

HB 2830-6
(LC 2380)
6/17/17 (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, 314.665, 314.671, 314.712, 314.714, 314.716, 314.722, 314.727, 314.730,
7 314.732, 314.734, 314.736, 314.738, 314.744, 314.749, 314.775, 314.778, 314.781,
8 314.784, 314.840, 315.052, 315.054, 315.266, 316.037, 316.267, 316.277, 316.695,
9 317.097, 317.131, 344.755, 366.505, 401.690, 461.560, 526.450, 526.455, 526.465,
10 526.475, 701.106, 723.586, 731.840 and 743B.012; repealing ORS 314.265, 314.505,
11 314.515, 314.525, 314.680, 314.688, 314.690, 314.723, 314.725, 314.740, 314.742,
12 314.750, 314.752, 316.279, 316.749, 317.005, 317.010, 317.013, 317.018, 317.019,
13 317.025, 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090,
14 317.122, 317.129, 317.151, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301,
15 317.303, 317.304, 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319,
16 317.322, 317.327, 317.329, 317.344, 317.349, 317.351, 317.356, 317.362, 317.374,
17 317.379, 317.388, 317.394, 317.398, 317.401, 317.476, 317.478, 317.479, 317.485,
18 317.488, 317.491, 317.625, 317.635, 317.650, 317.655, 317.660, 317.665, 317.667,
19 317.705, 317.710, 317.713, 317.715, 317.716, 317.717, 317.720, 317.725, 317.850,
20 317.853, 317.920, 317.950, 317.991, 318.010, 318.020, 318.031, 318.040, 318.060,
21 318.070, 318.074, 318.106 and 318.130; prescribing an effective date; and pro-

1 tiple of \$50.

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

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

12 **“SECTION 2.** ORS 315.266, as amended by section 1, chapter 98, Oregon
13 Laws 2016, is amended to read:

14 “315.266. (1)(a) In addition to any other credit available for purposes of
15 ORS chapter 316, an eligible resident individual shall be allowed a credit
16 against the tax otherwise due under ORS chapter 316 for the tax year in an
17 amount equal to [eight] **10** percent of the earned income credit allowable to
18 the individual for the same tax year under section 32 of the Internal Revenue
19 Code.

20 “(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with
21 a dependent under the age of three at the close of the tax year, the credit
22 allowed under this section shall be in an amount equal to 11 percent of the
23 earned income credit allowable to the individual for the same tax year under
24 section 32 of the Internal Revenue Code.

25 “(2) An eligible nonresident individual shall be allowed the credit com-
26 puted in the same manner and subject to the same limitations as the credit
27 allowed a resident by subsection (1) of this section. However, the credit shall
28 be prorated using the proportion provided in ORS 316.117.

29 “(3) If a change in the taxable year of a taxpayer occurs as described in
30 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s

1 taxable year under ORS 314.440, the credit allowed by this section shall be
2 prorated or computed in a manner consistent with ORS 314.085.

3 “(4) If a change in the status of a taxpayer from resident to nonresident
4 or from nonresident to resident occurs, the credit allowed by this section
5 shall be determined in a manner consistent with ORS 316.117.

6 “(5) If the amount allowable as a credit under this section, when added
7 to the sum of the amounts allowable as payment of tax under ORS 316.187
8 or 316.583, other tax prepayment amounts and other refundable credit
9 amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax
10 year after application of any nonrefundable credits allowable for purposes
11 of ORS chapter 316 for the tax year, the amount of the excess shall be re-
12 funded to the taxpayer as provided in ORS 316.502.

13 “(6) The Department of Revenue may adopt rules for purposes of this
14 section, including but not limited to rules relating to proof of eligibility and
15 the furnishing of information regarding the federal earned income credit
16 claimed by the taxpayer for the tax year.

17 “(7) Refunds attributable to the earned income credit allowed under this
18 section do not bear interest.

19 **“SECTION 3. (1) The amendments to ORS 316.037 by section 1 of this
20 2017 Act apply to tax years beginning on or after January 1, 2019.**

21 **“(2) The amendments to ORS 315.266 by section 2 of this 2017 Act
22 apply to tax years beginning on or after January 1, 2019, and before
23 January 1, 2020.**

24

25 **“COMMERCIAL ACTIVITY TAX**

26

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

29 **“(1) ‘Doing business’ means engaging in any activity, whether legal
30 or illegal, that is conducted for, or results in, gain, profit or income,**

1 at any time during a calendar year.

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

3 “(a) Organizations described in sections 501(c) and 501(j) of the
4 Internal Revenue Code, unless the exemption is denied under section
5 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal Reve-
6 nue Code.

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

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

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

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

16 “(f) Organizations described in section 521 of the Internal Revenue
17 Code.

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

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

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

24 “(j) Governmental entities.

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

29 “(L) Hospitals subject to assessment under section 2, chapter 736,
30 Oregon Laws 2003, long term care facilities subject to assessment un-

1 der section 16, chapter 736, Oregon Laws 2003, or any entity subject to
2 assessment under section 3, 5 or 9, chapter _____, Oregon Laws 2017,
3 (Enrolled House Bill 2391).

4 “(3)(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 26 of this 2017 Act.

1 **“(K) An entity that is not otherwise described in this paragraph**
2 **that is not an insurer taxable under sections 4 to 26 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 **“(4)(a) ‘FR Y-9’ means the consolidated or parent-only financial**
25 **statements that a holding company is required to file with the Federal**
26 **Reserve Board pursuant to 12 U.S.C. 1844.**

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

1 **“(5) ‘General contractor’ means a contractor as defined in ORS**
2 **701.410.**

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

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

6 **“(b) Any incorporated agency or instrumentality of the United**
7 **States wholly owned by the United States or by a corporation wholly**
8 **owned by the United States.**

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

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

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

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

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

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

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

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

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

30 **“(E) Contributions received by a trust, plan or other arrangement,**

1 any of which is described in section 501(a) of the Internal Revenue
2 Code, or to which title 26, subtitle A, chapter 1, subchapter (D) of the
3 Internal Revenue Code applies;

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

12 “(G) Proceeds received from the issuance of the taxpayer’s own
13 stock, options, warrants, puts or calls, or from the sale of the
14 taxpayer’s treasury stock;

15 “(H) Proceeds received on the account of payments from insurance
16 policies, except those proceeds received for the loss of business reve-
17 nue;

18 “(I) Gifts or charitable contributions received, membership dues
19 received by trade, professional, homeowners’ or condominium associ-
20 ations, payments received for educational courses, meetings or meals,
21 or similar payments to a trade, professional or other similar associ-
22 ation, and fundraising receipts received by any person when any excess
23 receipts are donated or used exclusively for charitable purposes;

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

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

29 “(L) Tax refunds, other tax benefit recoveries and reimbursements
30 for the tax imposed under sections 4 to 26 of this 2017 Act made by

1 entities that are part of the same unitary group as provided under
2 section 6 of this 2017 Act, and reimbursements made by entities that
3 are not members of a unitary group that are required to be made for
4 economic parity among multiple owners of an entity whose tax obli-
5 gation under sections 4 to 26 of this 2017 Act is required to be reported
6 and paid entirely by one owner, as provided in section 6 of this 2017
7 Act;

8 “(M) Pension reversions;

9 “(N) Contributions to capital;

10 “(O) In the case of receipts from the sale, transfer, exchange or
11 other disposition of motor vehicle fuel as defined in ORS 319.010, an
12 amount equal to federal and state motor vehicle fuel excise taxes and
13 receipts from billing or invoicing the tax imposed under ORS 319.020
14 to another person;

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

20 “(Q) In the case of receipts from the sale of malt beverages, wine
21 or alcoholic liquor, all as defined in ORS 471.001, or cider, as defined
22 in ORS 471.023, by a person holding a license issued under ORS chapter
23 471, an amount equal to the federal and state excise taxes paid by any
24 person on or for such malt beverages, wine or alcoholic liquor under
25 subtitle E of the Internal Revenue Code or ORS chapter 471, and any
26 net amount paid to the Oregon Liquor Control Commission by a per-
27 son licensed to sell alcoholic liquor under ORS chapter 471 in excess
28 of the purchase price paid by the licensee;

29 “(R) In the case of receipts from the sale of marijuana items, as
30 defined in ORS 475B.015, by a person holding a license issued under

1 **ORS 475B.010 to 475B.395, an amount equal to the federal and state**
2 **excise taxes paid by any person on or for such marijuana items under**
3 **subtitle E of the Internal Revenue Code or ORS 475B.700 to 475B.760;**

4 **“(S) Receipts realized by a vehicle dealer certified under ORS 822.020**
5 **from the sale or other transfer of a motor vehicle, as defined in ORS**
6 **801.360, to another vehicle dealer for the purpose of resale by the**
7 **transferee vehicle dealer, but only if the sale or other transfer was**
8 **based upon the transferee’s need to meet a specific customer’s pref-**
9 **erence for a motor vehicle;**

10 **“(T) Registration fees, taxes or other amounts collected by a vehicle**
11 **dealer certified under ORS 822.020 at the sale or other transfer of a**
12 **motor vehicle, as defined in ORS 801.360, that are owed to a third party**
13 **by the purchaser of the motor vehicle and passed to the third party**
14 **by the dealer;**

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

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

26 **“(W) Net revenue of residential care facilities as defined in ORS**
27 **443.400 or in-home care agencies as defined in ORS 443.305, to the ex-**
28 **tent that the revenue is derived from or received as compensation for**
29 **providing services to a medical assistance or Medicare recipient;**

30 **“(X) Dividends exempted from federal taxation under section 243 or**

1 **245 of the Internal Revenue Code;**
2 **“(Y) Distributive income received from a pass-through entity;**
3 **“(Z) Receipts from sales to a wholesaler in this state, if the seller**
4 **receives certification from the wholesaler that the wholesaler will sell**
5 **the purchased property outside this state;**
6 **“(AA) Proceeds from the sale of a single unit of machinery used in**
7 **a production process specified in North American Industry Classifica-**
8 **tion System code 334, pertaining to computer and electronic product**
9 **manufacturing, to the extent that the proceeds exceed \$5 million;**
10 **“(BB) Rebates paid to purchasers by retailers or wholesalers;**
11 **“(CC) Receipts realized from medications administered or dispensed**
12 **in a physician’s office pursuant to an oncological, HIV, hepatitis C,**
13 **rheumatologic, hematologic or end-stage renal disease protocol;**
14 **“(DD) Receipts from transactions among members of a unitary**
15 **group;**
16 **“(EE) Moneys, including public purpose charge moneys collected**
17 **under ORS 757.612 and costs of funding or implementing cost-effective**
18 **energy conservation measures collected under ORS 757.689, that are**
19 **collected from customers, passed to a utility and approved by the**
20 **Public Utility Commission and that support energy conservation,**
21 **renewable resource acquisition and low-income assistance programs;**
22 **“(FF) Moneys collected by a utility from customers for the payment**
23 **of loans through on-bill financing;**
24 **“(GG) Surcharges collected under ORS 757.736;**
25 **“(HH) Moneys passed to a utility by the Bonneville Power Admin-**
26 **istration for the purpose of effectuating the Regional Power Act Ex-**
27 **change credits or pursuant to any settlement associated with the**
28 **exchange credit;**
29 **“(II) Moneys collected by a utility for franchise fees, privilege taxes,**
30 **federal taxes, local taxes and fees payable under ORS 756.310;**

1 “(JJ) Charges paid to the Residential Service Protection Fund re-
2 quired by chapter 290, Oregon Laws 1987.

3 “(KK) Universal service surcharge moneys collected by telecommu-
4 nications carriers and paid into the universal service fund established
5 in ORS 759.425;

6 “(LL) Moneys collected for public purpose funding as described in
7 ORS 759.430;

8 “(MM) Moneys collected for the federal universal service fund as
9 determined by the Federal Communications Commission; and

10 “(NN) In the case a seller or provider of telecommunications ser-
11 vices, the amount of tax imposed under ORS 403.200 for access to the
12 emergency communications system that is collected from subscribers
13 or consumers.

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

18 “(9) ‘Person’ includes individuals, combinations of individuals of
19 any form, receivers, assignees, trustees in bankruptcy, firms, compa-
20 nies, joint-stock companies, business trusts, estates, partnerships,
21 limited liability partnerships, limited liability companies, associations,
22 joint ventures, clubs, societies, for-profit corporations, S corporations,
23 qualified subchapter S subsidiaries, qualified subchapter S trusts,
24 trusts, entities that are disregarded for federal income tax purposes
25 and any other entities.

26 “(10) ‘Retailer’ means a person doing business by selling tangible
27 personal property to a purchaser for a purpose other than:

28 “(a) Resale by the purchaser of the property as tangible personal
29 property in the regular course of business;

30 “(b) Incorporation by the purchaser of the property in the course

1 of regular business as an ingredient or component of real or personal
2 property; or

3 “(c) Consumption by the purchaser of the property in the pro-
4 duction for sale of a new article of tangible personal property.

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

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

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

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

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

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

16 “(12) ‘Subcontractor’ has the meaning given that term in ORS
17 701.410.

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

20 “(14)(a) ‘Taxpayer’ means any person or unitary group required to
21 register, file or pay tax under sections 4 to 26 of this 2017 Act.

