporation’s*
22 *share of the entity’s distributive income from Oregon sources for the entity’s*
23 *tax year.*]

24 “[~~(4)~~] **(3)** A pass-through entity that is required to withhold tax under this
25 section shall file a withholding return or report with the Department of
26 Revenue setting forth the share of Oregon source distributive income of each
27 nonresident owner, the amount of tax withheld under this section and any
28 other information required by the department. The return shall be filed with
29 the department on the form and in the time and manner prescribed by the
30 department. Taxes withheld under this section shall be paid to the depart-

1 ment in the time and manner prescribed by the department.

2 “[5] (4) A pass-through entity that is required to withhold tax under this
3 section shall furnish a statement to each owner on whose behalf tax is
4 withheld. The statement shall state the amount of tax withheld on behalf of
5 the owner for the tax year of the entity. The statement shall be made on a
6 form prescribed by the department and shall contain any other information
7 required by the department.

8 “[6] (5) The department shall apply taxes withheld under this section
9 by a lower-tier pass-through entity on distributions to an upper-tier pass-
10 through entity to the withholding required by the upper-tier pass-through
11 entity under this section.

12 “[7] (6) A pass-through entity is liable to the State of Oregon for
13 amounts of tax required to be withheld and paid under this section. A pass-
14 through entity is not liable to an owner of the pass-through entity for
15 amounts required to be withheld under this section that were paid to the
16 department as prescribed in this section.

17 **“SECTION 76.** ORS 314.784 is amended to read:

18 “314.784. (1) A pass-through entity is not required to withhold taxes under
19 ORS 314.781 on behalf of a nonresident owner if:

20 “(a) The nonresident owner has a share of distributive income that is less
21 than \$1,000 for the tax year of the pass-through entity;

22 “(b) Withholding is not required pursuant to a rule adopted under this
23 section;

24 “(c) The owner makes a timely election under ORS 314.778 to have taxes
25 on the owner’s distributive share of income paid and reported on the com-
26 posite return described in ORS 314.778, and the composite return is filed by
27 the pass-through entity;

28 “(d) The pass-through entity is a publicly traded partnership, as defined
29 in section 7704(b) of the Internal Revenue Code, that is treated as a part-
30 nership for federal tax purposes and that agrees to file an annual informa-

1 tion return on the form and in the time and manner prescribed by the
2 Department of Revenue and containing the information required by the de-
3 partment, including but not limited to the name, address and taxpayer iden-
4 tification number of each person with an ownership interest in the entity
5 that results in the person receiving Oregon source income of more than \$500;
6 or

7 “(e) The nonresident owner files an affidavit with the department, in the
8 form and manner prescribed by the department, under which the nonresident
9 owner agrees to allow the department and the courts of this state to have
10 personal jurisdiction over the nonresident owner for the purpose of deter-
11 mining and collecting any taxes imposed under ORS chapter 316[, 317 or
12 318] that are attributable to the nonresident owner’s distributive share of
13 taxable income from the pass-through entity. The department may reject the
14 affidavit if the taxpayer fails to comply with Oregon law requiring the filing
15 of a tax return or the payment of any tax.

16 “(2) The department may adopt rules setting forth circumstances under
17 which pass-through entities are not required to withhold taxes under ORS
18 314.781.

19 **“SECTION 77.** ORS 314.840 is amended to read:

20 “314.840. (1) The Department of Revenue may:

21 “(a) Furnish any taxpayer, representative authorized to represent the
22 taxpayer under ORS 305.230 or person designated by the taxpayer under ORS
23 305.193, upon request of the taxpayer, representative or designee, with a copy
24 of the taxpayer’s income tax return filed with the department for any year,
25 or with a copy of any report filed by the taxpayer in connection with the
26 return, or with any other information the department considers necessary.

27 “(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

28 “(c) Publish statistics so classified as to prevent the identification of in-
29 come or any particulars contained in any report or return.

30 “(d) Disclose a taxpayer’s name, address, telephone number, refund

1 amount, amount due, Social Security number, employer identification number
2 or other taxpayer identification number to the extent necessary in con-
3 nection with collection activities or the processing and mailing of corre-
4 spondence or of forms for any report or return required in the administration
5 of any local tax under ORS 305.620 or any law imposing a tax upon or
6 measured by net income.

7 “(2) The department also may disclose and give access to information de-
8 scribed in ORS 314.835 to:

9 “(a) The Governor of the State of Oregon or the authorized representative
10 of the Governor with respect to an individual who is designated as being
11 under consideration for appointment or reappointment to an office or for
12 employment in the office of the Governor. The information disclosed shall
13 be confined to whether the individual:

14 “(A) Has filed returns with respect to the taxes imposed by ORS chapter
15 316 for those of not more than the three immediately preceding years for
16 which the individual was required to file an Oregon individual income tax
17 return.

18 “(B) Has failed to pay any tax within 30 days from the date of mailing
19 of a deficiency notice or otherwise respond to a deficiency notice within 30
20 days of its mailing.

21 “(C) Has been assessed any penalty under the Oregon personal income tax
22 laws and the nature of the penalty.

23 “(D) Has been or is under investigation for possible criminal offenses
24 under the Oregon personal income tax laws. Information disclosed pursuant
25 to this paragraph shall be used only for the purpose of making the appoint-
26 ment, reappointment or decision to employ or not to employ the individual
27 in the office of the Governor.

28 “(b) An officer or employee of the Oregon Department of Administrative
29 Services duly authorized or employed to prepare revenue estimates, or a
30 person contracting with the Oregon Department of Administrative Services

1 to prepare revenue estimates, in the preparation of revenue estimates re-
2 quired for the Governor's budget under ORS 291.201 to 291.226, or required
3 for submission to the Emergency Board or the Joint Interim Committee on
4 Ways and Means, or if the Legislative Assembly is in session, to the Joint
5 Committee on Ways and Means, and to the Legislative Revenue Officer or
6 Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The De-
7 partment of Revenue shall disclose and give access to the information de-
8 scribed in ORS 314.835 for the purposes of this paragraph only if:

9 “(A) The request for information is made in writing, specifies the purposes
10 for which the request is made and is signed by an authorized representative
11 of the Oregon Department of Administrative Services. The form for request
12 for information shall be prescribed by the Oregon Department of Adminis-
13 trative Services and approved by the Director of the Department of Revenue.

14 “(B) The officer, employee or person receiving the information does not
15 remove from the premises of the Department of Revenue any materials that
16 would reveal the identity of a personal or corporate taxpayer.

17 “(c) The Commissioner of Internal Revenue or authorized representative,
18 for tax administration and compliance purposes only.

19 “(d) For tax administration and compliance purposes, the proper officer
20 or authorized representative of any of the following entities that has or is
21 governed by a provision of law that meets the requirements of any applicable
22 provision of the Internal Revenue Code as to confidentiality:

23 “(A) A state;

24 “(B) A city, county or other political subdivision of a state;

25 “(C) The District of Columbia; or

26 “(D) An association established exclusively to provide services to federal,
27 state or local taxing authorities.

28 “(e) The Multistate Tax Commission or its authorized representatives, for
29 tax administration and compliance purposes only. The Multistate Tax Com-
30 mission may make the information available to the Commissioner of Internal

1 Revenue or the proper officer or authorized representative of any govern-
2 mental entity described in and meeting the qualifications of paragraph (d)
3 of this subsection.

4 “(f) The Attorney General, assistants and employees in the Department
5 of Justice, or other legal representative of the State of Oregon, to the extent
6 the department deems disclosure or access necessary for the performance of
7 the duties of advising or representing the department pursuant to ORS
8 180.010 to 180.240 and the tax laws of this state.

9 “(g) Employees of the State of Oregon, other than of the Department of
10 Revenue or Department of Justice, to the extent the department deems dis-
11 closure or access necessary for such employees to perform their duties under
12 contracts or agreements between the department and any other department,
13 agency or subdivision of the State of Oregon, in the department’s adminis-
14 tration of the tax laws.

15 “(h) Other persons, partnerships, corporations and other legal entities,
16 and their employees, to the extent the department deems disclosure or access
17 necessary for the performance of such others’ duties under contracts or
18 agreements between the department and such legal entities, in the
19 department’s administration of the tax laws.

20 “(i) The Legislative Revenue Officer or authorized representatives upon
21 compliance with ORS 173.850. Such officer or representative shall not remove
22 from the premises of the department any materials that would reveal the
23 identity of any taxpayer or any other person.

24 “(j) The Department of Consumer and Business Services, to the extent the
25 department requires such information to determine whether it is appropriate
26 to adjust those workers’ compensation benefits the amount of which is based
27 pursuant to ORS chapter 656 on the amount of wages or earned income re-
28 ceived by an individual.

29 “(k) Any agency of the State of Oregon, or any person, or any officer or
30 employee of such agency or person to whom disclosure or access is given by

1 state law and not otherwise referred to in this section, including but not
2 limited to the Secretary of State as Auditor of Public Accounts under Article
3 VI, section 2, of the Oregon Constitution; the Department of Human Services
4 pursuant to ORS 412.094; the Division of Child Support of the Department
5 of Justice and district attorney regarding cases for which they are providing
6 support enforcement services under ORS 25.080; the State Board of Tax
7 Practitioners, pursuant to ORS 673.710; and the Oregon Board of
8 Accountancy, pursuant to ORS 673.415.

9 “(L) The Director of the Department of Consumer and Business Services
10 to determine that a person complies with ORS chapter 656 and the Director
11 of the Employment Department to determine that a person complies with
12 ORS chapter 657, the following employer information:

13 “(A) Identification numbers.

14 “(B) Names and addresses.

15 “(C) Inception date as employer.

16 “(D) Nature of business.

17 “(E) Entity changes.

18 “(F) Date of last payroll.

19 “(m) The Director of the Oregon Health Authority to determine that a
20 person has the ability to pay for care that includes services provided by the
21 Oregon State Hospital, or the Oregon Health Authority to collect any unpaid
22 cost of care as provided by ORS chapter 179.

23 “(n) Employees of the Employment Department to the extent the Depart-
24 ment of Revenue deems disclosure or access to information on a combined
25 tax report filed under ORS 316.168 is necessary to performance of their duties
26 in administering the tax imposed by ORS chapter 657.

27 “(o) The State Fire Marshal to assist the State Fire Marshal in carrying
28 out duties, functions and powers under ORS 453.307 to 453.414, the employer
29 or agent name, address, telephone number and standard industrial classi-
30 fication, if available.

1 “(p) Employees of the Department of State Lands for the purposes of
2 identifying, locating and publishing lists of taxpayers entitled to unclaimed
3 refunds as required by the provisions of chapter 694, Oregon Laws 1993. The
4 information shall be limited to the taxpayer’s name, address and the refund
5 amount.

6 “(q) In addition to the disclosure allowed under ORS 305.225, state or lo-
7 cal law enforcement agencies to assist in the investigation or prosecution
8 of the following criminal activities:

9 “(A) Mail theft of a check, in which case the information that may be
10 disclosed shall be limited to the stolen document, the name, address and
11 taxpayer identification number of the payee, the amount of the check and the
12 date printed on the check.

13 “(B) The counterfeiting, forging or altering of a check submitted by a
14 taxpayer to the Department of Revenue or issued by the Department of
15 Revenue to a taxpayer, in which case the information that may be disclosed
16 shall be limited to the counterfeit, forged or altered document, the name,
17 address and taxpayer identification number of the payee, the amount of the
18 check, the date printed on the check and the altered name and address.

19 “(r) The United States Postal Inspection Service or a federal law
20 enforcement agency, including but not limited to the United States Depart-
21 ment of Justice, to assist in the investigation of the following criminal ac-
22 tivities:

23 “(A) Mail theft of a check, in which case the information that may be
24 disclosed shall be limited to the stolen document, the name, address and
25 taxpayer identification number of the payee, the amount of the check and the
26 date printed on the check.

27 “(B) The counterfeiting, forging or altering of a check submitted by a
28 taxpayer to the Department of Revenue or issued by the Department of
29 Revenue to a taxpayer, in which case the information that may be disclosed
30 shall be limited to the counterfeit, forged or altered document, the name,

1 address and taxpayer identification number of the payee, the amount of the
2 check, the date printed on the check and the altered name and address.

3 “(s) The United States Financial Management Service, for purposes of
4 facilitating the offsets described in ORS 305.612.

5 “(t) A municipal corporation of this state for purposes of assisting the
6 municipal corporation in the administration of a tax of the municipal cor-
7 poration that is imposed on or measured by income, wages or net earnings
8 from self-employment. Any disclosure under this paragraph may be made only
9 pursuant to a written agreement between the Department of Revenue and the
10 municipal corporation that ensures the confidentiality of the information
11 disclosed.

12 “(u) A consumer reporting agency, to the extent necessary to carry out
13 the purposes of ORS 314.843.

14 “(v) The Public Employees Retirement Board, to the extent necessary to
15 carry out the purposes of ORS 238.372 to 238.384, and to any public employer,
16 to the extent necessary to carry out the purposes of ORS 237.635 (3) and
17 237.637 (2).

18 **“(w) Employees of the Department of Transportation, to the extent**
19 **necessary to carry out the purposes of section 11 (5) of this 2017 Act.**

20 “(3)(a) Each officer or employee of the Department **of Revenue** and each
21 person described or referred to in subsection (2)(a), (b), (f) to (L), [*or*] (n) to
22 (q) **or (w)** of this section to whom disclosure or access to the tax information
23 is given under subsection (2) of this section or any other provision of state
24 law, prior to beginning employment or the performance of duties involving
25 such disclosure or access, shall be advised in writing of the provisions of
26 ORS 314.835 and 314.991, relating to penalties for the violation of ORS
27 314.835, and shall as a condition of employment or performance of duties
28 execute a certificate for the department, in a form prescribed by the depart-
29 ment, stating in substance that the person has read these provisions of law,
30 that the person has had them explained and that the person is aware of the

1 penalties for the violation of ORS 314.835.

2 “(b) The disclosure authorized in subsection (2)(r) of this section shall be
3 made only after a written agreement has been entered into between the De-
4 partment of Revenue and the person described in subsection (2)(r) of this
5 section to whom disclosure or access to the tax information is given, pro-
6 viding that:

7 “(A) Any information described in ORS 314.835 that is received by the
8 person pursuant to subsection (2)(r) of this section is confidential informa-
9 tion that may not be disclosed, except to the extent necessary to investigate
10 or prosecute the criminal activities described in subsection (2)(r) of this
11 section;

12 “(B) The information shall be protected as confidential under applicable
13 federal and state laws; and

14 “(C) The United States Postal Inspection Service or the federal law
15 enforcement agency shall give notice to the Department of Revenue of any
16 request received under the federal Freedom of Information Act, 5 U.S.C. 552,
17 or other federal law relating to the disclosure of information.

18 “(4) The Department of Revenue may recover the costs of furnishing the
19 information described in subsection (2)(L), (m) and (o) to (q) of this section
20 from the respective agencies.

21 **“SECTION 78.** ORS 315.052 is amended to read:

22 “315.052. An income tax credit that is allowed under this chapter or ORS
23 chapter 316[, 317 or 318] and that is transferable may be transferred or sold
24 only once, unless expressly provided otherwise by statute.

25 **“SECTION 79.** ORS 315.054 is amended to read:

26 “315.054. No credits applied directly to the income tax calculated for fed-
27 eral purposes pursuant to the Internal Revenue Code shall be applied in
28 calculating the tax due under ORS [*chapter*] **chapters** 314[,] **and** 316[, 317
29 *or* 318] except those prescribed in this chapter or ORS [*chapter*] **chapters**
30 314[,] **and** 316[, 317 *or* 318].

1 **SECTION 80.** ORS 316.267 is amended to read:

2 “316.267. The tax imposed by this chapter on individuals applies to the
3 taxable income of estates and trusts[, *except for trusts taxed as corporations*
4 *under ORS chapter 317 or 318*].

5 **SECTION 81.** ORS 316.277 is amended to read:

6 “316.277. (1) An association, trust or other unincorporated organization
7 that is taxable as a corporation for federal income tax purposes is not sub-
8 ject to tax under this chapter[, *but is taxable as a corporation under ORS*
9 *chapter 317 or 318, or both, as provided therein*].

10 “(2) An association, trust or other unincorporated organization that is not
11 taxable as a corporation for federal income tax purposes but by reason of its
12 purposes or activities is exempt from federal income tax except with respect
13 to its unrelated business taxable income, is taxable under this chapter on
14 such federally taxable income.

15 **SECTION 82.** ORS 316.695 is amended to read:

16 “316.695. (1) In addition to the modifications to federal taxable income
17 contained in this chapter, there shall be added to or subtracted from federal
18 taxable income:

19 “(a) If, in computing federal income tax for a tax year, the taxpayer de-
20 ducted itemized deductions, as defined in section 63(d) of the Internal Reve-
21 nue Code, the taxpayer shall add the amount of itemized deductions deducted
22 (the itemized deductions less an amount, if any, by which the itemized de-
23 ductions are reduced under section 68 of the Internal Revenue Code).

24 “(b) If, in computing federal income tax for a tax year, the taxpayer de-
25 ducted the standard deduction, as defined in section 63(c) of the Internal
26 Revenue Code, the taxpayer shall add the amount of the standard deduction
27 deducted.

28 “(c)(A) From federal taxable income there shall be subtracted the larger
29 of (i) the taxpayer’s itemized deductions or (ii) a standard deduction. Except
30 as provided in subsection (8) of this section, for purposes of this subpara-

1 graph, 'standard deduction' means the sum of the basic standard deduction
2 and the additional standard deduction.

3 "(B) For purposes of subparagraph (A) of this paragraph, the basic
4 standard deduction is:

5 "(i) \$3,280, in the case of joint return filers or a surviving spouse;

6 "(ii) \$1,640, in the case of an individual who is not a married individual
7 and is not a surviving spouse;

8 "(iii) \$1,640, in the case of a married individual who files a separate re-
9 turn; or

10 "(iv) \$2,640, in the case of a head of household.