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

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

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

27 “(B) Centralized administrative services or functions resulting in
28 economies of scale; or

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

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

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

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

8 “(16) ‘Unitary group’ means a group of persons engaged in business
9 activities that constitute a unitary business.

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

13 “SECTION 5. Accounting methods. A taxpayer’s method of ac-
14 counting for gross receipts for a tax period shall be the same as the
15 taxpayer’s method of accounting for federal income tax purposes for
16 the taxpayer’s federal tax year that includes the tax period. If a
17 taxpayer’s method of accounting for federal income tax purposes
18 changes, the taxpayer’s method of accounting for gross receipts under
19 sections 4 to 26 of this 2017 Act shall be changed accordingly.

20 “SECTION 6. Unitary groups. A unitary group shall register, file
21 and pay taxes under sections 4 to 26 of this 2017 Act as a single tax-
22 payer and may exclude receipts from transactions among its members.

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

25 “(a) A person shall include as taxable gross receipts the value of
26 property the person transfers into this state for the person’s own use
27 within one year after the person receives the property outside this
28 state; and

29 “(b) In the case of a unitary group, the taxpayer shall include as
30 taxable gross receipts the value of property that any of the taxpayer’s

1 members transferred into this state for the use of any of the
2 taxpayer's members within one year after the taxpayer receives the
3 property outside this state.

4 “(2) Property brought into this state within one year after it is re-
5 ceived outside this state by a person or unitary group described in
6 subsection (1) of this section may not be included as taxable gross re-
7 cepts as required under subsection (1) of this section if the Depart-
8 ment of Revenue ascertains that the property's receipt outside this
9 state by the person or unitary group followed by its transfer into this
10 state within one year was not intended in whole or in part to avoid in
11 whole or in part the tax imposed under sections 4 to 26 of this 2017
12 Act.

13 “(3) The department may adopt rules necessary to administer this
14 section.

15 “SECTION 8. Joint and several liability. All members of a unitary
16 group during the tax period or periods for which additional tax, pen-
17 alty or interest is owed are jointly and severally liable for such
18 amounts. Although the reporting person shall be assessed for the li-
19 ability, amounts due may be collected by assessment against any
20 member of the unitary group or pursued against any member of the
21 unitary group.

22 “SECTION 9. Commercial activity tax imposed on gross receipts. (1)
23 A commercial activity tax is imposed on each person with taxable
24 gross receipts for the privilege of doing business in this state. The tax
25 is imposed upon persons with substantial nexus with this state. The
26 tax imposed under this section is not a transactional tax and is not
27 subject to the Interstate Income Act of 1959 (P.L. 86-272). The tax im-
28 posed under this section is in addition to any other taxes or fees im-
29 posed under the tax laws of this state. The tax imposed under this
30 section is imposed on the person receiving the gross receipts and is

1 not a tax imposed directly on a purchaser. The tax imposed by this
2 section is an annual privilege tax for the calendar year that, in the
3 case of calendar year taxpayers, is the annual tax period and, in the
4 case of calendar quarter taxpayers, contains all quarterly tax periods
5 in the calendar year. A taxpayer is subject to the annual commercial
6 activity tax for doing business during any portion of such calendar
7 year. Revenues from the tax imposed under this section shall be con-
8 sidered revenues from corporate income and excise taxes under Article
9 IX, section 14, of the Oregon Constitution.

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

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

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

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

16 “(d) Otherwise has nexus with this state to an extent that the per-
17 son can be required to remit the tax imposed under sections 4 to 26
18 of this 2017 Act under the United States Constitution.

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

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

26 “(b) Has during the calendar year payroll in this state of at least
27 \$50,000. Payroll in this state includes the following:

28 “(A) Any amount subject to withholding by the person under ORS
29 316.167 and 316.172;

30 “(B) Any other amount the person pays as compensation to an in-

1 **dividual under the supervision or control of the person for work done**
2 **in this state; and**

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

5 **“(c) Has during the calendar year taxable gross receipts of at least**
6 **\$150,000.**

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

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

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

14 **“SECTION 10. Rate of taxation. (1) Except as provided in subsection**
15 **(4) of this section, the commercial activity tax imposed under section**
16 **9 of this 2017 Act for each fiscal year shall equal the minimum tax of**
17 **\$250 as provided in subsection (5) of this section, plus the product of**
18 **a percentage multiplied by the taxpayer’s taxable gross receipts in**
19 **excess of \$3 million for the fiscal year, based on the sector in which**
20 **the taxpayer is doing business, as follows:**

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

22 **“(b) For a taxpayer in a retail sector or a general contractor, 0.35**
23 **percent.**

24 **“(c) For a taxpayer in a wholesale sector or a subcontractor, 0.25**
25 **percent.**

26 **“(d) For a taxpayer in an agriculture, forestry or fishing sector, 0.15**
27 **percent.**

28 **“(e) For all other taxpayers, 0.48 percent.**

29 **“(2) The Department of Revenue shall further define by rule the**
30 **business sectors listed in this section, consistent with the North**

1 American Industry Classification System.

2 “(3) If a taxpayer does business in sectors to which more than one
3 rate is applicable under this section, the gross receipts from each
4 sector shall be taxed at the rate applicable to that sector. In attribut-
5 ing taxable gross receipts to different sectors, gross receipts shall be
6 assigned to the \$3 million exclusion amount in subsection (1) of this
7 section pro rata based on the amount of gross receipts by sector.

8 “(4) If the taxpayer’s gross receipts for the calendar year are more
9 than \$150,000 but do not exceed \$3 million, the tax imposed under this
10 section shall be the minimum tax of \$250 as provided in subsection (5)
11 of this section.

12 “(5) For all taxpayers, the minimum tax:

13 “(a) Is imposed in the amount of \$250 for the calendar year;

14 “(b) Is due and payable after the close of the calendar year; and

15 “(c) May not be reduced, paid or otherwise satisfied, for any tax-
16 payer, through the use of any tax credit, including the credit allowed
17 under section 15 of this 2017 Act or any credit allowed as provided in
18 section 27 of this 2017 Act.

19 “(6) No tax is owed under this section if the person’s gross receipts
20 do not exceed \$150,000.

21 **SECTION 11. Treatment of motor vehicle fuel.** (1) As used in this
22 section:

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

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

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

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

30 “(A) Electricity; or

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

3 **“(c) ‘Subject receipts’ means taxable gross receipts of motor vehicle**
4 **fuel or any other product used for the propulsion of motor vehicles.**

5 **“(d) ‘Taxable gross receipts’ means gross receipts sourced to this**
6 **state under section 12 of this 2017 Act.**

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

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

11 **“(A) Reports subject receipts under subsection (2) of this section;**
12 **and**

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

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

17 **“(A) Calculate the amount of commercial activity tax paid that is**
18 **attributable to receipts from the sale of motor vehicle fuel or any**
19 **other product used for the propulsion of motor vehicles; and**

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

23 **“(4)(a) If a taxpayer’s liability for any amount of commercial ac-**
24 **tivity tax paid over to the State Treasurer under subsection (3)(b)(B)**
25 **of this section is later changed, because the taxpayer is owed a refund**
26 **of any portion of the amount of commercial activity tax paid over, the**
27 **Department of Revenue shall notify the Department of Transportation**
28 **of the amount of the change in liability.**

29 **“(b) The Department of Transportation shall transfer the amount**
30 **stated in the notice under paragraph (a) of this subsection from the**

1 State Highway Fund to the General Fund and the transferred amount
2 shall be, as applicable:

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

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

7 “(C) Transferred to the Education Strategic Investment Fund as
8 described in section 24 of this 2017 Act.

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

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

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

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

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

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

23 “(e) In the case of the sale, rental, lease or license of intangible
24 property, if and to the extent the property is used in this state. If the
25 receipts are not based on the amount of use of the property, but rather
26 on the right to use the property, and the payor has the right to use
27 the property in this state, the receipts shall be sourced to this state
28 to the extent the receipts are based on the right to use the property
29 in this state.

30 “(2) If the sourcing provisions of subsection (1) of this section do

1 not fairly represent the extent of a person’s gross receipts attributable
2 to this state, the person may request, or the Department of Revenue
3 may require or permit, an alternative method. A request under this
4 subsection by a person must be made within the statute of limitations
5 applicable to sections 4 to 26 of this 2017 Act.

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

10 **“SECTION 13. Sourcing provisions for broadcasters. (1) As used in**
11 **this section:**

12 “(a) ‘Commercial domicile’ has the meaning given that term in ORS
13 314.610.

14 “(b) ‘Customer’ means a person who has a direct contractual re-
15 lationship with an interstate broadcaster from whom the interstate
16 broadcaster derives gross receipts, a business customer such as an
17 advertiser or licensee, or an individual customer that directly con-
18 tracts with the interstate broadcaster for access to video or audio
19 programming.

20 “(c) ‘Gross receipts from broadcasting’ and ‘interstate broadcaster’
21 have the meanings given those terms in ORS 314.680.

22 “(2) Gross receipts from broadcasting of an interstate broadcaster,
23 including receipts from advertising, licensing or distributing video or
24 audio programming, shall be sourced to this state to the extent that
25 the receipts are from a business customer whose commercial domicile
26 is in this state or an individual customer whose billing address is this
27 state.

28

29

“FINANCIAL INSTITUTIONS

30

1 **SECTION 14. Financial institutions.** As applied to a financial in-
2 stitution:

3 **“(1) ‘Gross receipts’ means all items of income, without deduction**
4 **for expenses. If the reporting person for a taxpayer is a holding com-**
5 **pany, ‘gross receipts’ includes all items of income reported on the FR**
6 **Y-9 filed by the holding company. If the reporting person for a tax-**
7 **payer is a bank organization, ‘gross receipts’ includes all items of in-**
8 **come reported on the call report filed by the bank organization. If the**
9 **reporting person for a taxpayer is a nonbank financial organization,**
10 **‘gross receipts’ includes all items of income reported in accordance**
11 **with generally accepted accounting principles.**

12 **“(2) ‘Taxable gross receipts’ means:**

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

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

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

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

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

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

27 **“(g) Interest, annual fees, penalties and any other charges received**
28 **from credit, debit or similar card receivables and from cardholders if**
29 **the billing address of the cardholder is located in this state;**

30 **“(h) The amount of net gains, but not less than zero, from the sale**

1 of credit, debit or similar card receivables if the billing address of the
2 cardholder is located in this state;

3 “(i) Reimbursement fees of a credit, debit or other card issuer if the
4 billing address of the cardholder is located in this state;

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

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

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

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

13 “(n) Receipts for automatic teller machine fees that are not for-
14 warded directly to another bank;

15 “(o) Automatic teller machine fees charged to a cardholder at an
16 automatic teller machine, for the use of a card issued by the taxpayer
17 if the cardholder’s billing address is in this state;

18 “(p) Automatic teller machine fees charged to a cardholder at an
19 automatic teller machine owned or rented by the taxpayer for the use
20 of a card not issued by the taxpayer if the automatic teller machine
21 is used in this state; and

22 “(q) Receipts derived from security holdings.

23 “(3) All other gross receipts shall be sourced as provided in section
24 12 of this 2017 Act.

25 “(4) If the provisions of subsection (2) of this section do not fairly
26 represent the extent of a financial institution’s activity in this state,
27 the financial institution may request, or the Department of Revenue
28 may require or permit, an alternative method. A request under this
29 subsection by a financial institution must be made within the appli-
30 cable statute of limitations set forth in sections 4 to 26 of this 2017

1 Act.

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

6

7

“CREDIT FOR PASS-THROUGH ENTITIES

8

9 “SECTION 15. Pass-through entities; credit. The commercial activ-
10 ity tax imposed under section 9 of this 2017 Act is imposed at the entity
11 level. A pass-through entity shall be allowed an entity level credit
12 against the taxes otherwise due under sections 4 to 26 of this 2017 Act.
13 The total credit allowed shall equal 50 percent of the total tax imposed
14 on the pass-through entity remaining after any allowance of credits
15 as provided in section 27 of this 2017 Act.

16

“SECTION 16. Section 15 of this 2017 Act is amended to read:

17

“Sec. 15. The commercial activity tax imposed under section 9 of this
18 2017 Act is imposed at the entity level. A pass-through entity shall be al-
19 lowed an entity level credit against the taxes otherwise due under sections
20 4 to 26 of this 2017 Act. The total credit allowed shall equal [50] **25** percent
21 of the total tax imposed on the pass-through entity remaining after any al-
22 lowance of credits as provided in section 27 of this 2017 Act.

23

24

“REGISTRATION PROCEDURES

25

26 “SECTION 17. Registration. (1) Any person or unitary group subject
27 to the tax imposed under sections 4 to 26 of this 2017 Act shall register
28 with the Department of Revenue.