11 "(C)(i) For purposes of subparagraph (A) of this paragraph for tax years
12 beginning on or after January 1, 2003, the Department of Revenue shall an-
13 nually recompute the basic standard deduction for each category of return
14 filer listed under subparagraph (B) of this paragraph. The basic standard
15 deduction shall be computed by dividing the monthly averaged U.S. City
16 Average Consumer Price Index for the 12 consecutive months ending August
17 31 of the prior calendar year by the average U.S. City Average Consumer
18 Price Index for the second quarter of 2002, then multiplying that quotient
19 by the amount listed under subparagraph (B) of this paragraph for each
20 category of return filer.

21 "(ii) If any change in the maximum household income determined under
22 this subparagraph is not a multiple of \$5, the increase shall be rounded to
23 the next lower multiple of \$5.

24 "(iii) As used in this subparagraph, 'U.S. City Average Consumer Price
25 Index' means the U.S. City Average Consumer Price Index for All Urban
26 Consumers (All Items) as published by the Bureau of Labor Statistics of the
27 United States Department of Labor.

28 "(D) For purposes of subparagraph (A) of this paragraph, the additional
29 standard deduction is the sum of each additional amount to which the tax-
30 payer is entitled under subsection (7) of this section.

1 “(E) As used in subparagraph (B) of this paragraph, ‘surviving spouse’ and
2 ‘head of household’ have the meanings given those terms in section 2 of the
3 Internal Revenue Code.

4 “(F) In the case of the following, the standard deduction referred to in
5 subparagraph (A) of this paragraph shall be zero:

6 “(i) One of the spouses in a marriage filing a separate return where the
7 other spouse has claimed itemized deductions under subparagraph (A) of this
8 paragraph;

9 “(ii) A nonresident alien individual;

10 “(iii) An individual making a return for a period of less than 12 months
11 on account of a change in the individual’s annual accounting period;

12 “(iv) An estate or trust;

13 “(v) A common trust fund; or

14 “(vi) A partnership.

15 “(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s
16 itemized deductions are the amount of the taxpayer’s itemized deductions as
17 defined in section 63(d) of the Internal Revenue Code (reduced, if applicable,
18 as described under section 68 of the Internal Revenue Code) minus the de-
19 duction for Oregon income tax **or the tax imposed under sections 4 to 30**
20 **of this 2017 Act** (reduced, if applicable, by the proportion that the reduction
21 in federal itemized deductions resulting from section 68 of the Internal Rev-
22 enue Code bears to the amount of federal itemized deductions as defined for
23 purposes of section 68 of the Internal Revenue Code).

24 “(2)(a) There shall be subtracted from federal taxable income any portion
25 of the distribution of a pension, profit-sharing, stock bonus or other retire-
26 ment plan, representing that portion of contributions which were taxed by
27 the State of Oregon but not taxed by the federal government under laws in
28 effect for tax years beginning prior to January 1, 1969, or for any subsequent
29 year in which the amount that was contributed to the plan under the Inter-
30 nal Revenue Code was greater than the amount allowed under this chapter.

1 “(b) Interest or other earnings on any excess contributions of a pension,
2 profit-sharing, stock bonus or other retirement plan not permitted to be de-
3 ducted under paragraph (a) of this subsection may not be added to federal
4 taxable income in the year earned by the plan and may not be subtracted
5 from federal taxable income in the year received by the taxpayer.

6 “(3)(a) Except as provided in subsection (4) of this section, there shall be
7 added to federal taxable income the amount of any federal income taxes in
8 excess of the amount provided in paragraphs (b) to (d) of this subsection,
9 accrued by the taxpayer during the tax year as described in ORS 316.685, less
10 the amount of any refund of federal taxes previously accrued for which a tax
11 benefit was received.

12 “(b) The limits applicable to this subsection are:

13 “(A) \$5,500, if the federal adjusted gross income of the taxpayer for the
14 tax year is less than \$125,000, or, if reported on a joint return, less than
15 \$250,000.

16 “(B) \$4,400, if the federal adjusted gross income of the taxpayer for the
17 tax year is \$125,000 or more and less than \$130,000, or, if reported on a joint
18 return, \$250,000 or more and less than \$260,000.

19 “(C) \$3,300, if the federal adjusted gross income of the taxpayer for the
20 tax year is \$130,000 or more and less than \$135,000, or, if reported on a joint
21 return, \$260,000 or more and less than \$270,000.

22 “(D) \$2,200, if the federal adjusted gross income of the taxpayer for the
23 tax year is \$135,000 or more and less than \$140,000, or, if reported on a joint
24 return, \$270,000 or more and less than \$280,000.

25 “(E) \$1,100, if the federal adjusted gross income of the taxpayer for the
26 tax year is \$140,000 or more and less than \$145,000, or, if reported on a joint
27 return, \$280,000 or more and less than \$290,000.

28 “(c) If the federal adjusted gross income of the taxpayer is \$145,000 or
29 more for the tax year, or, if reported on a joint return, \$290,000 or more, the
30 limit is zero and the taxpayer is not allowed a subtraction for federal income

1 taxes under ORS 316.680 (1) for the tax year.

2 “(d) In the case of spouses in a marriage filing separate tax returns, the
3 amount added shall be in the amount of any federal income taxes in excess
4 of 50 percent of the amount provided for individual taxpayers under para-
5 graphs (a) to (c) of this subsection, less the amount of any refund of federal
6 taxes previously accrued for which a tax benefit was received.

7 “(e) For purposes of this subsection, the limits applicable to a joint return
8 shall apply to a head of household or a surviving spouse, as defined in sec-
9 tion 2(a) and (b) of the Internal Revenue Code.

10 “(f)(A) For a calendar year beginning on or after January 1, 2008, the
11 Department of Revenue shall make a cost-of-living adjustment to the federal
12 income tax threshold amounts described in paragraphs (b) and (d) of this
13 subsection.

14 “(B) The cost-of-living adjustment for a calendar year is the percentage
15 by which the monthly averaged U.S. City Average Consumer Price Index for
16 the 12 consecutive months ending August 31 of the prior calendar year ex-
17 ceeds the monthly averaged index for the period beginning September 1, 2005,
18 and ending August 31, 2006.

19 “(C) As used in this paragraph, ‘U.S. City Average Consumer Price
20 Index’ means the U.S. City Average Consumer Price Index for All Urban
21 Consumers (All Items) as published by the Bureau of Labor Statistics of the
22 United States Department of Labor.

23 “(D) If any adjustment determined under subparagraph (B) of this para-
24 graph is not a multiple of \$50, the adjustment shall be rounded to the next
25 lower multiple of \$50.

26 “(E) The adjustment shall apply to all tax years beginning in the calendar
27 year for which the adjustment is made.

28 “(4)(a) In addition to the adjustments required by ORS 316.130, a full-year
29 nonresident individual shall add to taxable income a proportion of any ac-
30 crued federal income taxes as computed under ORS 316.685 in excess of the

1 amount provided in subsection (3) of this section in the proportion provided
2 in ORS 316.117.

3 “(b) In the case of spouses in a marriage filing separate tax returns, the
4 amount added under this subsection shall be computed in a manner consist-
5 ent with the computation of the amount to be added in the case of spouses
6 in a marriage filing separate returns under subsection (3) of this section. The
7 method of computation shall be determined by the Department of Revenue
8 by rule.

9 “(5) Subsections (3)(d) and (4)(b) of this section shall not apply to married
10 individuals living apart as defined in section 7703(b) of the Internal Revenue
11 Code.

12 “[6(a) *For tax years beginning on or after January 1, 1981, and prior to*
13 *January 1, 1983, income or loss taken into account in determining federal*
14 *taxable income by a shareholder of an S corporation pursuant to sections 1373*
15 *to 1375 of the Internal Revenue Code shall be adjusted for purposes of deter-*
16 *mining Oregon taxable income, to the extent that as income or loss of the S*
17 *corporation, they were required to be adjusted under the provisions of ORS*
18 *chapter 317.]*

19 “[b] **(6)(a)** For tax years beginning on or after January 1, 1983, items
20 of income, loss or deduction taken into account in determining federal tax-
21 able income by a shareholder of an S corporation pursuant to sections 1366
22 to 1368 of the Internal Revenue Code shall be adjusted for purposes of de-
23 termining Oregon taxable income, to the extent that as items of income, loss
24 or deduction of the shareholder the items are required to be adjusted under
25 the provisions of this chapter.

26 “[c] **(b)** The tax years referred to in [paragraphs (a) and (b)] **paragraph**
27 **(a)** of this subsection are those of the S corporation.

28 “[d] *As used in paragraph (a) of this subsection, an S corporation refers*
29 *to an electing small business corporation.]*

30 “(7)(a) The taxpayer shall be entitled to an additional amount, as referred

1 to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

2 “(A) For the taxpayer if the taxpayer has attained age 65 before the close
3 of the taxpayer’s tax year; and

4 “(B) For the spouse of the taxpayer if the spouse has attained age 65 be-
5 fore the close of the tax year and an additional exemption is allowable to
6 the taxpayer for such spouse for federal income tax purposes under section
7 151(b) of the Internal Revenue Code.

8 “(b) The taxpayer shall be entitled to an additional amount, as referred
9 to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

10 “(A) For the taxpayer if the taxpayer is blind at the close of the tax year;
11 and

12 “(B) For the spouse of the taxpayer if the spouse is blind as of the close
13 of the tax year and an additional exemption is allowable to the taxpayer for
14 such spouse for federal income tax purposes under section 151(b) of the
15 Internal Revenue Code. For purposes of this subparagraph, if the spouse dies
16 during the tax year, the determination of whether such spouse is blind shall
17 be made immediately prior to death.

18 “(c) In the case of an individual who is not married and is not a surviving
19 spouse, paragraphs (a) and (b) of this subsection shall be applied by substi-
20 tuting ‘\$1,200’ for ‘\$1,000.’

21 “(d) For purposes of this subsection, an individual is blind only if the
22 individual’s central visual acuity does not exceed 20/200 in the better eye
23 with correcting lenses, or if the individual’s visual acuity is greater than
24 20/200 but is accompanied by a limitation in the fields of vision such that
25 the widest diameter of the visual field subtends an angle no greater than 20
26 degrees.

27 “(8) In the case of an individual with respect to whom a deduction under
28 section 151 of the Internal Revenue Code is allowable for federal income tax
29 purposes to another taxpayer for a tax year beginning in the calendar year
30 in which the individual’s tax year begins, the basic standard deduction (re-

1 referred to in subsection (1)(c)(B) of this section) applicable to such individual
2 for such individual's tax year shall equal the lesser of:

3 “(a) The amount allowed to the individual under section 63(c)(5) of the
4 Internal Revenue Code for federal income tax purposes for the tax year for
5 which the deduction is being claimed; or

6 “(b) The amount determined under subsection (1)(c)(B) of this section.

7 **“SECTION 83.** ORS 316.749 is amended to read:

8 “316.749. (1) In addition to the other modifications to federal taxable in-
9 come contained in this chapter, there shall be subtracted from federal taxa-
10 ble income the amount of any dividend received by the taxpayer on or after
11 January 1, 2013, from a domestic international sales corporation formed on
12 or before January 1, 2014, and subject to the tax imposed under ORS 317.283
13 (2)(a) **(2015 Edition).**

14 “(2) As used in this section, ‘domestic international sales corporation’
15 means a domestic international sales corporation as defined in section 992
16 of the Internal Revenue Code.

17 **“SECTION 84.** ORS 317.131 is amended to read:

18 “317.131. (1) For each tax year in which a taxpayer is allowed a credit
19 under ORS 317.124, the Department of Revenue shall distribute to the local
20 taxing districts in which the facility that is the basis of the credit is located
21 an amount of tax payments that corresponds to the amount of payments de-
22 posited under ORS 317.129 **(2015 Edition).**

23 “(2)(a) Amounts to be distributed under subsection (1) of this section shall
24 be distributed to the local taxing districts of the code area in which the fa-
25 cility is located that are not school districts, education service districts,
26 community college districts or community college service districts.

27 “(b) If the facility is located in more than one code area, amounts to be
28 distributed under subsection (1) of this section shall be allocated to each
29 code area in which the facility is located, based on the ratio of the real
30 market value of the facility in each code area to the total real market value

1 of the facility.

2 “(c) The amount distributed to each district under subsection (1) of this
3 section shall be the amount that bears the same proportion to the total
4 amount to be distributed under this section as the proportion of the operat-
5 ing tax billing rate of the district receiving distribution bears to the total
6 operating tax billing rate of all of the local taxing districts described in
7 paragraph (a) of this subsection.

8 “(d) Notwithstanding paragraph (b) of this subsection, the amount dis-
9 tributed to a local taxing district under subsection (1) of this section for a
10 fiscal year may not exceed the amount of property taxes forgone by that
11 district as a result of the exemption from property tax under ORS 285C.409
12 in that year.

13 “(3) If any moneys described in subsection (1) of this section remain fol-
14 lowing computation of the distributions to local taxing districts under sub-
15 section (2) of this section, the moneys shall be distributed to the zone
16 sponsor.

17 “(4) Distributions shall be made under this section on or before June 1
18 of each fiscal year.

19 **“SECTION 85.** ORS 317.097, as amended by section 23, chapter 33, Oregon
20 Laws 2016, is amended to read:

21 “317.097. (1) As used in this section:

22 “(a) ‘Annual rate’ means the yearly interest rate specified on the note,
23 and not the annual percentage rate, if any, disclosed to the applicant to
24 comply with the federal Truth in Lending Act.

25 “(b) ‘Finance charge’ means the total of all interest, loan fees, interest
26 on any loan fees financed by the lending institution, and other charges re-
27 lated to the cost of obtaining credit.

28 “(c) ‘Lending institution’ means any insured institution, as that term is
29 defined in ORS 706.008, any mortgage banking company that maintains an
30 office in this state or any community development corporation that is or-

1 ganized under the Oregon Nonprofit Corporation Law.

2 “(d) ‘Manufactured dwelling park’ has the meaning given that term in
3 ORS 446.003.

4 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from in-
5 come taxes under section 501(c)(3) or (4) of the Internal Revenue Code as
6 amended and in effect on December 31, 2015.

7 “(f) ‘Preservation project’ means housing that was previously developed
8 as affordable housing with a contract for rent assistance from the United
9 States Department of Housing and Urban Development or the United States
10 Department of Agriculture and that is being acquired by a sponsoring entity.

11 “(g) ‘Qualified assignee’ means any investor participating in the second-
12 ary market for real estate loans.

13 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity
14 that has a controlling interest in the real property that is financed by a
15 qualified loan. A controlling interest includes, but is not limited to, a con-
16 trolling interest in the general partner of a limited partnership that owns
17 the real property.

18 “(i) ‘Qualified loan’ means:

19 “(A) A loan that meets the criteria stated in subsection (5) of this section
20 or that is made to refinance a loan that meets the criteria described in sub-
21 section (5) of this section; or

22 “(B) The purchase by a lending institution of bonds, as defined in ORS
23 286A.001, issued on behalf of the Housing and Community Services Depart-
24 ment, the proceeds of which are used to finance or refinance a loan that
25 meets the criteria described in subsection (5) of this section.

26 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooper-
27 ative, state governmental entity, local unit of government as defined in ORS
28 466.706, housing authority or any other person, provided that the person has
29 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit
30 cooperative, state governmental entity, local unit of government or housing

1 authority.

2 “(2) The Department of Revenue shall allow a credit against taxes other-
3 wise due under [*this chapter*] **sections 4 to 30 of this 2017 Act** for the tax-
4 able year to a lending institution that makes a qualified loan certified by the
5 Housing and Community Services Department as provided in subsection (7)
6 of this section. The amount of the credit is equal to the difference between:

7 “(a) The amount of finance charge charged by the lending institution
8 during the taxable year at an annual rate less than the market rate for a
9 qualified loan that is made before January 1, 2020, that complies with the
10 requirements of this section; and

11 “(b) The amount of finance charge that would have been charged during
12 the taxable year by the lending institution for the qualified loan for housing
13 construction, development, acquisition or rehabilitation measured at the an-
14 nual rate charged by the lending institution for nonsubsidized loans made
15 under like terms and conditions at the time the qualified loan for housing
16 construction, development, acquisition or rehabilitation is made.

17 “(3) The maximum amount of credit for the difference between the
18 amounts described in subsection (2)(a) and (b) of this section may not exceed
19 four percent of the average unpaid balance of the qualified loan during the
20 tax year for which the credit is claimed.

21 “(4) Any tax credit allowed under this section that is not used by the
22 taxpayer in a particular year may be carried forward and offset against the
23 taxpayer’s tax liability for the next succeeding tax year. Any credit remain-
24 ing unused in the next succeeding tax year may be carried forward and used
25 in the second succeeding tax year, and likewise, any credit not used in that
26 second succeeding tax year may be carried forward and used in the third
27 succeeding tax year, and any credit not used in that third succeeding tax
28 year may be carried forward and used in the fourth succeeding tax year, and
29 any credit not used in that fourth succeeding tax year may be carried for-
30 ward and used in the fifth succeeding tax year, but may not be carried for-

1 ward for any tax year thereafter.

2 “(5) To be eligible for the tax credit allowable under this section, a
3 lending institution must make a qualified loan by either purchasing bonds,
4 as defined in ORS 286A.001, issued on behalf of the Housing and Community
5 Services Department, the proceeds of which are used to finance or refinance
6 a loan that meets the criteria stated in this subsection, or by making a loan
7 directly to:

8 “(a) An individual or individuals who own a dwelling, participate in an
9 owner-occupied community rehabilitation program and are certified by the
10 local government or its designated agent as having an income level when the
11 loan is made of less than 80 percent of the area median income;

12 “(b) A qualified borrower who:

13 “(A) Uses the loan proceeds to finance construction, development, acqui-
14 sition or rehabilitation of housing; and

15 “(B) Provides a written certification executed by the Housing and Com-
16 munity Services Department that the:

17 “(i) Housing created by the loan is or will be occupied by households
18 earning less than 80 percent of the area median income; and

19 “(ii) Full amount of savings from the reduced interest rate provided by
20 the lending institution is or will be passed on to the tenants in the form of
21 reduced housing payments, regardless of other subsidies provided to the
22 housing project;

23 “(c) Subject to subsection (14) of this section, a qualified borrower who:

24 “(A) Uses the loan proceeds to finance construction, development, acqui-
25 sition or rehabilitation of housing consisting of a manufactured dwelling
26 park; and

27 “(B) Provides a written certification executed by the Housing and Com-
28 munity Services Department that the housing will continue to be operated
29 as a manufactured dwelling park during the period for which the tax credit
30 is allowed; or

1 “(d) A qualified borrower who:

2 “(A) Uses the loan proceeds to finance acquisition or rehabilitation of
3 housing consisting of a preservation project; and

4 “(B) Provides a written certification executed by the Housing and Com-
5 munity Services Department that the housing preserved by the loan:

6 “(i) Is or will be occupied by households earning less than 80 percent of
7 the area median income; and

8 “(ii) Is the subject of a rent assistance contract with the United States
9 Department of Housing and Urban Development or the United States De-
10 partment of Agriculture that will be maintained by the qualified borrower.