29

“**(2)** Each person or unitary group described in subsection (1) of this
30 section shall apply for and obtain from the department a registration

1 **number.**

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

6 **“(4) The department by rule may establish the time and manner for**
7 **applications for registration numbers under this section and may es-**
8 **tablish reasonable fees for processing of applications and issuance of**
9 **registration numbers under this section.**

10 **“SECTION 18. Records. Every person doing business in this state**
11 **shall keep records, receipts, invoices and other pertinent papers re-**
12 **lated to the commercial activity tax imposed under section 9 of this**
13 **2017 Act in a form required by the Department of Revenue.**

14

15

“RETURNS AND PAYMENTS

16

17 **“SECTION 19. Returns, payment. (1)(a) For purposes of the com-**
18 **mercial activity tax imposed under section 9 of this 2017 Act, every**
19 **person doing business in this state shall file a return.**

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

23 **“(2) The commercial activity tax imposed under section 9 of this**
24 **2017 Act is due and payable to the Department of Revenue as follows:**

25 **“(a) If the tax due is \$250 as provided in section 10 (4) of this 2017**
26 **Act, the tax is due and payable to the department not later than**
27 **January 31 next following the close of the calendar year.**

28 **“(b) Except as provided in paragraph (a) of this subsection, taxpayer**
29 **shall file a return and the tax is due and payable to the department**
30 **on or before the last day of January, April, July and October of each**

1 year for the previous calendar quarter. The return must be filed with
2 the Department of Revenue in a form prescribed by the department.

3 (3) The department may by rule extend the time for making any
4 return for good cause. If the time for filing a return is extended at the
5 request of a taxpayer, interest on any unpaid tax at the rate estab-
6 lished under ORS 305.220 from the time the return was originally re-
7 quired to be filed to the time of payment, shall be added and paid.

8 “SECTION 20. Accounting, installment payment. (1) Subject to
9 rules adopted by the Department of Revenue, the commercial activity
10 tax imposed under section 9 of this 2017 Act becomes payable in ac-
11 cordance with the system of accounting regularly employed by the
12 taxpayer.

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

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

20

21 **“COLLECTION**

22

23 “SECTION 21. Rules, uniformity. The Department of Revenue is
24 authorized to and shall adopt rules requiring uniformity in application,
25 reporting and collection and otherwise carrying out the purposes of
26 sections 4 to 26 of this 2017 Act.

27 “SECTION 22. Quitting business, successor. (1) For purposes of
28 sections 4 to 26 of this 2017 Act, ‘successor’ means any person to whom
29 another person quitting, selling out, exchanging or disposing of a
30 business sells or otherwise conveys, directly or indirectly, in bulk and

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

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

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

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

27

28

“DISPOSITION OF PROCEEDS

29

30 “SECTION 23. Payments to Department of Revenue. For purposes

1 of sections 4 to 26 of this 2017 Act, and except as otherwise provided
2 by law, all taxes, interest and penalties imposed and all amounts of
3 commercial activity tax collected or required to be paid to the state
4 shall be paid to the Department of Revenue and upon receipt by the
5 department shall be turned over to the State Treasurer, to be dis-
6 bursed as provided in section 28 of this 2017 Act.

7 **“SECTION 24. Suspense account, other disposition.** (1) Except as
8 otherwise provided by law, all moneys received by the Department of
9 Revenue under sections 4 to 26 of this 2017 Act shall be deposited in
10 the State Treasury and credited to a suspense account established
11 under ORS 293.445 separate and distinct from the General Fund. Re-
12 funds, including refunds of erroneous overpayments or refunds of
13 other moneys received in which the department has no legal interest,
14 shall be paid out of the suspense account.

15 **“(2)** After payment of refunds and after payments required under
16 section 11 of this 2017 Act, the net revenue shall be transferred to the
17 Education Strategic Investment Fund established under section 28 of
18 this 2017 Act. A working balance of unreceipted revenue from the tax
19 imposed by sections 4 to 26 of this 2017 Act may be retained by the
20 department for the payment of refunds, but such working balance may
21 not at the close of any fiscal year exceed the amount of \$500,000.

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

26

27

“PENALTIES

28

29 **“SECTION 25. False or fraudulent return, failure to file return.** (1)
30 Any person that is required under sections 4 to 26 of this 2017 Act to

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

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

9 “(3) Violation of any provision contained in sections 4 to 26 of this
10 2017 Act, or any rule adopted thereunder, is a Class A misdemeanor.

11 “SECTION 26. Penalties additional to all other penalties. Any of
12 the penalties provided in section 25 of this 2017 Act are in addition to
13 all other penalties applicable to sections 4 to 26 of this 2017 Act.

14

15 **“APPLICABILITY OF CREDITS AGAINST TAX**

16

17 “SECTION 27. Limited applicability of tax credits. (1) Notwith-
18 standing ORS 285C.309, 285C.406, 285C.503, 285C.506, 315.004, 315.052,
19 315.053, 315.054, 315.068, 315.104, 315.113, 315.119, 315.138, 315.141, 315.144,
20 315.156, 315.163, 315.164, 315.169, 315.174, 315.204, 315.208, 315.213, 315.237,
21 315.271, 315.304, 315.326, 315.331, 315.336, 315.341, 315.354, 315.507, 315.514,
22 315.517, 315.521, 315.533, 315.536, 315.610, 315.675, 317.097, 317.111 or
23 469.720, and except as provided in subsection (2) of this section, a credit
24 against the taxes otherwise due under ORS chapter 317 or 318 may not
25 be allowed for any tax year that begins on or after January 1, 2019.

26 “(2)(a) A tax credit that is first allowed for a tax year beginning
27 before January 1, 2019, and that is intended to be claimed over multiple
28 years or that includes a carryforward provision may be claimed
29 against the commercial activities tax imposed in sections 4 to 26 of
30 this 2017 Act. A credit allowed as provided in this paragraph shall be

1 **claimed before allowance of any credit under section 15 of this 2017**
2 **Act.**

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

6 **“(c) Tax credits allowed to C corporations for tax years beginning**
7 **before January 1, 2019, may not be allowed to a taxpayer as a share-**
8 **holder of an S corporation to be claimed against the tax otherwise due**
9 **under ORS chapter 316 for tax years that begin on or after January**
10 **1, 2019.**

11
12 **“EDUCATION STRATEGIC INVESTMENT FUND**

13
14 **“SECTION 28. (1) The Education Strategic Investment Fund is es-**
15 **tablished in the State Treasury, separate and distinct from the General**
16 **Fund. Interest earned by the Education Strategic Investment Fund**
17 **shall be credited to the fund.**

18 **“(2) The fund shall consist of moneys appropriated or transferred**
19 **to the fund and moneys received by the fund from the tax imposed by**
20 **sections 4 to 26 of this 2017 Act.**

21 **“(3)(a) The Department of Revenue shall certify quarterly the**
22 **amount of moneys available in the fund.**

23 **“(b) The department shall transfer quarterly the moneys in the fund**
24 **as follows:**

25 **“(A) Seventy percent of the moneys in the Education Strategic In-**
26 **vestment Fund must be used solely for purposes of supporting the**
27 **State School Fund and making strategic investments at the**
28 **prekindergarten through grade 12 level that are targeted at improving**
29 **student academic outcomes, such as the implementing of sections 2**
30 **to 16, chapter 1, Oregon Laws 2017, improving early literacy, reducing**

1 **class sizes and increasing instructional time;**

2 **“(B) Twenty percent of the moneys in the Education Strategic In-**
3 **vestment Fund must be used solely for purposes for which moneys in**
4 **the Public University Fund established under ORS 352.450 may be used,**
5 **with two-thirds of the amount designated in this subparagraph to be**
6 **used for the purpose of funding higher education and one-third of the**
7 **amount designated in this subparagraph to be transferred to the**
8 **Community College Support Fund under ORS 341.620; and**

9 **“(C) Ten percent of the moneys in the Education Strategic Invest-**
10 **ment Fund must be used solely for purposes of providing early inter-**
11 **vention services and early childhood special education programs and**
12 **other early learning programs.**

13 **“(c) Moneys transferred under paragraph (b)(B) of this section must**
14 **be targeted at lowering the growth rates of student tuition in this**
15 **state and improving student outcomes such as investments in advising**
16 **and student support services.**

17 **“(4) It is the intent of the Legislative Assembly that the moneys**
18 **transferred from the Education Strategic Investment Fund as provided**
19 **in subsection (3) of this section are in addition to, and not in lieu of,**
20 **any other moneys available to those purposes.**

21

22 **“CONFORMING AMENDMENTS**

23

24 **“SECTION 29. ORS 63.810 is amended to read:**

25 **“63.810. For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306,**
26 **307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and**
27 **324, a limited liability company formed under this chapter or qualified to do**
28 **business in this state as a foreign limited liability company shall be classi-**
29 **fied in the same manner as it is classified for federal income tax purposes.**
30 **For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308,**

1 308A, 309, 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and 324, a
2 member or an assignee of a member of a limited liability company formed
3 under this chapter or qualified to do business in this state as a foreign lim-
4 ited liability company shall have the same status as the member or assignee
5 of a member has for federal income tax purposes.

6 **“SECTION 30.** ORS 128.760 is amended to read:

7 “128.760. (1) The Attorney General may issue an order disqualifying a
8 charitable organization from receiving contributions that are deductible as
9 charitable donations for the purpose of Oregon income tax [*and corporate*
10 *excise tax*] if the Attorney General finds that the organization has failed to
11 expend at least 30 percent of the organization’s total annual functional ex-
12 penses on program services when those expenses are averaged over the most
13 recent three fiscal years for which the Attorney General has reports con-
14 taining expense information. The calculation of program services expenses
15 and total functional expenses shall be based on the amounts of program
16 services expenses and total functional expenses identified by the organization
17 in the organization’s Internal Revenue Service Form 990 return or other
18 Internal Revenue Service return required to be filed as part of the
19 organization’s report to the Attorney General.

20 “(2) A charitable organization may request a contested case hearing
21 within 60 days after notification from the Attorney General that the Attor-
22 ney General proposes to issue a disqualification order under this section.
23 Notwithstanding a finding that the charitable organization’s program ser-
24 vices expenses fall below the minimum percentage specified in subsection (1)
25 of this section, the Attorney General may decline to issue a disqualification
26 order if the organization establishes:

27 “(a) That the organization made payments to affiliates that should be
28 considered in calculating the organization’s program services expenses;

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

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

3 “(3) A disqualification order under this section remains in effect until
4 such time as the charitable organization submits sufficient information to
5 the Attorney General to demonstrate that the organization’s program ser-
6 vices expenses meet the minimum percentage specified in subsection (1) of
7 this section. A charitable organization may submit information under this
8 subsection no earlier than one year after the disqualification order becomes
9 final, and may not submit information under this subsection more than once
10 each year after the initial submission is made. The information submitted
11 under this subsection must include all Internal Revenue Service Form 990
12 returns, or equivalent Internal Revenue Service returns, filed by the organ-
13 ization after the disqualification order became final.

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

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

17 “(b) A community trust or foundation operating as described in 26 C.F.R.
18 1.170A-9(f)(10) and (11), as in effect on October 7, 2013;

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

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

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

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

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

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

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

7 **“SECTION 31.** ORS 184.484, as amended by section 8, chapter 112, Oregon
8 Laws 2016, is amended to read:

9 “184.484. (1) For each statute that authorizes a tax expenditure with a
10 purpose connected to economic development and that is listed in subsection
11 (2) of this section, the state agency charged with certifying or otherwise
12 administering the tax expenditure shall submit a report to the State Chief
13 Information Officer. If a statute does not exist to authorize a state agency
14 to certify or otherwise administer the tax expenditure, or if a statute does
15 not provide for certification or administration of the tax expenditure, the
16 Department of Revenue shall submit the report.

17 “(2) This section applies to:

18 “(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331,
19 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124[,] **and**
20 317.391 [*and 317.394*] and sections 1 to 5, chapter 112, Oregon Laws 2016.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 “(A) Copies of all reports that the State Chief Information Officer, the
30 Department of Revenue or the Oregon Business Development Department

1 receives from counties and other local governments relating to properties in
2 enterprise zones that have received tax exemptions under ORS 285C.170,
3 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS
4 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone; and

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

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

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

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

17 **“SECTION 32.** ORS 279B.045 is amended to read:

18 “279B.045. Every public contract that is subject to this chapter must in-
19 clude a representation and warranty from the contractor that the contractor
20 has complied with the tax laws of this state or a political subdivision of this
21 state, including but not limited to ORS 305.620 and ORS [*chapters 316, 317*
22 *and 318*] **chapter 316 and sections 4 to 26 of this 2017 Act.** The public
23 contract must also require a covenant from the contractor to continue to
24 comply with the tax laws of this state or a political subdivision of this state
25 during the term of the public contract and provide that a contractor’s failure
26 to comply with the tax laws of this state or a political subdivision of this
27 state before the contractor executed the public contract or during the term
28 of the public contract is a default for which a contracting agency may ter-
29 minate the public contract and seek damages and other relief available under
30 the terms of the public contract or under applicable law.

1 **“SECTION 33.** ORS 279B.110 is amended to read:

2 “279B.110. (1) As part of a contracting agency’s evaluation of a bid or
3 proposal, the contracting agency shall determine whether the bidder or
4 proposer is responsible in accordance with the standards of responsibility set
5 forth in subsection (2) of this section. If the contracting agency determines
6 that a bidder or proposer is not responsible, the contracting agency shall
7 provide the bidder or proposer with written notice of the contracting
8 agency’s determination.

9 “(2) In order for a contracting agency to determine that a bidder or
10 proposer is responsible, the bidder or proposer must demonstrate to the
11 contracting agency that the bidder or proposer:

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

15 “(b) Completed previous contracts of a similar nature with a satisfactory
16 record of performance. For purposes of this paragraph, a satisfactory record
17 of performance means that to the extent that the costs associated with and
18 time available to perform a previous contract remained within the bidder’s
19 or proposer’s control, the bidder or proposer stayed within the time and
20 budget allotted for the procurement and otherwise performed the contract in
21 a satisfactory manner. The contracting agency shall document the bidder’s
22 or proposer’s record of performance if the contracting agency finds under
23 this paragraph that the bidder or proposer is not responsible.