11 “(6) A loan made to refinance a loan that meets the criteria stated in
12 subsection (5) of this section must be treated the same as a loan that meets
13 the criteria stated in subsection (5) of this section.

14 “(7) For a qualified loan to be eligible for the tax credit allowable under
15 this section, the Housing and Community Services Department must execute
16 a written certification for the qualified loan that:

17 “(a) Specifies the period, not to exceed 20 years, as determined by the
18 Housing and Community Services Department, during which the tax credit
19 is allowed for the qualified loan; and

20 “(b) States that the qualified loan is within the limitation imposed by
21 subsection (8) of this section.

22 “(8) The Housing and Community Services Department may certify quali-
23 fied loans that are eligible under subsection (5) of this section if the total
24 credits attributable to all qualified loans eligible for credits under this sec-
25 tion and then outstanding do not exceed \$17 million for any fiscal year. In
26 making loan certifications under subsection (7) of this section, the Housing
27 and Community Services Department shall attempt to distribute the tax
28 credits statewide, but shall concentrate the tax credits in those areas of the
29 state that are determined by the Oregon Housing Stability Council to have
30 the greatest need for affordable housing.

1 “(9) The tax credit provided for in this section may be taken whether or
2 not:

3 “(a) The financial institution is eligible to take a federal income tax
4 credit under section 42 of the Internal Revenue Code with respect to the
5 project financed by the qualified loan; or

6 “(b) The project receives financing from bonds, the interest on which is
7 exempt from federal taxation under section 103 of the Internal Revenue Code.

8 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section
9 financed through the purchase of bonds, the interest of which is exempt from
10 federal taxation under section 103 of the Internal Revenue Code, the amount
11 of finance charge that would have been charged under subsection (2)(b) of
12 this section is determined by reference to the finance charge that would have
13 been charged if the federally tax exempt bonds had been issued and the tax
14 credit under this section did not apply.

15 “(11) A lending institution may sell a qualified loan for which a certi-
16 fication has been executed to a qualified assignee whether or not the lending
17 institution retains servicing of the qualified loan so long as a designated
18 lending institution maintains records, annually verified by a loan servicer,
19 that establish the amount of tax credit earned by the taxpayer throughout
20 each year of eligibility.

21 “(12) Notwithstanding any other provision of law, a lending institution
22 that is a community development corporation organized under the Oregon
23 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
24 under this section to one or more other lending institutions that are stock-
25 holders or members of the community development corporation or that oth-
26 erwise participate through the community development corporation in the
27 making of one or more qualified loans for which the tax credit under this
28 section is allowed.

29 “(13) The lending institution shall file an annual statement with the
30 Housing and Community Services Department, specifying that it has con-

1 formed with all requirements imposed by law to qualify for a tax credit under
2 this section.

3 “(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified
4 borrower on a loan to finance the construction, development, acquisition or
5 rehabilitation of a manufactured dwelling park under subsection (5)(c) of this
6 section must be a nonprofit corporation, manufactured dwelling park
7 nonprofit cooperative, state governmental entity, local unit of government
8 as defined in ORS 466.706 or housing authority.

9 “(15) The Housing and Community Services Department and the Depart-
10 ment of Revenue may adopt rules to carry out the provisions of this section.

11 **“SECTION 86.** ORS 344.755 is amended to read:

12 “344.755. Training agents who terminate youth apprentices without cause
13 as determined by the appropriate apprenticeship committee prior to com-
14 pletion of training or who violate ORS 344.745 or 344.750 or rules adopted
15 pursuant thereto by the State Apprenticeship and Training Council or the
16 Department of Education[, *upon notice to the Department of Revenue,*] may
17 lose their eligibility [*for tax credits pursuant to ORS 318.031 and their eligi-*
18 *bility*] to train and employ youth apprentices under ORS 344.745 to 344.757
19 for a period of one year.

20 **“SECTION 87.** ORS 366.505 is amended to read:

21 “366.505. (1) The State Highway Fund shall consist of:

22 “(a) All moneys and revenues derived under and by virtue of the sale of
23 bonds, the sale of which is authorized by law and the proceeds thereof to be
24 dedicated to highway purposes.

25 “(b) All moneys and revenues accruing from the licensing of motor vehi-
26 cles, operators and chauffeurs.

27 “(c) Moneys and revenues derived from any tax levied [*upon gasoline,*
28 *distillate, liberty fuel or other volatile and inflammable liquid fuels,*] **on, with**
29 **respect to or measured by the storage, withdrawal, use, sale, distrib-**
30 **ution, importation or receipt of motor vehicle fuel or any other prod-**

1 **uct used for the propulsion of motor vehicles**, except moneys and
2 revenues described in ORS 184.642 (2)(a) that become part of the Department
3 of Transportation Operating Fund.

4 “(d) Moneys and revenues derived from the road usage charges imposed
5 under ORS 319.885.

6 “(e) Moneys and revenues derived from or made available by the federal
7 government for road construction, maintenance or betterment purposes.

8 “(f) All moneys and revenues received from all other sources which by law
9 are allocated or dedicated for highway purposes.

10 “(2) The State Highway Fund shall be deemed and held as a trust fund,
11 separate and distinct from the General Fund, and may be used only for the
12 purposes authorized by law and is continually appropriated for such pur-
13 poses.

14 “(3) Moneys in the State Highway Fund may be invested as provided in
15 ORS 293.701 to 293.857. All interest earnings on any of the funds designated
16 in subsection (1) of this section shall be placed to the credit of the highway
17 fund.

18 **“SECTION 88.** ORS 401.690 is amended to read:

19 “401.690. (1) Disaster or emergency related work conducted by an out-of-
20 state business may not be used as the sole basis for:

21 “(a) [*Notwithstanding ORS 317.018 and 317.080,*] A finding that the out-
22 of-state business is doing business in this state;

23 “(b) Imposition of the taxes imposed under [*ORS 314.725 or*] ORS chapter
24 316 [*or 317*];

25 “(c) Notwithstanding ORS 60.704, 63.704, 65.704, 67.705 and 70.355, a re-
26 quirement that the out-of-state business register with or obtain authority to
27 transact business from the Secretary of State during the disaster response
28 period; or

29 “(d) A requirement that the out-of-state business or an out-of-state em-
30 ployee comply with state or local business or professional licensing or reg-

1 istration requirements or state and local taxes or fees including
2 unemployment insurance, state or local occupational licensing fees and ad
3 valorem tax on equipment brought into this state for use during the disaster
4 response period and subsequently removed from this state.

5 “(2) For purposes of any state or local tax on or measured by, in whole
6 or in part, net or gross income or receipts, all activity of the out-of-state
7 business that is conducted in this state, or equipment brought into this state,
8 pursuant to ORS 401.685 to 401.695 shall be disregarded with respect to [*the*
9 *filing requirements of ORS 317.710 and 317.715 and*] the apportionment pro-
10 visions of ORS 314.605 to 314.675. Receipts from disaster or emergency re-
11 lated work may not be sourced to and may not otherwise impact or increase
12 the amount of income, revenue or receipts apportioned to this state.

13 “(3) For purposes of ORS chapter 316, an out-of-state employee is not
14 taxed as a resident, nonresident or part-year resident and is not considered
15 to have established domicile or residence in this state. Wages paid for dis-
16 aster or emergency related work are not subject to the withholding pro-
17 visions of ORS 316.162 to 316.221.

18 “(4) Out-of-state businesses and out-of-state employees shall be required
19 to pay transaction taxes and fees including fuel taxes, transient lodging
20 taxes, car rental taxes or applicable fees during the disaster response period,
21 unless an exemption applies to the taxes or fees during the disaster response
22 period.

23 “(5) Any out-of-state business that transacts business in this state or
24 out-of-state employee who remains in this state after the end of the disaster
25 response period will become subject to this state’s normal standards for es-
26 tablishing domicile or residency or doing business in this state and will be-
27 come responsible for any business or employee tax requirements that ensue.

28 “(6) ORS 401.990 does not apply to ORS 401.685 to 401.695.

29 “**SECTION 89.** ORS 461.560 is amended to read:

30 “461.560. (1) No state or local taxes shall be imposed upon the sale of

1 lottery tickets or shares of the Oregon State Lottery established by this
2 chapter or any prize awarded by the state lottery established by this chapter
3 that does not exceed \$600. A prize awarded by the state lottery that is
4 greater than \$600 shall be subject to tax under ORS chapters 314 [to 318] **and**
5 **316** and any other applicable state or local tax. For purposes of this section,
6 ‘prize awarded by the state lottery’ includes a prize awarded by a multistate
7 lottery association of which the Oregon State Lottery is a member if the
8 ticket upon which the prize is awarded was sold in this state.

9 “(2) A city, county or other political subdivision in this state may not
10 impose, by charter provision or ordinance, or collect a tax that is imposed
11 on lottery game retailers only and that is measured by or based upon the
12 amount of the commissions or other compensation received by lottery game
13 retailers for selling tickets or shares in lottery games. However, if a city,
14 county or other political subdivision levies or imposes generally on a
15 nondiscriminatory basis throughout the jurisdiction of the taxing authority
16 an income, gross income or gross receipts tax, as otherwise provided by law,
17 such tax may be levied or imposed upon lottery game retailers.

18 **“SECTION 90.** ORS 526.450 is amended to read:

19 “526.450. ORS 315.104[, 318.031] and 526.450 to 526.475 may be cited as the
20 ‘Woodland Management Act of 1979.’

21 **“SECTION 91.** ORS 526.450, as amended by section 5, chapter 883, Oregon
22 Laws 2007, is amended to read:

23 “526.450. ORS [318.031 and] 526.450 to 526.475 may be cited as the
24 ‘Woodland Management Act of 1979.’

25 **“SECTION 92.** ORS 526.455 is amended to read:

26 “526.455. As used in ORS 315.104[, 318.031] and 526.450 to 526.475, unless
27 the context requires otherwise:

28 “(1) ‘Approved forest management practice’ means and includes site prep-
29 aration, tree planting, precommercial thinning, release, fertilization, animal
30 damage control, insect and disease management or such other young growth

1 management practices that increase wood growth as the State Forester shall
2 approve or determine proper generally with regard to any particular appli-
3 cant.

4 “(2) ‘Board’ means State Board of Forestry.

5 “(3) ‘Commercial forestland’ means land for which a primary use is the
6 growing and harvesting of forest tree species and other forest resource val-
7 ues.

8 “(4) ‘Eligible owner’ means any private individual, group, Indian tribe or
9 other native group, association, corporation or other nonpublic legal entity
10 owning 10 to 500 acres of Oregon commercial forestland.

11 “(5) ‘Forest management plan’ means an operation plan to reach land-
12 owner objectives and assures public benefits as they relate to producing
13 timber and other values. It shall include a cover map, basic forest stand de-
14 scription data, treatment opportunities, landowner objectives and a schedule
15 for implementing the forest management plan.

16 “(6) ‘Forest management practices’ means and includes site preparation,
17 tree planting, precommercial thinning, release, fertilization, animal damage
18 control, insect and disease management and other young growth management
19 practices that increase wood growth.

20 “(7) ‘Industrial private forestlands’ means lands capable of producing
21 crops of industrial wood, greater than 10 acres and owned by other than an
22 eligible owner.

23 “(8) ‘Industrial wood’ means forest products used to sustain a sawmill,
24 plywood mill, pulp mill or other forest industry related manufacturing facil-
25 ity.

26 “(9) ‘Landowner’ means any private individual, group, Indian tribe or
27 other native group, association, corporation or other legal entity, owning
28 both the forestland and any timber thereon.

29 “(10) ‘Nonindustrial private forestlands’ means lands capable of producing
30 crops of industrial wood and owned by an eligible owner.

1 “(11) ‘State Forester’ means the individual appointed pursuant to ORS
2 526.031, or the authorized representative of the State Forester.

3 “(12) ‘Timber’ means wood growth, mature or immature, growing or dead,
4 standing or down of species acceptable for regeneration under the Oregon
5 Forest Practices Act.

6 “(13) ‘Underproductive forestlands’ means commercial forestlands not
7 meeting the minimum stocking standards of the Oregon Forest Practices Act.

8 **“SECTION 93.** ORS 526.455, as amended by section 6, chapter 883, Oregon
9 Laws 2007, is amended to read:

10 “526.455. As used in ORS [*318.031 and*] 526.450 to 526.475, unless the con-
11 text requires otherwise:

12 “(1) ‘Approved forest management practice’ means and includes site prep-
13 aration, tree planting, precommercial thinning, release, fertilization, animal
14 damage control, insect and disease management or such other young growth
15 management practices that increase wood growth as the State Forester shall
16 approve or determine proper generally with regard to any particular appli-
17 cant.

18 “(2) ‘Board’ means State Board of Forestry.

19 “(3) ‘Commercial forestland’ means land for which a primary use is the
20 growing and harvesting of forest tree species and other forest resource val-
21 ues.

22 “(4) ‘Eligible owner’ means any private individual, group, Indian tribe or
23 other native group, association, corporation or other nonpublic legal entity
24 owning 10 to 500 acres of Oregon commercial forestland.

25 “(5) ‘Forest management plan’ means an operation plan to reach land-
26 owner objectives and assures public benefits as they relate to producing
27 timber and other values. It shall include a cover map, basic forest stand de-
28 scription data, treatment opportunities, landowner objectives and a schedule
29 for implementing the forest management plan.

30 “(6) ‘Forest management practices’ means and includes site preparation,

1 tree planting, precommercial thinning, release, fertilization, animal damage
2 control, insect and disease management and other young growth management
3 practices that increase wood growth.

4 “(7) ‘Industrial private forestlands’ means lands capable of producing
5 crops of industrial wood, greater than 10 acres and owned by other than an
6 eligible owner.

7 “(8) ‘Industrial wood’ means forest products used to sustain a sawmill,
8 plywood mill, pulp mill or other forest industry related manufacturing facil-
9 ity.

10 “(9) ‘Landowner’ means any private individual, group, Indian tribe or
11 other native group, association, corporation or other legal entity, owning
12 both the forestland and any timber thereon.

13 “(10) ‘Nonindustrial private forestlands’ means lands capable of producing
14 crops of industrial wood and owned by an eligible owner.

15 “(11) ‘State Forester’ means the individual appointed pursuant to ORS
16 526.031, or the authorized representative of the State Forester.

17 “(12) ‘Timber’ means wood growth, mature or immature, growing or dead,
18 standing or down of species acceptable for regeneration under the Oregon
19 Forest Practices Act.

20 “(13) ‘Underproductive forestlands’ means commercial forestlands not
21 meeting the minimum stocking standards of the Oregon Forest Practices Act.

22 **“SECTION 94.** ORS 526.465 is amended to read:

23 “526.465. The purpose of ORS 315.104[, 318.031] and 526.450 to 526.475 is
24 to encourage long term forestry investments that lead to increased manage-
25 ment of Oregon’s forestlands by:

26 “(1) Providing the forest owner with tax relief during the timber growth
27 period.

28 “(2) Promoting programs that provide forest credit on young stands and
29 encourage harvesting of mature forest crops.

30 “(3) Promoting the establishment of new forest crops on cutover, denuded

1 or underproductive privately owned forestlands.

2 “(4) Protecting the public interest by assuring that the citizens of the
3 state and future generations shall have the benefits to be derived from the
4 continuous production of forest products from the private forestlands of
5 Oregon, including jobs, taxes, water, erosion control and habitat for wild
6 game.

7 **“SECTION 95.** ORS 526.465, as amended by section 7, chapter 883, Oregon
8 Laws 2007, is amended to read:

9 “526.465. The purpose of ORS [318.031 and] 526.450 to 526.475 is to en-
10 courage long term forestry investments that lead to increased management
11 of Oregon’s forestlands by:

12 “(1) Promoting programs that provide forest credit on young stands and
13 encourage harvesting of mature forest crops.

14 “(2) Promoting the establishment of new forest crops on cutover, denuded
15 or underproductive privately owned forestlands.

16 “(3) Protecting the public interest by assuring that the citizens of the
17 state and future generations shall have the benefits to be derived from the
18 continuous production of forest products from the private forestlands of
19 Oregon, including jobs, taxes, water, erosion control and habitat for wild
20 game.

21 **“SECTION 96.** ORS 526.475 is amended to read:

22 “526.475. (1) Any owner affected by a determination of the State Forester
23 made under ORS 315.104[, 318.031] and 526.450 to 526.475 may appeal to the
24 State Board of Forestry under such rules as it may adopt. An appeal to set
25 aside any decision of the board with respect to ORS 315.104 [or 318.031] may
26 be taken within 60 days of the decision to the Oregon Tax Court in the
27 manner provided for tax cases under ORS chapter 305.

28 “(2) Any owner affected by a determination of the Department of Revenue
29 made under ORS 315.104 [or 318.031] may appeal directly to the tax court
30 under ORS 305.404 to 305.560.

1 **SECTION 97.** ORS 526.475, as amended by section 8, chapter 883, Oregon
2 Laws 2007, is amended to read:

3 “526.475. [(1)] Any owner affected by a determination of the State Forester
4 made under ORS [318.031 and] 526.450 to 526.475 may appeal to the State
5 Board of Forestry under such rules as it may adopt. [*An appeal to set aside*
6 *any decision of the board with respect to ORS 318.031 may be taken within 60*
7 *days of the decision to the Oregon Tax Court in the manner provided for tax*
8 *cases under ORS chapter 305.*]

9 “[(2) Any owner affected by a determination of the Department of Revenue
10 made under ORS 318.031 may appeal directly to the tax court under ORS
11 305.404 to 305.560.]