24 “(c) Has a satisfactory record of integrity. The contracting agency in
25 evaluating the bidder’s or proposer’s record of integrity may consider, among
26 other things, whether the bidder or proposer has previous criminal con-
27 victions for offenses related to obtaining or attempting to obtain a contract
28 or subcontract or in connection with the bidder’s or proposer’s performance
29 of a contract or subcontract. The contracting agency shall document the
30 bidder’s or proposer’s record of integrity if the contracting agency finds un-

1 der this paragraph that the bidder or proposer is not responsible.

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

3 “(e) Complied with the tax laws of the state or a political subdivision of
4 the state, including ORS 305.620 and ORS [*chapters 316, 317 and 318*] **chapter**
5 **316 and sections 4 to 26 of this 2017 Act**. The bidder or proposer shall
6 demonstrate compliance by attesting to the bidder’s or proposer’s compliance
7 in any way the contracting agency deems credible and convenient.

8 “(f) Possesses an unexpired certificate that the Oregon Department of
9 Administrative Services issued under ORS 279A.167 if the bidder or proposer
10 employs 50 or more full-time workers and submitted a bid or proposal for a
11 procurement with an estimated contract price that exceeds \$500,000 in re-
12 sponse to an advertisement or solicitation from a state contracting agency.

13 “(g) Supplied all necessary information in connection with the inquiry
14 concerning responsibility. If a bidder or proposer fails to promptly supply
15 information concerning responsibility that the contracting agency requests,
16 the contracting agency shall determine the bidder’s or proposer’s responsi-
17 bility based on available information or may find that the bidder or proposer
18 is not responsible.

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

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

26 “**SECTION 34.** ORS 305.265 is amended to read:

27 “305.265. (1) Except as provided in ORS 305.305, the provisions of this
28 section apply to all reports or returns of tax or tax liability filed with the
29 Department of Revenue under the revenue and tax laws administered by it,
30 except those filed under ORS 320.005 to 320.150.

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

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

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

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

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

19 “(4) With respect to any tax return filed under ORS chapter 314, 316, 317
20 or 318 **or sections 4 to 26 of this 2017 Act**, deficiencies shall include but
21 not be limited to the assertion of additional tax arising from:

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

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

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

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

28 “(5)(a) The notice of deficiency shall be accompanied by a statement ex-
29 plaining the person’s right to make written objections, the person’s right to
30 request a conference and the procedure for requesting a conference. The

1 statement, and an accompanying form, shall also explain that conference
2 determinations are routinely transmitted via regular mail and that a person
3 desiring to have conference determinations transmitted by certified mail may
4 do so by indicating on the form the person's preference for certified mail and
5 by returning the form with the person's written objections as described in
6 paragraph (b) of this subsection.

7 “(b) Within 30 days from the date of the notice of deficiency, the person
8 given notice shall pay the deficiency with interest computed to the date of
9 payment and any penalty proposed. Or within that time the person shall
10 advise the department in writing of objections to the deficiency, and may
11 request a conference with the department, which shall be held prior to the
12 expiration of the one-year period set forth in subsection (7) of this section.

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

26 “(7) If neither payment nor written objection to the deficiency is received
27 by the department within 30 days after the notice of deficiency has been
28 mailed, the department shall assess the deficiency, plus interest and penal-
29 ties, if any, and shall send the person a notice of assessment, stating the
30 amount so assessed, and interest and penalties. The notice of assessment

1 shall be mailed within one year from the date of the notice of deficiency
2 unless an extension of time is agreed upon as described in subsection (8) of
3 this section. The notice shall advise the person of the rights of appeal.

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

11 “(9) The failure to hold a requested conference within the one-year period
12 prescribed in subsection (5) of this section shall not invalidate any assess-
13 ment of deficiency made within the one-year period pursuant to subsection
14 (7) of this section or within any extension of time made pursuant to sub-
15 section (8) of this section, but shall invalidate any assessment of interest or
16 penalties attributable to the deficiency. After an assessment has been made,
17 the department and the person assessed may still hold a conference within
18 90 days from the date of assessment. If a conference is held, the 90-day period
19 under ORS 305.280 (2) shall run from the date of the conference officer’s
20 written determination of the issues.

21 “(10)(a) In the case of a failure to file a report or return on the date
22 prescribed therefor (determined with regard to any extension for filing), the
23 department shall determine the tax according to the best of its information
24 and belief, assess the tax plus appropriate penalty and interest, and give
25 written notice of the failure to file the report or return and of the determi-
26 nation and assessment to the person required to make the filing. The amount
27 of tax shall be reduced by the amount of any part of the tax which is paid
28 on or before the date prescribed for payment of the tax and by the amount
29 of any credit against the tax which may be lawfully claimed upon the return.

30 “(b) Notwithstanding subsection (14) of this section and ORS 305.280, and

1 only to the extent allowed by rules adopted by the department, the depart-
2 ment may accept the filing of a report or return submitted by a person who
3 has been assessed a tax under paragraph (a) of this subsection.

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

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

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

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

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

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

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

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

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

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

27 “(f) If the department accepts the filing of a report or return, the de-
28 partment may reduce the assessment issued under paragraph (a) of this sub-
29 section. A report or return filed under this subsection that is accepted by the
30 department, whether or not the assessment has been reduced, shall be con-

1 sidered a report or return described in subsection (1) of this section and shall
2 be subject to the provisions of this section, including but not limited to ex-
3 amination and adjustment pursuant to subsection (2) of this section.

4 “(g) The department may refund payments made with respect to a report
5 or return filed and accepted pursuant to this subsection. If the report or
6 return is filed within three years of the due date for filing the report or re-
7 turn, excluding extensions, the refund shall be made as provided by ORS
8 305.270 and 314.415. If the report or return is not filed within three years of
9 the due date for filing the report or return, excluding extensions, the refund
10 shall be limited to payments received within the two-year period ending on
11 the date the report or return is received by the department and payments
12 received after the date the report or return is received by the department.
13 Interest shall be paid at the rate established under ORS 305.220 for each
14 month or fraction of a month from the date the report or return is received
15 by the department to the time the refund is made.

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

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

30 “(13) Every deficiency shall bear interest at the rate established under

1 ORS 305.220 for each month or fraction of a month computed from the due
2 date of the return to date of payment. If the return was falsely prepared and
3 filed with intent to evade the tax, a penalty equal to 100 percent of the de-
4 ficiency shall be assessed and collected. All payments received shall be
5 credited first to penalty, then to interest accrued, and then to tax due.

6 “(14) If the deficiency is paid in full before a notice of assessment is is-
7 sued, the department is not required to send a notice of assessment, and the
8 tax shall be considered as assessed as of the date which is 30 days from the
9 date of the notice of deficiency or the date the deficiency is paid, whichever
10 is the later. A partial payment of the deficiency shall constitute only a credit
11 to the account of the person assessed. Assessments and billings of taxes shall
12 be final after the expiration of the appeal period specified in ORS 305.280,
13 except to the extent that an appeal is allowed under ORS 305.280 (3) follow-
14 ing payment of the tax.

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

18 **“SECTION 35.** ORS 305.270 is amended to read:

19 “305.270. (1) If the amount of the tax shown as due on a report or return
20 originally filed with the Department of Revenue with respect to a tax im-
21 posed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318 or 321 **or**
22 **sections 4 to 26 of this 2017 Act**, or collected pursuant to ORS 305.620, or
23 as corrected by the department, is less than the amount theretofore paid, or
24 if a person files a claim for refund of any tax paid to the department under
25 such laws within the period specified in subsection (2) of this section, any
26 excess tax paid shall be refunded by the department with interest as provided
27 in this section and ORS 314.415.

28 “(2) The claim shall be made on a form prescribed by the department,
29 except that an amended report or return showing a refund due and filed
30 within the time allowed by this subsection for the filing of a claim for re-

1 fund, shall constitute a claim for refund. The claim shall be filed within the
2 period specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310,
3 314, 316, 317 and 318 **and sections 4 to 26 of this 2017 Act**, or collected
4 pursuant to ORS 305.620 (except where any applicable ordinance specifies
5 another period), within the period specified in ORS 118.100 (2) for taxes im-
6 posed under ORS chapter 118 and within two years of the payment of any
7 tax under ORS chapter 308, 308A or 321.

8 “(3) Upon receipt of a claim for refund, or original report or return
9 claiming a refund, the department shall either refund the amount requested
10 or send to the claimant a notice of any proposed adjustment to the refund
11 claim, stating the basis upon which the adjustment is made. A proposed ad-
12 justment may either increase or decrease the amount of the refund claim or
13 result in the finding of a deficiency. If the proposed adjustment results in a
14 determination by the department that some amount is refundable, the de-
15 partment may send the claimant the adjusted amount with the notice.

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

26 “(b) The claimant may, within 30 days of the date of the notice of pro-
27 posed adjustment, advise the department in writing of objections to the re-
28 fund adjustment and may request a conference with the department, which
29 shall be held within one year of the date of the notice. The department shall
30 notify the claimant of a time and place for the conference, and appoint a

1 conference officer to meet with the claimant for an informal discussion of
2 the claim. After the conference, the conference officer shall send a determi-
3 nation of the matter to the claimant. The determination letter shall be sent
4 by regular mail, or by certified mail if the claimant has indicated a prefer-
5 ence for transmission of the determination by certified mail. The department
6 shall issue either a notice of refund denial or payment of any amount found
7 to be refundable, together with any applicable interest provided by this sec-
8 tion. If the conference officer determines that a deficiency exists, the de-
9 partment shall issue a notice of assessment.

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

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

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

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

26 “(7) If, prior to the expiration of any period of time prescribed in sub-
27 section (6) of this section for giving of notice of assessment, the department
28 and the person consent in writing to the deficiency being assessed after the
29 expiration of such prescribed period, such deficiency may be assessed at any
30 time prior to the expiration of the period agreed upon. The period so agreed

1 upon may be extended by subsequent agreements in writing made before the
2 expiration of the period agreed upon.

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

10 “(9) The failure to hold a requested conference within the one-year period
11 prescribed in subsection (4) of this section shall not invalidate any assess-
12 ment of deficiency made within the one-year period pursuant to subsection
13 (8) of this section or within any extension of time made pursuant to sub-
14 section (7) of this section, but shall invalidate any assessment of interest or
15 penalties attributable to the deficiency. After an assessment has been made,
16 the department and the person assessed may still hold a conference within
17 90 days from the date of assessment. If a conference is held, the 90-day period
18 under ORS 305.280 (2) shall run from the date of the conference officer’s
19 written determination of the issues.

20 “(10) The claimant may appeal any notice of proposed adjustment, refund
21 denial or notice of assessment in the manner provided in ORS 305.404 to
22 305.560. The failure to file written objections or to request or have a con-
23 ference shall not affect the rights of appeal so provided. All notices and de-
24 terminations shall set forth rights of appeal.

25 **“SECTION 36.** ORS 305.280 is amended to read:

26 “305.280. (1) Except as otherwise provided in this section, an appeal under
27 ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission,
28 order or determination becomes actually known to the person, but in no
29 event later than one year after the act or omission has occurred, or the order
30 or determination has been made. An appeal under ORS 308.505 to 308.681

1 shall be filed within 90 days after the date the order is issued under ORS
2 308.584 (3). An appeal from a supervisory order or other order or determi-
3 nation of the Department of Revenue shall be filed within 90 days after the
4 date a copy of the order or determination or notice of the order or determi-
5 nation has been served upon the appealing party by mail as provided in ORS
6 306.805.

7 “(2) An appeal under ORS 323.416 or 323.623 or from any notice of as-
8 sessment or refund denial issued by the Department of Revenue with respect
9 to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318,
10 321 or this chapter **or sections 4 to 26 of this 2017 Act**, or collected pur-
11 suant to ORS 305.620, shall be filed within 90 days after the date of the no-
12 tice. An appeal from a proposed adjustment under ORS 305.270 shall be filed
13 within 90 days after the date the notice of adjustment is final.

14 “(3) Notwithstanding subsection (2) of this section, an appeal from a no-
15 tice of assessment of taxes imposed under ORS chapter 314, 316, 317 or 318
16 **or sections 4 to 26 of this 2017 Act** may be filed within two years after the
17 date the amount of tax, as shown on the notice and including appropriate
18 penalties and interest, is paid.

19 “(4) Except as provided in subsection (2) of this section or as specifically
20 provided in ORS chapter 321, an appeal to the tax court under ORS chapter
21 321 or from an order of a county board of property tax appeals shall be filed
22 within 30 days after the date of the notice of the determination made by the
23 department or date of mailing of the order, date of publication of notice of
24 the order, date the order is personally delivered to the taxpayer or date of
25 mailing of the notice of the order to the taxpayer, whichever is applicable.

26 “(5) If the tax court denies an appeal made pursuant to this section on
27 the grounds that it does not meet the requirements of this section or ORS
28 305.275 or 305.560, the tax court shall issue a written decision rejecting the
29 petition and shall set forth in the decision the reasons the tax court con-
30 sidered the appeal to be defective.