12 **SECTION 98.** ORS 701.106 is amended to read:

13 “701.106. (1) A contractor that violates or fails to comply with any of the
14 following provisions or any rules adopted under those provisions is subject
15 to the suspension of, revocation of, refusal to issue or refusal to renew a li-
16 cense, imposition of a civil penalty under ORS 701.992, or a combination of
17 those sanctions:

18 “(a) ORS 87.007 (2).

19 “(b) ORS chapter 316 [*or 317*].

20 “(c) ORS 446.225 to 446.285.

21 “(d) ORS 446.395 to 446.420.

22 “(e) ORS 447.010 to 447.156.

23 “(f) ORS chapter 455.

24 “(g) ORS 460.005 to 460.175.

25 “(h) ORS 479.510 to 479.945.

26 “(i) ORS 480.510 to 480.670.

27 “(j) ORS chapter 656.

28 “(k) ORS chapter 657.

29 “(L) ORS 670.600.

30 “(m) ORS 671.510 to 671.760.

1 “(n) ORS chapter 693.

2 “(o) **Sections 4 to 30 of this 2017 Act.**

3 “(2) The imposition of a sanction under this section is subject to ORS
4 183.413 to 183.497.

5 “**SECTION 99.** ORS 731.840 is amended to read:

6 “731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer
7 under ORS 731.854 and 731.859, or the [*corporate excise*] **commercial activity**
8 tax imposed upon a foreign or alien insurer under [*ORS chapter 317*]
9 **sections 4 to 30 of this 2017 Act**, is in lieu of all other state taxes upon
10 premiums, taxes upon income, franchise or other taxes measured by income
11 that might otherwise be imposed upon the foreign or alien insurer except the
12 fire insurance premiums tax imposed under ORS 731.820 and the tax imposed
13 upon wet marine and transportation insurers under ORS 731.824 and 731.828.
14 However, all real and personal property, if any, of the insurer shall be listed,
15 assessed and taxed the same as real and personal property of like character
16 of noninsurers. Nothing in this subsection shall be construed to preclude
17 the imposition of the assessments imposed under ORS 656.612 upon a foreign
18 or alien insurer.

19 “(2) Subsection (1) of this section applies to a reciprocal insurer and its
20 attorney in its capacity as such.

21 “(3) Subsection (1) of this section applies to foreign or alien title insurers
22 and to foreign or alien wet marine and transportation insurers issuing poli-
23 cies and subject to taxes referred to in ORS 731.824 and 731.828.

24 “(4) The State of Oregon hereby preempts the field of regulating or of
25 imposing excise, privilege, franchise, income, license, permit, registration,
26 and similar taxes, licenses and fees upon insurers and their insurance pro-
27 ducers and other representatives as such, and:

28 “(a) No county, city, district, or other political subdivision or agency in
29 this state shall so regulate, or shall levy upon insurers, or upon their in-
30 surance producers and representatives as such, any such tax, license or fee;

1 except that whenever a county, city, district or other political subdivision
2 levies or imposes generally on a nondiscriminatory basis throughout the ju-
3 risdiction of the taxing authority a payroll, excise or income tax, as other-
4 wise provided by law, such tax may be levied or imposed upon domestic
5 insurers; and

6 “(b) No county, city, district, political subdivision or agency in this state
7 shall require of any insurer, insurance producer or representative, duly au-
8 thorized or licensed as such under the Insurance Code, any additional au-
9 thorization, license, or permit of any kind for conducting therein
10 transactions otherwise lawful under the authority or license granted under
11 this code.

12 **“SECTION 100.** ORS 743B.012 is amended to read:

13 “743B.012. (1) As a condition of transacting business in the small em-
14 ployer health insurance market in this state, a carrier shall offer small em-
15 ployers all of the carrier’s health benefit plans, approved by the Department
16 of Consumer and Business Services for use in the small employer market, for
17 which the small employer is eligible.

18 “(2) A carrier shall issue to a small employer any health benefit plan that
19 is offered by the carrier if the small employer applies for the plan and agrees
20 to make the required premium payments and to satisfy the other provisions
21 of the health benefit plan.

22 “(3) A multiple employer welfare arrangement, professional or trade as-
23 sociation or other similar arrangement established or maintained to provide
24 benefits to a particular trade, business, profession or industry or their sub-
25 sidiaries may not issue coverage to a group or individual that is not in the
26 same trade, business, profession or industry as that covered by the arrange-
27 ment. The arrangement shall accept all groups and individuals in the same
28 trade, business, profession or industry or their subsidiaries that apply for
29 coverage under the arrangement and that meet the requirements for mem-
30 bership in the arrangement. For purposes of this subsection, the require-

1 ments for membership in an arrangement may not include any requirements
2 that relate to the actual or expected health status of the prospective
3 enrollee.

4 “(4) A carrier shall, pursuant to subsection (2) of this section, accept ap-
5 plications from and offer coverage to a small employer group covered under
6 an existing health benefit plan regardless of whether a prospective enrollee
7 is excluded from coverage under the existing plan because of late enrollment.
8 When a carrier accepts an application for a small employer group, the car-
9 rier may continue to exclude the prospective enrollee excluded from coverage
10 by the replaced plan until the prospective enrollee would have become eli-
11 gible for coverage under that replaced plan.

12 “(5) A carrier is not required to accept applications from and offer cov-
13 erage pursuant to subsection (2) of this section if the department finds that
14 acceptance of an application or applications would endanger the carrier’s
15 ability to fulfill its contractual obligations or result in financial impairment
16 of the carrier.

17 “(6) A carrier shall actively market all health benefit plans that are of-
18 fered by the carrier to small employers in the geographical areas in which
19 the carrier makes coverage available or provides benefits.

20 “(7)(a) Subsection (2) of this section does not require a carrier to offer
21 coverage to or accept applications from:

22 “(A) A small employer if the small employer is not physically located in
23 the carrier’s approved service area;

24 “(B) An employee of a small employer if the employee does not work or
25 reside within the carrier’s approved service areas; or

26 “(C) Small employers located within an area where the carrier reasonably
27 anticipates, and demonstrates to the department, that it will not have the
28 capacity in its network of providers to deliver services adequately to the
29 enrollees of those small employer groups because of its obligations to exist-
30 ing small employer group contract holders and enrollees.

1 “(b) A carrier that does not offer coverage pursuant to paragraph (a)(C)
2 of this subsection may not offer coverage in the applicable service area to
3 new employer groups other than small employers until the carrier resumes
4 enrolling groups of new small employers in the applicable area.

5 “(8) For purposes of ORS 743B.010 to 743B.013, except as provided in this
6 subsection, carriers that are affiliated carriers or that are eligible to file a
7 [consolidated] tax return pursuant to [ORS 317.715] **section 6 of this 2017**
8 **Act** shall be treated as one carrier and any restrictions or limitations im-
9 posed by ORS 743B.010 to 743B.013 apply as if all health benefit plans de-
10 livered or issued for delivery to small employers in this state by the affiliated
11 carriers were issued by one carrier. However, any insurance company or
12 health maintenance organization that is an affiliate of a health care service
13 contractor located in this state, or any health maintenance organization lo-
14 cated in this state that is an affiliate of an insurance company or health care
15 service contractor, may treat the health maintenance organization as a sep-
16 arate carrier and each health maintenance organization that operates only
17 one health maintenance organization in a service area in this state may be
18 considered a separate carrier.

19 “(9) A carrier that elects to discontinue offering all of its health benefit
20 plans to small employers under ORS 743B.013 (3)(e) or elects to discontinue
21 renewing all such plans is prohibited from offering health benefit plans to
22 small employers in this state for a period of five years from one of the fol-
23 lowing dates:

24 “(a) The date of notice to the department pursuant to ORS 743B.013 (3)(e);
25 or

26 “(b) If notice is not provided under paragraph (a) of this subsection, from
27 the date on which the department provides notice to the carrier that the
28 department has determined that the carrier has effectively discontinued of-
29 fering health benefit plans to small employers in this state.

30 **SECTION 101.** ORS 314.520 is amended to read:

1 “314.520. ORS [314.505,] 314.518 and 316.198 do not alter the authority
2 under ORS 293.525 of a state agency to require by rule that certain payments
3 to the agency be made by electronic funds transfer.

4 **“SECTION 102.** ORS 314.610 is amended to read:

5 “314.610. As used in ORS 314.605 to 314.675, unless the context otherwise
6 requires:

7 “(1) ‘Business income’ means income arising from transactions and activ-
8 ity in the regular course of the taxpayer’s trade or business and includes
9 income from tangible and intangible property if the acquisition, the man-
10 agement, use or rental, and the disposition of the property constitute integral
11 parts of the taxpayer’s regular trade or business operations.

12 “(2) ‘Commercial domicile’ means the principal place from which the trade
13 or business of the taxpayer is directed or managed.

14 “(3) ‘Compensation’ means wages, salaries, commissions and any other
15 form of remuneration paid to employees for personal services.

16 “(4) ‘Financial institution’ means a person, corporation or other business
17 entity that is any of the following:

18 “(a) A bank holding company under the laws of this state or under the
19 federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq., as
20 amended.

21 “(b) A savings and loan holding company under the National Housing
22 Act, 12 U.S.C. 1701 et seq., as amended.

23 “(c) A national bank organized and existing as a national bank associ-
24 ation under the National Bank Act, 12 U.S.C. 21 et seq., as amended.

25 “(d) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

26 “(e) A bank or thrift institution incorporated or organized under the laws
27 of any state.

28 “(f) An entity organized under the provisions of 12 U.S.C. 611 to 631, as
29 amended.

30 “(g) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101,

1 as amended.

2 “(h) A state credit union with loan assets that exceed \$50,000,000 as of the
3 first day of the taxable year of the state credit union.

4 “(i) A production credit association subject to 12 U.S.C. 2071 et seq., as
5 amended.

6 “(j) A corporation, more than 50 percent of the voting stock of which is
7 owned, directly or indirectly, by a person, corporation or other business en-
8 tity described in paragraphs (a) to (i) of this subsection, provided that the
9 corporation is not an insurer taxable under [ORS 317.655] **sections 4 to 30**
10 **of this 2017 Act.**

11 “(k) An entity that is not otherwise described in this subsection[, *that is*
12 *not an insurer taxable under ORS 317.655*] and that derives more than 50
13 percent of its gross income from activities that a person, corporation or en-
14 tity described in paragraph (c), (d), (e), (f), (g), (h), (i) or (L) of this sub-
15 section is authorized to conduct, not taking into account any income derived
16 from nonrecurring extraordinary sources.

17 “(L) A person that derives at least 50 percent of the person’s annual av-
18 erage gross income, for financial accounting purposes for the current tax
19 year and the two preceding tax years, from finance leases, excluding any
20 gross income from incidental or occasional transactions. For purposes of this
21 paragraph, ‘finance lease’ means:

22 “(A) A lease transaction that is the functional equivalent of an extension
23 of credit and that transfers substantially all of the benefits and risks of the
24 ownership of the leased property;

25 “(B) A direct financing lease or a leverage lease that meets the criteria
26 of Financial Accounting Standards Board Statement No. 13; or

27 “(C) Any other lease that is accounted for as a financing by a lessor un-
28 der generally accepted accounting principles.

29 “(5) ‘Nonbusiness income’ means all income other than business income.

30 “(6) ‘Public utility’ means any business entity whose principal business

1 is ownership and operation for public use of any plant, equipment, property,
2 franchise, or license for the transmission of communications, transportation
3 of goods or persons, or the production, storage, transmission, sale, delivery,
4 or furnishing of electricity, water, steam, oil, oil products or gas.

5 “(7) ‘Sales’ means all gross receipts of the taxpayer not allocated under
6 ORS 314.615 to 314.645.

7 “(8) ‘State’ means any state of the United States, the District of Columbia,
8 the Commonwealth of Puerto Rico, any territory or possession of the United
9 States, and any foreign country or political subdivision thereof.

10 **“SECTION 103.** ORS 314.734 is amended to read:

11 “314.734. (1) The shareholder’s pro rata share of the income of an S cor-
12 poration is subject to tax under ORS chapter 316. In determining the tax
13 imposed under ORS chapter 316 of a shareholder for the shareholder’s taxa-
14 ble year in which the taxable year of the S corporation ends (or for the final
15 taxable year of a shareholder who dies, or of a trust or estate that termi-
16 nates, before the end of the corporation’s taxable year), there shall be taken
17 into account the shareholder’s pro rata share of the corporation’s separately
18 stated items of income, loss or deduction and nonseparately computed income
19 or loss, as determined under or for purposes of section 1366 of the Internal
20 Revenue Code (including but not limited to section 1366(d) and (e) of the
21 Internal Revenue Code), with the modifications, additions and subtractions
22 provided under this chapter and ORS chapter 316.

23 “(2) Each item of shareholder income, gain, loss or deduction has the
24 same character for a shareholder under this chapter and ORS chapter 316
25 as it has for federal income tax purposes. If an item is not characterized for
26 federal income tax purposes, it has the same character for a shareholder as
27 if realized directly from the source from which realized by the S corporation
28 or incurred in the same manner as incurred by the S corporation.

29 “(3) In any case where it is necessary to determine the gross income of
30 a shareholder for purposes of ORS chapter 316, such gross income shall in-

1 clude the shareholder's pro rata share of the gross income of the S corpo-
2 ration.

3 “[4] *If any tax is imposed under ORS 314.740 for any taxable year on an*
4 *S corporation, for purposes of subsection (1) of this section, the amount of each*
5 *recognized built-in gain for such taxable year shall be reduced by its propor-*
6 *tionate share of such tax.*]

7 “[5] *If any tax is imposed under ORS 314.742 on an S corporation, for*
8 *purposes of subsection (1) of this section, each item of passive investment in-*
9 *come shall be reduced by an amount which bears the same ratio to the amount*
10 *of such tax as the amount of such item bears to the total passive investment*
11 *income for the taxable year.*]

12 **“SECTION 104.** ORS 723.586 is amended to read:

13 “723.586. A credit union may enter into cooperative marketing arrange-
14 ments to facilitate its members' voluntary purchases of such goods and ser-
15 vices as are in the interest of improving economic and social conditions of
16 the members. Said investment shall not exceed one percent of the credit
17 union's assets. [*Notwithstanding any other provision of law, the taxable in-*
18 *come from such activities which are conducted by the credit union shall be*
19 *subject to tax pursuant to ORS 317.920.*]

20 **“SECTION 105.** ORS 314.605 to 314.675 do not apply to the tax im-
21 posed under sections 4 to 30 of this 2017 Act.

22 **“SECTION 106.** ORS 314.265, 314.505, 314.515, 314.525, 314.680, 314.688,
23 314.690, 314.725, 314.740, 314.742, 314.750, 316.043, 316.044, 316.279, 317.005,
24 317.010, 317.013, 317.018, 317.019, 317.025, 317.030, 317.035, 317.038, 317.063,
25 317.067, 317.070, 317.080, 317.090, 317.122, 317.129, 317.151, 317.259, 317.267,
26 317.273, 317.283, 317.286, 317.301, 317.303, 317.304, 317.307, 317.309, 317.310,
27 317.311, 317.312, 317.314, 317.319, 317.322, 317.327, 317.329, 317.344, 317.349,
28 317.351, 317.356, 317.362, 317.374, 317.379, 317.388, 317.394, 317.398, 317.401,
29 317.476, 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650,
30 317.655, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.716, 317.717,

1 317.720, 317.725, 317.850, 317.853, 317.920, 317.950, 317.991, 318.010, 318.020,
2 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and 318.130 are repealed.

3 **“SECTION 107. (1) Except as provided in subsection (2) of this sec-**
4 **tion, sections 4 to 30 of this 2017 Act, the amendments to statutes by**
5 **sections 33 to 104 of this 2017 Act and the repeal of statutes by section**
6 **106 of this 2017 Act apply:**

7 **“(a) For purposes of sections 4 to 30 of this 2017 Act, to calendar**
8 **years and calendar quarters beginning on or after January 1, 2019; and**

9 **“(b) For purposes of ORS chapters 314, 315, 316, 317 and 318, to tax**
10 **years beginning on or after January 1, 2019.**

11 **“(2)(a) The repeal of ORS 316.043 and 316.044 by section 106 of this**
12 **2017 Act applies to tax years beginning on or after January 1, 2017.**

13 **“(b) The amendments to section 14 of this 2017 Act by section 15 of**
14 **this 2017 Act apply to tax years beginning on or after January 1, 2020.**

15 **“(3) The amendments to statutes by sections 33 to 104 of this 2017**
16 **Act and the repeal of statutes by section 106 of this 2017 Act may not**
17 **be construed to limit the authority of the Department of Revenue to**
18 **administer and enforce the taxes imposed under ORS chapters 317 and**
19 **318, as applicable to tax years beginning before January 1, 2019.**

20 **“SECTION 108. The Department of Revenue shall waive any penalty**
21 **or interest that would otherwise apply to taxes due if the penalty or**
22 **interest is based on underpayment or underreporting that results**
23 **solely from the amendments to ORS 317.061 by section 2 of this 2017**
24 **Act.**

25 **“SECTION 109. Section 108 of this 2017 Act applies to tax years be-**
26 **ginning on or after January 1, 2017, and before January 1, 2018.**

27

28 **“PARTS NOT SEVERABLE**

29

30 **“SECTION 110. It is the intent of the Legislative Assembly that**

1 each part of this 2017 Act be considered as essentially and inseparably
2 connected with and dependent upon every other part. The Legislative
3 Assembly does not intend that any part of this 2017 Act be the law if
4 any other part does not become law.

5

6

“CAPTIONS

7

8 **“SECTION 111. The unit and section captions used in this 2017 Act**
9 **are provided only for the convenience of the reader and do not become**
10 **part of the statutory law of this state or express any legislative intent**
11 **in the enactment of this 2017 Act.**

12

13

“EFFECTIVE DATE

14

15 **“SECTION 112. This 2017 Act takes effect on the 91st day after the**
16 **date on which the 2017 regular session of the Seventy-ninth Legislative**
17 **Assembly adjourns sine die.”.**

18