1 **“SECTION 37.** ORS 305.380 is amended to read:

2 “305.380. As used in ORS 305.385:

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

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

9 “(3) ‘Provider’ means any person who contracts to supply goods, services
10 or real estate space to an agency.

11 “(4) ‘Tax’ means a state tax imposed by ORS 320.005 to 320.150 and 403.200
12 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and **sections**
13 **4 to 26 of this 2017 Act and** local taxes administered by the Department of
14 Revenue under ORS 305.620.

15 **“SECTION 38.** ORS 305.419 is amended to read:

16 “305.419. (1) Except as provided in subsection (3) of this section, in any
17 appeal from an order, act, omission or determination of the Department of
18 Revenue involving a deficiency of taxes [*imposed upon or measured by net*
19 *income*] **as prescribed in ORS 305.265**, the tax assessed, and all penalties
20 and interest due, shall be paid to the department on or before the filing of
21 a complaint with the regular division of the Oregon Tax Court under ORS
22 305.560 or within 30 days after entry of an order specially designating a
23 complaint for hearing in the regular division under ORS 305.501. If a dispute
24 exists as to whether the matter involves a deficiency of taxes [*imposed upon*
25 *or measured by net income*] **as prescribed in ORS 305.265**, the tax assessed
26 and all penalties and interest shall be paid within 30 days after entry of a
27 decision or order finding that the matter involves a deficiency of taxes [*im-*
28 *posed upon or measured by net income*] **as prescribed in ORS 305.265**. The
29 complaint shall be filed as a claim for refund.

30 “(2) Penalty and interest due under subsection (1) of this section are the

1 amounts stated in the order, notice of assessment, notice of refund denial or
2 proposed adjustment under ORS 305.270 by the department from which the
3 appeal is taken.

4 “(3) Where payment of the tax, penalty and interest would be an undue
5 hardship, plaintiff may file an affidavit alleging undue hardship within the
6 time described in subsection (1) of this section. A plaintiff’s failure to file
7 an affidavit alleging hardship is not grounds for dismissal of the complaint,
8 provided the plaintiff files the affidavit within 30 days after receiving notice
9 of lack of an affidavit alleging undue hardship from the court. If the tax
10 court finds undue hardship, the tax court judge may stay all or any part of
11 the payment of tax, penalty and interest required under subsection (1) of this
12 section. If the tax court judge finds no undue hardship, the tax court judge
13 may grant the plaintiff up to 30 days from the date of determination to pay
14 the tax, penalty and interest. Failure by the plaintiff to pay the tax, penalty
15 and interest or to establish undue hardship will be cause for dismissing the
16 complaint.

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

23 **“SECTION 39.** ORS 305.565 is amended to read:

24 “305.565. (1) Except as provided in subsection (2) of this section, pro-
25 ceedings for the collection of any taxes, interest or penalties resulting from
26 an assessment of additional taxes imposed by ORS chapter 118, 310, 314, 316,
27 317, 318, 321 or this chapter **or sections 4 to 26 of this 2017 Act** shall be
28 stayed by the taking or pendency of any appeal to the tax court.

29 “(2) Notwithstanding subsection (1) of this section, the Department of
30 Revenue may proceed to collect any taxes, interest or penalties described in

1 subsection (1) of this section if the department determines that collection
2 will be jeopardized if collection is delayed or that the taxpayer has taken a
3 frivolous position in the appeal. For purposes of this subsection:

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

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

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

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

20 **“SECTION 40.** ORS 305.645 is amended to read:

21 “305.645. If a political subdivision of this state imposes a tax on or
22 measured by income as determined under ORS chapter 316[, 317 or 318] **or**
23 **section 11 of the Internal Revenue Code**, the Department of Revenue shall
24 provide to the political subdivision, at the request of the political subdivi-
25 sion, collection, enforcement, administration and distribution services for the
26 tax in the manner provided in ORS 305.620.

27 **“SECTION 41.** ORS 305.850 is amended to read:

28 “305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320
29 and 305.610, the [*Director of the*] Department of Revenue may engage the
30 services of a collection agency to collect any taxes, interest and penalties

1 resulting from an assessment of taxes or additional taxes imposed by ORS
2 chapter 118, 310, 314, 316, 317, 318, 321 or 323 or ORS 320.005 to 320.150 **or**
3 **sections 4 to 26 of this 2017 Act** and any other tax laws administered by
4 the department [*of Revenue*]. The [*director*] **department** may engage the
5 services of a collection agency by entering into an agreement to pay rea-
6 sonable charges on a contingent fee or other basis.

7 “(2) The [*director*] **department** shall cause to be collected, in the same
8 manner as provided in subsection (1) of this section, assessments, taxes and
9 penalties due under ORS chapter 656. All amounts collected pursuant to this
10 subsection shall be credited as provided in ORS 293.250.

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

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

17 **“SECTION 42.** ORS 305.992 is amended to read:

18 “305.992. (1) If any returns required to be filed under ORS 475B.700 to
19 475B.760 or ORS chapter 118, 314, 316, 317, 318, 321 or 323 **or sections 4 to**
20 **26 of this 2017 Act** or under a local tax administered by the Department of
21 Revenue under ORS 305.620 are not filed for three consecutive years by the
22 due date (including extensions) of the return required for the third consec-
23 utive year, there shall be a penalty for each year of 100 percent of the tax
24 liability determined after credits and prepayments for each such year.

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

29 **“SECTION 43.** ORS 308A.071 is amended to read:

30 “308A.071. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a

1 farm parcel that is not within an area zoned for exclusive farm use is not
2 used exclusively for farm use unless all of the prerequisites of subsections
3 (2) to (5) of this section are met.

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

9 “(A) If the farm unit consists of 6-1/2 acres or less, the gross income from
10 farm use shall be at least \$650.

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

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

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

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

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

29 “(B) A cash or net share crop rental of one-quarter of the gross income
30 requirements described under paragraph (a) of this subsection that would be

1 required if the farm parcel were the only farmland of the farm unit. For
2 purposes of this subparagraph, ‘net share crop rental’ means the value of any
3 crop received by the owner of the farm parcel less any costs borne by the
4 owner of the farm parcel.

5 “(3) [*Excise or income*] Tax returns are filed [*with the Department of Rev-*
6 *enue*] for purposes of ORS chapter 316[, 317 or 318] **or section 11 of the**
7 **Internal Revenue Code** by the farmland owner or the operator of the farm
8 unit that include a Schedule F and, if applicable, by the owner of a farm
9 parcel that include a schedule or schedules showing rental income received
10 by the owner of the farm parcel, during the years to which the income re-
11 quirements of this section apply.

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

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

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

21 “(a) The failure is because:

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

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

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

28 “(7) As used in this section:

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

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

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

7 “(B) The purchase cost of livestock.

8 “(c) ‘Owner’ or ‘ownership’ means any person described under ORS
9 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an
10 owner as tenant in common or other joint ownership interest.

11 **“SECTION 44.** ORS 311.473 is amended to read:

12 **“311.473. (1) As used in this section:**

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

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

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

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

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

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

27 **“(F) An entity organized under the provisions of 12 U.S.C. 611 to
28 631, as amended.**

29 **“(G) An agency or branch of a foreign bank, as defined in 12 U.S.C.
30 3101, as amended.**

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

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

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

10 “(K) An entity that is not otherwise described in this paragraph
11 that is not an insurer taxable under sections 4 to 26 of this 2017 Act
12 and that derives more than 50 percent of its gross income from activ-
13 ities that a person, corporation or entity described in subparagraph
14 (C), (D), (E), (F), (G), (H), (I) or (L) of this paragraph is authorized to
15 conduct, not taking into account any income derived from nonrecur-
16 ring extraordinary sources.

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

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

25 “(ii) A direct financing lease or a leverage lease that meets the
26 criteria of Financial Accounting Standards Board Statement No. 13;
27 or

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

30 “(b) ‘Financial institution’ does not include a credit union as de-

1 **fined in ORS 723.006, an interstate credit union as defined in ORS**
2 **723.001 or a federal credit union.**

3 “[~~(1)~~] (2) Any financial institution[, *as defined in ORS 317.010,*] or agent
4 or representative of a financial institution, that, in the process of foreclosing
5 any security interest or other lien on taxable personal property, including
6 property classified as real property machinery and equipment, or after the
7 lien is foreclosed, causes the property to be removed, or is knowledgeable
8 that the property will be removed by another after the foreclosure sale, from
9 the county in which the property is assessed or seized, shall notify the tax
10 collector of that county prior to the removal. The notice shall be mailed to
11 the tax collector, return receipt requested, and shall contain a description
12 of the property that is the subject of the foreclosure, together with the name
13 and address of the owner or owners of the property.

14 “[~~(2)~~] (3) Failure to give the notice required under subsection [~~(1)~~] (2) of
15 this section shall not affect the foreclosure, but the tax collector shall have
16 recourse against the financial institution on behalf of the taxing units for
17 any damages sustained on account of failure to mail the notice.

18 **“SECTION 45.** ORS 314.011, as amended by section 17, chapter 33, Oregon
19 Laws 2016, is amended to read:

20 “314.011. (1) As used in this chapter, unless the context requires other-
21 wise, ‘department’ means the Department of Revenue.

22 “(2) As used in this chapter:

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

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

1 “(A) On December 31, 2015; or

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

4 “(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lob-
5 bing expenditures), 314.260 (1)(b), [314.265 (1)(b),] 314.302, 314.306, 314.330,
6 314.360, 314.362, 314.385, 314.402, 314.410[,] **and** 314.412[, 314.525, 314.742 (7),
7 314.750 and 314.752] and other provisions of this chapter, except those de-
8 scribed in paragraph (b) of this subsection, any reference to the laws of the
9 United States or to the Internal Revenue Code means the laws of the United
10 States relating to income taxes or the Internal Revenue Code as they are
11 amended on or before December 31, 2015, even when the amendments take
12 effect or become operative after that date, except where the Legislative As-
13 sembly has specifically provided otherwise.

14 “(3) Insofar as is practicable in the administration of this chapter, the
15 department shall apply and follow the administrative and judicial interpre-
16 tations of the federal income tax law. When a provision of the federal income
17 tax law is the subject of conflicting opinions by two or more federal courts,
18 the department shall follow the rule observed by the United States Commis-
19 sioner of Internal Revenue until the conflict is resolved. Nothing contained
20 in this section limits the right or duty of the department to audit the return
21 of any taxpayer or to determine any fact relating to the tax liability of any
22 taxpayer.

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

29 “(5)(a) When portions of the Internal Revenue Code incorporated by ref-
30 erence as provided in subsection (2) of this section are later corrected by an

1 Act or a Title within an Act of the United States Congress designated as an
2 Act or Title making technical corrections, then notwithstanding the date
3 that the Act or Title becomes law, those portions of the Internal Revenue
4 Code, as so corrected, shall be the portions of the Internal Revenue Code
5 incorporated by reference as provided in subsection (2) of this section and
6 shall take effect, unless otherwise indicated by the Act or Title (in which
7 case the provisions shall take effect as indicated in the Act or Title), as if
8 originally included in the provisions of the Act being technically corrected.
9 If, on account of this subsection, any adjustment is required to an Oregon
10 return that would otherwise be prevented by operation of law or rule, the
11 adjustment shall be made, notwithstanding any law or rule to the contrary,
12 in the manner provided under ORS 314.135.

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

15 **“SECTION 46.** ORS 314.135 is amended to read:

16 “314.135. (1)(a) In computing the amount of an adjustment under ORS
17 314.105 to 314.135 there shall first be ascertained the tax previously deter-
18 mined for the taxable year with respect to which the error was made. The
19 amount of the tax previously determined shall be the excess of:

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

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

25 “(b) There shall then be ascertained the increase or decrease in tax pre-
26 viously determined which results solely from the correct treatment of the
27 item in the computation of gross income, taxable income, and other matters
28 under ORS 316.317 or [ORS chapter 317 or 318] **sections 4 to 26 of this 2017**
29 **Act.** A similar computation shall be made for any other taxable year af-
30 fected, or treated as affected, by an Oregon net loss for prior years [(as pro-

1 *vided by ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws*
2 *1987*], by a net operating loss deduction (as defined in the federal Internal
3 Revenue Code) or by a capital loss carryback or carryover (as defined in the
4 federal Internal Revenue Code) determined with reference to the taxable year
5 with respect to which the error was made. The amount so ascertained (to-
6 gether with any amounts wrongfully collected as additions to the tax or in-
7 terest, as a result of such error) for each taxable year shall be the amount
8 of the adjustment for that taxable year.

9 “(2) The adjustment authorized in ORS 314.115 (1) shall be made by as-
10 sessing and collecting, or refunding or crediting, the amount thereof in the
11 same manner as if it were a deficiency determined by the Department of
12 Revenue with respect to the taxpayer as to whom the error was made or an
13 overpayment claimed by such taxpayer, as the case may be, for the taxable
14 year or years with respect to which an amount is ascertained under sub-
15 section (1) of this section and as if on the date of the determination one year
16 remained before the expiration of the periods of limitation upon assessment
17 or filing claim for refund for such taxable year or years. If, as a result of a
18 determination described in ORS 314.105 (1)(d), an adjustment has been made
19 by the assessment and collection of a deficiency of the refund or credit of
20 an overpayment, and subsequently such determination is altered or revoked,
21 the amount of the adjustment ascertained under subsection (1) of this section
22 shall be redetermined on the basis of such alteration or revocation and any
23 overpayment or deficiency resulting from such redetermination shall be re-
24 funded or credited, or assessed and collected, as the case may be, as an ad-
25 justment under this part. In the case of an adjustment resulting from an
26 increase or decrease in a net operating loss or net capital loss which is
27 carried back to the year of adjustment, interest [*shall*] **may** not be collected
28 or paid for any period prior to the close of the taxable year in which the net
29 operating loss or net capital loss arises.

30 “(3) The amount to be assessed and collected in the same manner as a

1 deficiency, or to be refunded or credited in the same manner as an overpay-
2 ment, under ORS 314.105 to 314.135, shall not be diminished by any credit
3 or setoff based upon any item other than the one which was the subject of
4 the adjustment. The amount of the adjustment under ORS 314.105 to 314.135,
5 if paid, shall not be recovered by a claim or suit for refund or suit for er-
6 roneous refund based upon any item other than the one which was the sub-
7 ject of the adjustment.

8 **“SECTION 47.** ORS 314.260 is amended to read:

9 “314.260. (1)(a) An entity described in section 860D of the Internal Reve-
10 nue Code (a real estate mortgage investment conduit or REMIC) is not sub-
11 ject to a tax under ORS chapter 316[, 317 or 318 (] **or sections 4 to 26 of**
12 **this 2017 Act** and may not be treated as a corporation, partnership or trust
13 for purposes of ORS chapter 316[, 317 or 318)] **or sections 4 to 26 of this**
14 **2017 Act.**

15 “(b) If a REMIC engages in a prohibited transaction as defined in section
16 860F(a)(2) of the Internal Revenue Code, the REMIC shall be subject to a tax
17 equal to six and six-tenths percent of the net income derived from the pro-
18 hibited transaction. The tax imposed under this paragraph shall be assessed
19 and collected under this chapter and ORS chapter 305 and shall be credited
20 to the General Fund to be made available for general governmental expenses.

21 “(2) The income of any REMIC shall be taxable to the holders of the in-
22 terests in the REMIC under ORS chapter 316[, 317 or 318,] **or sections 4 to**
23 **26 of this 2017 Act**, whichever is applicable.

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

27 “(4) To determine the portion of the income of a REMIC that is taxable
28 to a nonresident holder of an interest in the REMIC, there shall be included
29 only that part derived from or connected with sources in this state, as such
30 part is determined under rules adopted by the Department of Revenue in

1 accordance with the general rules in ORS 316.352 (1987 Replacement Part).

2 **“SECTION 48.** ORS 314.276 is amended to read:

3 “314.276. (1) The method of accounting of a partnership, REMIC (real es-
4 tate mortgage investment conduit)[, *FASIT* (*financial asset securitization in-*
5 *vestment trust*)] or taxpayer shall be the same as the method of accounting
6 [*which*] **that** the partnership, REMIC[, *FASIT*] or taxpayer uses for federal
7 income tax purposes for the taxable year.

8 “(2) Notwithstanding subsection (1) of this section, if the method of ac-
9 counting used by the partnership, REMIC[, *FASIT*] or taxpayer does not
10 clearly reflect income, the computation of taxable income shall be made un-
11 der such method as the Department of Revenue may prescribe.

12 “(3) If the method of accounting is changed for federal income tax pur-
13 poses, the partnership, REMIC[, *FASIT*] or taxpayer shall adopt the same
14 method of accounting for purposes of ORS chapter 316[, *317 or 318*] **or**
15 **sections 4 to 26 of this 2017 Act** and shall use that method beginning with
16 the return filed which corresponds to the first federal return filed [*which*]
17 **that** is required to use the new method. Any adjustments required to prevent
18 amounts from being duplicated or omitted shall be taken into account for
19 state tax purposes in the same manner as for federal tax purposes.

20 “(4) Subsections (1) and (3) of this section [*shall*] **do** not apply with re-
21 spect to methods of accounting which are disallowed for purposes of ORS
22 chapter 316[, *317 or 318*] **or sections 4 to 26 of this 2017 Act.**

23 **“SECTION 49.** ORS 314.287 is amended to read:

24 “314.287. (1) In the computation of state taxable income, costs allocable
25 to inventory shall be the same as those allocable to inventory under section
26 263A of the Internal Revenue Code as of the close of the tax year for which
27 a return is filed and shall not be adjusted for any addition, subtraction,
28 modification or other adjustment contained in this chapter or ORS chapter
29 316[, *317 or 318*] or other law governing the imposition of state taxes imposed
30 upon or measured by net income.

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

4 “(3) The additions, subtractions, modifications or other adjustments to
5 federal taxable income required in determining Oregon taxable income under
6 ORS chapter 316[, 317 or 318] shall be made to federal taxable income not-
7 withstanding that such adjustments are properly attributable to costs
8 allocable to inventory.

9 **“SECTION 50.** ORS 314.300 is amended to read:

10 “314.300. For purposes of applying section 469 of the Internal Revenue
11 Code to the laws of this state imposing taxes upon or measured by income:

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

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

22 “(3) Passive activity loss, as determined under subsections (1) and (2) of
23 this section, shall not be allowed for the taxable year of the taxpayer. Pas-
24 sive activity loss shall be treated as a deduction allocable to passive activity
25 in the next succeeding year, and except as otherwise adjusted under sub-
26 section (1) of this section, shall be treated in the same manner as passive
27 activity loss is treated under section 469 of the Internal Revenue Code, and
28 related sections.

29 “(4) For state personal income tax purposes, in the case of a nonresident,
30 passive activity loss attributable to Oregon sources shall be treated in the

1 same manner as described under subsections (1) to (3) of this section.

2 **“SECTION 51.** ORS 314.302 is amended to read:

3 “314.302. (1) Subject to subsections (2) to (4) of this section, if interest on
4 deferred tax liability with respect to an installment obligation is required to
5 be paid for federal income tax purposes under section 453A of the Internal
6 Revenue Code, then interest on that same deferred tax liability shall be paid
7 in the same manner (including the pledging rules under section 453A(d) of
8 the Internal Revenue Code) for state tax purposes and shall, in the amount
9 added, increase the tax imposed under ORS chapter 316[, 317 or 318, *whichever*
10 *is appropriate*].

11 “(2) Interest added to tax pursuant to subsection (1) of this section shall
12 be determined in the same manner as interest is determined under section
13 453A(c) of the Internal Revenue Code except that in determining the interest
14 to be added using section 453A(c) of the Internal Revenue Code:

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

19 “(b) The maximum rate of tax in effect under ORS chapter 316[, 317 or
20 318, *whichever is appropriate*,] shall be substituted for the federal rates of tax
21 referred to in section 453A(c)(3)(B).

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

29 “(4) In the case of a nonresident subject to taxation under ORS chapter
30 316, in determining whether or not interest is to be added to tax under this

1 section, and the amount of interest to be added, only those installment obli-
2 gations that arise from dispositions of property in this state shall be taken
3 into consideration.

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

9 “(6) The interest added to tax imposed under this section shall be assessed
10 and collected under the applicable provisions of this chapter and ORS chap-
11 ters 305[,] **and** 316[, 317 and 318] and shall be paid over to the State Treas-
12 urer and held in the General Fund as miscellaneous receipts available
13 generally to meet any expense or obligation of the State of Oregon lawfully
14 incurred.

15 **“SECTION 52.** ORS 314.364 is amended to read:

16 “314.364. (1) As used in this section:

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

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

24 “(c) ‘Tax return’ means a return filed under ORS chapter 314[,] **or** 316[,
25 317 or 318] **or sections 4 to 26 of this 2017 Act.**

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

27 “(a) Require a paid tax preparer to file tax returns by electronic means
28 if the paid tax preparer is required to file federal tax returns by electronic
29 means.

30 “[3] (b) [*The department may by rule*] Require a corporation to file tax

1 returns by electronic means if the corporation is required to file federal tax
2 returns by electronic means.

3 **“(c) Require a taxpayer subject to the tax imposed under sections**
4 **4 to 26 of this 2017 Act to file tax returns by electronic means.**

5 “[~~4~~] (d) [*The department may by rule*] Establish exceptions to the elec-
6 tronic filing requirements of this section.

7 **“SECTION 53.** ORS 314.385, as amended by section 17a, chapter 33,
8 Oregon Laws 2016, is amended to read:

9 “314.385. (1)(a) For purposes of ORS chapter 316, returns shall be filed
10 with the Department of Revenue on or before the due date of the corre-
11 sponding federal return for the tax year as prescribed under the Internal
12 Revenue Code and the regulations adopted pursuant thereto.

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

17 **“(b) For purposes of sections 4 to 26 of this 2017 Act and except as**
18 **provided in section 19 of this 2017 Act, returns shall be filed with the**
19 **department on or before the last day of the month following the close**
20 **of the calendar quarter.**

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

24 “(d) If no return is required to be filed for federal income tax purposes,
25 the due date or extension period for a return **for purposes of ORS chapter**
26 **316** shall be the same as the due date, or extension period, would have been
27 if the taxpayer had been required to file a return for federal income tax
28 purposes for the tax year. [*However, the due date for returns filed for purposes*
29 *of ORS chapter 317 or 318 shall be on or before the 15th day of the month*
30 *following what would have been the federal return due date for the tax year.*]

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

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

9 “(4)(a) The department may by rule authorize the filing of a return in
10 alternative formats to those described in subsection (3) of this section and
11 may prescribe the conditions, requirements and technical standards for a
12 filing under this subsection.

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

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

20 **“SECTION 54.** ORS 314.400 is amended to read:

21 “314.400. (1) If a taxpayer fails to file a report or return or fails to pay
22 a tax by the date on which the filing or payment is due, the Department of
23 Revenue shall add to the amount required to be shown as tax on the report
24 or return a delinquency penalty of five percent of the amount of the unpaid
25 tax.

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

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

1 the tax; and

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

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

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

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

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

29 “(5) If a report or return that is subject to a failure to file penalty de-
30 scribed in subsection (2) or (3) of this section is filed before a notice of de-

1 termination and assessment is issued by the department, the failure to file
2 penalty referred to in subsection (2)(a) or (3)(a) of this section shall be added
3 to the amount of tax shown on the report or return.

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

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

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

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

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

17 “(9) For purposes of subsections (1) to (3) of this section, the amount of
18 tax required to be shown or that is shown on the report or return shall be
19 reduced by the amount that is paid on or before the date prescribed for
20 payment of the tax and by the amount of any credit against the tax that is
21 claimed on the report or return. If the amount required to be shown as tax
22 on the report or return is less than the amount that is actually shown as tax
23 on the report or return, this subsection shall be applied by substituting the
24 lower amount.

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

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

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

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

7 **“SECTION 55.** ORS 314.403 is amended to read:

8 “314.403. (1) If a taxpayer has a listed transaction understatement for a
9 tax year, there shall be added to the tax liability of the taxpayer for the tax
10 year a penalty equal to 60 percent of the amount of the understatement.

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

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

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

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

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

30 **“SECTION 56.** ORS 314.430 is amended to read:

1 “314.430. (1) If any tax imposed under ORS chapter 118[,] **or** 316[, 317 or
2 318] **or sections 4 to 26 of this 2017 Act** or any portion of the tax is not
3 paid within 30 days after the date that the written notice and demand for
4 payment required under ORS 305.895 is mailed (or within five days after the
5 tax becomes due, in the case of the termination of the tax year by the De-
6 partment of Revenue under the provisions of ORS 314.440), or any amount
7 payable by a transferee under ORS 311.695 is not paid as required under ORS
8 311.686, and no provision is made to secure the payment thereof by bond,
9 deposit or otherwise, pursuant to regulations promulgated by the department,
10 the department may issue a warrant for the payment of the amount of the
11 tax or amount payable under ORS 311.695, with the added penalties, interest
12 and any collection charge incurred. A copy of the warrant shall be mailed
13 or delivered to the taxpayer or transferee by the department at the taxpayer’s
14 or transferee’s last-known address.

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

29 “(3) In the discretion of the department a warrant under this section may
30 be directed to any agent authorized by the department to collect taxes, and

1 in the execution of the warrant the agent has all of the powers conferred
2 by law upon sheriffs, but is entitled to no fee or compensation in excess of
3 actual expenses paid in the performance of such duty.

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

9 **“SECTION 57.** ORS 314.466 is amended to read:

10 “314.466. The provisions of ORS [*chapter 305*] **chapters 305 and 314** as to
11 the audit and examination of reports and returns, [*determination of deficien-*
12 *cies, assessments, claims for refund, conferences and appeals to the Oregon Tax*
13 *Court, and the procedures relating thereto, shall*] **periods of limitation, de-**
14 **termination of and notices of deficiencies, assessments, collections,**
15 **liens, delinquencies, claims for refund and refunds, conferences, ap-**
16 **peals to the Oregon Tax Court, stays of collection pending appeal,**
17 **confidentiality of returns and the penalties relative thereto, and the**
18 **procedures relating thereto,** apply to the determination of taxes, penalties
19 and interest imposed under this chapter and ORS chapters 315[,] **and 316[**
20 **317 and 318]** **and sections 4 to 26 of this 2017 Act,** except where the context
21 requires otherwise.

22 **“SECTION 58.** ORS 314.712 is amended to read:

23 “314.712. (1) Except as provided in ORS 314.722 [*or 314.723*], a partnership
24 as such is not subject to the tax imposed by ORS chapter 316[, *317 or 318*].
25 Partnership income shall be computed pursuant to section 703 of the Internal
26 Revenue Code, with the modifications, additions and subtractions provided
27 in this chapter and ORS chapter 316. Persons carrying on business as part-
28 ners are liable for the tax imposed by ORS chapter 316[, *317 or 318*] on their
29 distributive shares of partnership income only in their separate or individual
30 capacities.

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

5 “[*(3) If a partnership is an electing large partnership under section 775 of*
6 *the Internal Revenue Code, the modifications of law applicable to an electing*
7 *large partnership for federal tax purposes are applicable to the electing large*
8 *partnership for purposes of the tax imposed by this chapter or ORS chapter*
9 *316, 317 or 318.*]

10 **“SECTION 59.** ORS 314.714 is amended to read:

11 “314.714. (1) Each item of partnership income, gain, loss or deduction has
12 the same character for a partner as it has for federal income tax purposes.
13 If an item is not characterized for federal income tax purposes, it has the
14 same character for a partner as if realized directly from the source from
15 which realized by the partnership or incurred in the same manner as in-
16 curred by the partnership.

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

23 “(3) A partner shall, on the partner’s return, treat a partnership item in
24 a manner that is consistent with the treatment of the partnership item on
25 the partnership return, unless the partner notifies the Department of Reve-
26 nue of the inconsistency. The department shall prescribe by rule the method
27 for notification of an inconsistency. [*A partner of an electing large partner-*
28 *ship under section 775 of the Internal Revenue Code must treat a partnership*
29 *item in a manner that is consistent with the treatment of the partnership item*
30 *on the partnership return.*]

1 **SECTION 60.** ORS 314.716 is amended to read:

2 “314.716. (1) The adjusted basis of a partner’s interest in a partnership
3 shall be determined pursuant to the method described in sections
4 704(c)(1)(B)(iii), 705 and 733 of the Internal Revenue Code, and shall be in-
5 creased or decreased as provided in this chapter and ORS chapter 316[, 317
6 *or 318*], whichever is applicable.

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

10 “(3) If a partnership elects to adjust the basis of its assets under section
11 754 of the Internal Revenue Code, then upon a transfer of an interest in the
12 partnership by sale or exchange or upon a death of a partner, that election
13 shall also be effective for Oregon income tax purposes.

14 **SECTION 61.** ORS 314.722 is amended to read:

15 “314.722. (1) As used in this section, ‘publicly traded partnership’ means
16 a partnership treated as a corporation for federal income tax purposes under
17 section 7704 of the Internal Revenue Code for the tax year.

18 “(2) Persons carrying on business as partners in a publicly traded part-
19 nership are not subject to tax under ORS chapter 316[, 317 *or 318*] on their
20 distributive shares of partnership income, but the publicly traded partnership
21 is taxable as a corporation under [*ORS chapter 317 or 318 as provided under*
22 *ORS chapter 317 or 318*] **sections 4 to 26 of this 2017 Act.**

23 **SECTION 62.** ORS 314.727 is amended to read:

24 “314.727. The Department of Revenue may disclose to a partner of a
25 partnership those items of partnership gain, loss or other particulars relating
26 to the partnership that are necessary to determine or administer the tax
27 imposed by ORS chapter 316[, 317 *or 318*] if the department considers the
28 disclosure necessary to facilitate the audit of the partner’s income [*or*
29 *excise*] tax return.

30 **SECTION 63.** ORS 314.730 is amended to read:

1 “314.730. For purposes of this chapter and [*ORS chapters 316, 317 and*
2 *318*] **ORS chapter 316 and sections 4 to 26 of this 2017 Act:**

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

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

8 **“SECTION 64.** ORS 314.732 is amended to read:

9 “314.732. (1) [*Except as otherwise provided in ORS 314.740, 314.742 and*
10 *317.090,*] An S corporation [*shall*] **is** not [*be*] subject to the taxes imposed by
11 ORS chapter 316[, *317 or 318*].

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

16 “(b) Except as otherwise provided under this chapter and ORS chapter
17 316[, *317 or 318*], and except as inconsistent with ORS 314.730 to 314.752,
18 subchapter C, chapter 1, Internal Revenue Code, shall apply to an S corpo-
19 ration and its shareholders for Oregon tax purposes. For Oregon tax pur-
20 poses, the provisions of section 1371 of the Internal Revenue Code shall
21 apply, subject to the modifications, additions and subtractions under this
22 chapter or ORS chapter 316[, *317 or 318*] and any provisions to the contrary
23 in this chapter or ORS chapter 316[, *317 or 318*].

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

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

30 **“SECTION 65.** ORS 314.736 is amended to read:

1 “314.736. A distribution of property made by an S corporation with respect
2 to its stock shall be treated in the manner provided under section 1368 of the
3 Internal Revenue Code, subject to modifications, additions and subtractions
4 under ORS chapter 316[, 317 or 318].

5 **“SECTION 66.** ORS 314.738 is amended to read:

6 “314.738. (1) For purposes of employee fringe benefits, and subject to this
7 chapter and ORS chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712
8 to 314.722, 314.726 and 316.124, section 1372 of the Internal Revenue Code
9 shall apply to an S corporation and its shareholders.

10 “(2) For purposes of foreign income, and subject to this chapter and ORS
11 chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712 to 314.722, 314.726
12 and 316.124 **and sections 4 to 26 of this 2017 Act**, section 1373 of the
13 Internal Revenue Code shall apply to an S corporation and its shareholders.

14 **“SECTION 67.** ORS 314.744 is amended to read:

15 “314.744. (1) Subject to subsection (2) of this section, if the Internal Rev-
16 enue Code requires or permits an election or revocation to be made by an
17 S corporation, then that election or revocation shall apply for Oregon tax
18 purposes. If the Internal Revenue Code requires or permits an election or
19 revocation to be made by a shareholder or shareholders of an S corporation,
20 then that election or revocation shall apply for Oregon tax purposes.

21 “(2) The Department of Revenue may adopt rules that contravene sub-
22 section (1) of this section if the election or revocation does not carry out the
23 purposes of this chapter and ORS chapter 305[,] **or 316[, 317 or 318] or**
24 **sections 4 to 26 of this 2017 Act.**

25 **“SECTION 68.** ORS 314.749 is amended to read:

26 “314.749. The Department of Revenue may disclose to the shareholder of
27 an S corporation those items of S corporation gain, loss or other particulars
28 relating to the S corporation that are necessary to administer the tax im-
29 posed by ORS chapter 316[, 317 or 318] if the department considers the dis-
30 closure necessary to facilitate the audit of the shareholder’s income tax

1 return.

2 **“SECTION 69.** ORS 314.775 is amended to read:

3 “314.775. As used in ORS 314.775 to 314.784:

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

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

8 “(3) ‘Nonresident’ means:

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

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

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

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

17 “(5) ‘Pass-through entity’ means any entity that is recognized as a sepa-
18 rate entity for federal income tax purposes, for which the owners are re-
19 quired to report income, gains, losses, deductions or credits from the entity
20 for federal income tax purposes. ‘Pass-through entity’ does not include any
21 trust except a form of trust that the Department of Revenue has determined
22 by rule to have been established or maintained primarily for tax avoidance
23 purposes.

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

26 **“SECTION 69a.** ORS 314.778 is amended to read:

27 “314.778. (1) A pass-through entity having distributive income attributable
28 to Oregon sources shall file a composite return of personal income [*and*
29 *corporate income and excise*] tax on behalf of owners that elect to be included
30 in the composite return filed by the entity.

1 “(2) A pass-through entity shall file a composite return under this section
2 only if one or more owners that are nonresidents make an election under this
3 section.

4 “(3) The election shall be made by owners in the time, form and manner
5 prescribed by the Department of Revenue.

6 “(4) The composite return shall report the share of distributive income
7 of each electing owner, the share of distributive income from Oregon sources
8 of each electing owner, the amount of tax withheld under ORS 314.781 on
9 behalf of each electing owner and any other information required by the
10 department. The composite return shall be filed with the department in the
11 time, form and manner prescribed by the department.

12 “(5)(a) An electing owner may file a nonresident personal income tax re-
13 turn or a corporate excise or income tax return for the tax year of the
14 electing owner in which the electing owner’s share of distributive income
15 reported on the composite return is properly reportable.

16 “(b) An electing owner that files a return under this subsection shall re-
17 ceive credit for any tax paid on behalf of the owner by the pass-through en-
18 tity.

19 **“SECTION 70.** ORS 314.781 is amended to read:

20 “314.781. (1) A pass-through entity shall withhold tax as prescribed in this
21 section if:

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

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

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

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

6 “[(4)] (3) A pass-through entity that is required to withhold tax under this
7 section shall file a withholding return or report with the Department of
8 Revenue setting forth the share of Oregon source distributive income of each
9 nonresident owner, the amount of tax withheld under this section and any
10 other information required by the department. The return shall be filed with
11 the department on the form and in the time and manner prescribed by the
12 department. Taxes withheld under this section shall be paid to the depart-
13 ment in the time and manner prescribed by the department.

14 “[(5)] (4) A pass-through entity that is required to withhold tax under this
15 section shall furnish a statement to each owner on whose behalf tax is
16 withheld. The statement shall state the amount of tax withheld on behalf of
17 the owner for the tax year of the entity. The statement shall be made on a
18 form prescribed by the department and shall contain any other information
19 required by the department.

20 “[(6)] (5) The department shall apply taxes withheld under this section
21 by a lower-tier pass-through entity on distributions to an upper-tier pass-
22 through entity to the withholding required by the upper-tier pass-through
23 entity under this section.

24 “[(7)] (6) A pass-through entity is liable to the State of Oregon for
25 amounts of tax required to be withheld and paid under this section. A pass-
26 through entity is not liable to an owner of the pass-through entity for
27 amounts required to be withheld under this section that were paid to the
28 department as prescribed in this section.

29 “**SECTION 71.** ORS 314.784 is amended to read:

30 “314.784. (1) A pass-through entity is not required to withhold taxes under

1 ORS 314.781 on behalf of a nonresident owner if:

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

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

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

10 “(d) The pass-through entity is a publicly traded partnership, as defined
11 in section 7704(b) of the Internal Revenue Code, that is treated as a part-
12 nership for federal tax purposes and that agrees to file an annual informa-
13 tion return on the form and in the time and manner prescribed by the
14 Department of Revenue and containing the information required by the de-
15 partment, including but not limited to the name, address and taxpayer iden-
16 tification number of each person with an ownership interest in the entity
17 that results in the person receiving Oregon source income of more than \$500;
18 or

19 “(e) The nonresident owner files an affidavit with the department, in the
20 form and manner prescribed by the department, under which the nonresident
21 owner agrees to allow the department and the courts of this state to have
22 personal jurisdiction over the nonresident owner for the purpose of deter-
23 mining and collecting any taxes imposed under ORS chapter 316[, 317 or
24 318] that are attributable to the nonresident owner’s distributive share of
25 taxable income from the pass-through entity. The department may reject the
26 affidavit if the taxpayer fails to comply with Oregon law requiring the filing
27 of a tax return or the payment of any tax.

28 “(2) The department may adopt rules setting forth circumstances under
29 which pass-through entities are not required to withhold taxes under ORS
30 314.781.

1 **“SECTION 72.** ORS 314.840 is amended to read:

2 “314.840. (1) The Department of Revenue may:

3 “(a) Furnish any taxpayer, representative authorized to represent the
4 taxpayer under ORS 305.230 or person designated by the taxpayer under ORS
5 305.193, upon request of the taxpayer, representative or designee, with a copy
6 of the taxpayer’s income tax return filed with the department for any year,
7 or with a copy of any report filed by the taxpayer in connection with the
8 return, or with any other information the department considers necessary.

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

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

12 “(d) Disclose a taxpayer’s name, address, telephone number, refund
13 amount, amount due, Social Security number, employer identification number
14 or other taxpayer identification number to the extent necessary in con-
15 nection with collection activities or the processing and mailing of corre-
16 spondence or of forms for any report or return required in the administration
17 of any local tax under ORS 305.620 or any law imposing a tax upon or
18 measured by net income.

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

21 “(a) The Governor of the State of Oregon or the authorized representative
22 of the Governor with respect to an individual who is designated as being
23 under consideration for appointment or reappointment to an office or for
24 employment in the office of the Governor. The information disclosed shall
25 be confined to whether the individual:

26 “(A) Has filed returns with respect to the taxes imposed by ORS chapter
27 316 for those of not more than the three immediately preceding years for
28 which the individual was required to file an Oregon individual income tax
29 return.

30 “(B) Has failed to pay any tax within 30 days from the date of mailing

1 of a deficiency notice or otherwise respond to a deficiency notice within 30
2 days of its mailing.

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

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

10 “(b) An officer or employee of the Oregon Department of Administrative
11 Services duly authorized or employed to prepare revenue estimates, or a
12 person contracting with the Oregon Department of Administrative Services
13 to prepare revenue estimates, in the preparation of revenue estimates re-
14 quired for the Governor’s budget under ORS 291.201 to 291.226, or required
15 for submission to the Emergency Board or the Joint Interim Committee on
16 Ways and Means, or if the Legislative Assembly is in session, to the Joint
17 Committee on Ways and Means, and to the Legislative Revenue Officer or
18 Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The De-
19 partment of Revenue shall disclose and give access to the information de-
20 scribed in ORS 314.835 for the purposes of this paragraph only if:

21 “(A) The request for information is made in writing, specifies the purposes
22 for which the request is made and is signed by an authorized representative
23 of the Oregon Department of Administrative Services. The form for request
24 for information shall be prescribed by the Oregon Department of Adminis-
25 trative Services and approved by the Director of the Department of Revenue.

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

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

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

5 “(A) A state;

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

7 “(C) The District of Columbia; or

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

10 “(e) The Multistate Tax Commission or its authorized representatives, for
11 tax administration and compliance purposes only. The Multistate Tax Com-
12 mission may make the information available to the Commissioner of Internal
13 Revenue or the proper officer or authorized representative of any govern-
14 mental entity described in and meeting the qualifications of paragraph (d)
15 of this subsection.

16 “(f) The Attorney General, assistants and employees in the Department
17 of Justice, or other legal representative of the State of Oregon, to the extent
18 the department deems disclosure or access necessary for the performance of
19 the duties of advising or representing the department pursuant to ORS
20 180.010 to 180.240 and the tax laws of this state.

21 “(g) Employees of the State of Oregon, other than of the Department of
22 Revenue or Department of Justice, to the extent the department deems dis-
23 closure or access necessary for such employees to perform their duties under
24 contracts or agreements between the department and any other department,
25 agency or subdivision of the State of Oregon, in the department’s adminis-
26 tration of the tax laws.

27 “(h) Other persons, partnerships, corporations and other legal entities,
28 and their employees, to the extent the department deems disclosure or access
29 necessary for the performance of such others’ duties under contracts or
30 agreements between the department and such legal entities, in the

1 department's administration of the tax laws.

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

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

11 “(k) Any agency of the State of Oregon, or any person, or any officer or
12 employee of such agency or person to whom disclosure or access is given by
13 state law and not otherwise referred to in this section, including but not
14 limited to the Secretary of State as Auditor of Public Accounts under Article
15 VI, section 2, of the Oregon Constitution; the Department of Human Services
16 pursuant to ORS 412.094; the Division of Child Support of the Department
17 of Justice and district attorney regarding cases for which they are providing
18 support enforcement services under ORS 25.080; the State Board of Tax
19 Practitioners, pursuant to ORS 673.710; and the Oregon Board of
20 Accountancy, pursuant to ORS 673.415.

21 “(L) The Director of the Department of Consumer and Business Services
22 to determine that a person complies with ORS chapter 656 and the Director
23 of the Employment Department to determine that a person complies with
24 ORS chapter 657, the following employer information:

25 “(A) Identification numbers.

26 “(B) Names and addresses.

27 “(C) Inception date as employer.

28 “(D) Nature of business.

29 “(E) Entity changes.

30 “(F) Date of last payroll.

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

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

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

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

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

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

25 “(B) The counterfeiting, forging or altering of a check submitted by a
26 taxpayer to the Department of Revenue or issued by the Department of
27 Revenue to a taxpayer, in which case the information that may be disclosed
28 shall be limited to the counterfeit, forged or altered document, the name,
29 address and taxpayer identification number of the payee, the amount of the
30 check, the date printed on the check and the altered name and address.

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

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

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

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

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

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

26 “(v) The Public Employees Retirement Board, to the extent necessary to
27 carry out the purposes of ORS 238.372 to 238.384, and to any public employer,
28 to the extent necessary to carry out the purposes of ORS 237.635 (3) and
29 237.637 (2).

30 **“(w) Employees of the Department of Transportation, to the extent**

1 **necessary to carry out the purposes of section 11 (5) of this 2017 Act.**

2 “(3)(a) Each officer or employee of the Department **of Revenue** and each
3 person described or referred to in subsection (2)(a), (b), (f) to (L), [*or*] (n) to
4 (q) **or (w)** of this section to whom disclosure or access to the tax information
5 is given under subsection (2) of this section or any other provision of state
6 law, prior to beginning employment or the performance of duties involving
7 such disclosure or access, shall be advised in writing of the provisions of
8 ORS 314.835 and 314.991, relating to penalties for the violation of ORS
9 314.835, and shall as a condition of employment or performance of duties
10 execute a certificate for the department, in a form prescribed by the depart-
11 ment, stating in substance that the person has read these provisions of law,
12 that the person has had them explained and that the person is aware of the
13 penalties for the violation of ORS 314.835.

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

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

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

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

30 “(4) The Department of Revenue may recover the costs of furnishing the

1 information described in subsection (2)(L), (m) and (o) to (q) of this section
2 from the respective agencies.

3 **“SECTION 73.** ORS 315.052 is amended to read:

4 “315.052. An income tax credit that is allowed under this chapter or ORS
5 chapter 316[, 317 or 318] and that is transferable may be transferred or sold
6 only once, unless expressly provided otherwise by statute.

7 **“SECTION 74.** ORS 315.054 is amended to read:

8 “315.054. No credits applied directly to the income tax calculated for fed-
9 eral purposes pursuant to the Internal Revenue Code shall be applied in
10 calculating the tax due under ORS [*chapter*] **chapters** 314[,] **and** 316[, 317
11 *or 318*] except those prescribed in this chapter or ORS [*chapter*] **chapters**
12 314[,] **and** 316[, 317 or 318].

13 **“SECTION 75.** ORS 316.267 is amended to read:

14 “316.267. The tax imposed by this chapter on individuals applies to the
15 taxable income of estates and trusts[, *except for trusts taxed as corporations*
16 *under ORS chapter 317 or 318*].

17 **“SECTION 76.** ORS 316.277 is amended to read:

18 “316.277. (1) An association, trust or other unincorporated organization
19 that is taxable as a corporation for federal income tax purposes is not sub-
20 ject to tax under this chapter[, *but is taxable as a corporation under ORS*
21 *chapter 317 or 318, or both, as provided therein*].

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

27 **“SECTION 77.** ORS 316.695 is amended to read:

28 “316.695. (1) In addition to the modifications to federal taxable income
29 contained in this chapter, there shall be added to or subtracted from federal
30 taxable income:

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

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

10 “(c)(A) From federal taxable income there shall be subtracted the larger
11 of (i) the taxpayer’s itemized deductions or (ii) a standard deduction. Except
12 as provided in subsection (8) of this section, for purposes of this subpara-
13 graph, ‘standard deduction’ means the sum of the basic standard deduction
14 and the additional standard deduction.

15 “(B) For purposes of subparagraph (A) of this paragraph, the basic
16 standard deduction is:

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

18 “(ii) \$1,640, in the case of an individual who is not a married individual
19 and is not a surviving spouse;

20 “(iii) \$1,640, in the case of a married individual who files a separate re-
21 turn; or

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

23 “(C)(i) For purposes of subparagraph (A) of this paragraph for tax years
24 beginning on or after January 1, 2003, the Department of Revenue shall an-
25 nually recompute the basic standard deduction for each category of return
26 filer listed under subparagraph (B) of this paragraph. The basic standard
27 deduction shall be computed by dividing the monthly averaged U.S. City
28 Average Consumer Price Index for the 12 consecutive months ending August
29 31 of the prior calendar year by the average U.S. City Average Consumer
30 Price Index for the second quarter of 2002, then multiplying that quotient

1 by the amount listed under subparagraph (B) of this paragraph for each
2 category of return filer.

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

6 “(iii) As used in this subparagraph, ‘U.S. City Average Consumer Price
7 Index’ means the U.S. City Average Consumer Price Index for All Urban
8 Consumers (All Items) as published by the Bureau of Labor Statistics of the
9 United States Department of Labor.

10 “(D) For purposes of subparagraph (A) of this paragraph, the additional
11 standard deduction is the sum of each additional amount to which the tax-
12 payer is entitled under subsection (7) of this section.

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

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

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

21 “(ii) A nonresident alien individual;

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

24 “(iv) An estate or trust;

25 “(v) A common trust fund; or

26 “(vi) A partnership.

27 “(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s
28 itemized deductions are the amount of the taxpayer’s itemized deductions as
29 defined in section 63(d) of the Internal Revenue Code (reduced, if applicable,
30 as described under section 68 of the Internal Revenue Code) minus the de-

1 duction for Oregon income tax **or the tax imposed under sections 4 to 26**
2 **of this 2017 Act** (reduced, if applicable, by the proportion that the reduction
3 in federal itemized deductions resulting from section 68 of the Internal Rev-
4 enue Code bears to the amount of federal itemized deductions as defined for
5 purposes of section 68 of the Internal Revenue Code).

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

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

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

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

25 “(A) \$5,500, if the federal adjusted gross income of the taxpayer for the
26 tax year is less than \$125,000, or, if reported on a joint return, less than
27 \$250,000.

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

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

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

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

10 “(c) If the federal adjusted gross income of the taxpayer is \$145,000 or
11 more for the tax year, or, if reported on a joint return, \$290,000 or more, the
12 limit is zero and the taxpayer is not allowed a subtraction for federal income
13 taxes under ORS 316.680 (1) for the tax year.

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

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

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

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

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

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

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

10 “(4)(a) In addition to the adjustments required by ORS 316.130, a full-year
11 nonresident individual shall add to taxable income a proportion of any ac-
12 crued federal income taxes as computed under ORS 316.685 in excess of the
13 amount provided in subsection (3) of this section in the proportion provided
14 in ORS 316.117.

15 “(b) In the case of spouses in a marriage filing separate tax returns, the
16 amount added under this subsection shall be computed in a manner consist-
17 ent with the computation of the amount to be added in the case of spouses
18 in a marriage filing separate returns under subsection (3) of this section. The
19 method of computation shall be determined by the Department of Revenue
20 by rule.

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

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

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

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

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

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

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

16 “(B) For the spouse of the taxpayer if the spouse has attained age 65 be-
17 fore the close of the tax year and an additional exemption is allowable to
18 the taxpayer for such spouse for federal income tax purposes under section
19 151(b) of the Internal Revenue Code.

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

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

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

30 “(c) In the case of an individual who is not married and is not a surviving

1 spouse, paragraphs (a) and (b) of this subsection shall be applied by substi-
2 tuting ‘\$1,200’ for ‘\$1,000.’

3 “(d) For purposes of this subsection, an individual is blind only if the
4 individual’s central visual acuity does not exceed 20/200 in the better eye
5 with correcting lenses, or if the individual’s visual acuity is greater than
6 20/200 but is accompanied by a limitation in the fields of vision such that
7 the widest diameter of the visual field subtends an angle no greater than 20
8 degrees.

9 “(8) In the case of an individual with respect to whom a deduction under
10 section 151 of the Internal Revenue Code is allowable for federal income tax
11 purposes to another taxpayer for a tax year beginning in the calendar year
12 in which the individual’s tax year begins, the basic standard deduction (re-
13 ferred to in subsection (1)(c)(B) of this section) applicable to such individual
14 for such individual’s tax year shall equal the lesser of:

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

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

19 **“SECTION 78.** ORS 317.131 is amended to read:

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

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

29 “(b) If the facility is located in more than one code area, amounts to be
30 distributed under subsection (1) of this section shall be allocated to each

1 code area in which the facility is located, based on the ratio of the real
2 market value of the facility in each code area to the total real market value
3 of the facility.

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

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

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

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

21 **“SECTION 79.** ORS 317.097, as amended by section 23, chapter 33, Oregon
22 Laws 2016, is amended to read:

23 “317.097. (1) As used in this section:

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

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

30 “(c) ‘Lending institution’ means any insured institution, as that term is

1 defined in ORS 706.008, any mortgage banking company that maintains an
2 office in this state or any community development corporation that is or-
3 ganized under the Oregon Nonprofit Corporation Law.

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

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

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

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

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

20 “(i) ‘Qualified loan’ means:

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

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

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

1 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit
2 cooperative, state governmental entity, local unit of government or housing
3 authority.

4 “(2) The Department of Revenue shall allow a credit against taxes other-
5 wise due under [*this chapter*] **sections 4 to 26 of this 2017 Act** for the tax-
6 able year to a lending institution that makes a qualified loan certified by the
7 Housing and Community Services Department as provided in subsection (7)
8 of this section. The amount of the credit is equal to the difference between:

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

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

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

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

1 any credit not used in that fourth succeeding tax year may be carried for-
2 ward and used in the fifth succeeding tax year, but may not be carried for-
3 ward for any tax year thereafter.

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

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

14 “(b) A qualified borrower who:

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

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

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

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

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

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

29 “(B) Provides a written certification executed by the Housing and Com-
30 munity Services Department that the housing will continue to be operated

1 as a manufactured dwelling park during the period for which the tax credit
2 is allowed; or

3 “(d) A qualified borrower who:

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

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

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

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

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

16 “(7) For a qualified loan to be eligible for the tax credit allowable under
17 this section, the Housing and Community Services Department must execute
18 a written certification for the qualified loan that:

19 “(a) Specifies the period, not to exceed 20 years, as determined by the
20 Housing and Community Services Department, during which the tax credit
21 is allowed for the qualified loan; and

22 “(b) States that the qualified loan is within the limitation imposed by
23 subsection (8) of this section.

24 “(8) The Housing and Community Services Department may certify quali-
25 fied loans that are eligible under subsection (5) of this section if the total
26 credits attributable to all qualified loans eligible for credits under this sec-
27 tion and then outstanding do not exceed \$17 million for any fiscal year. In
28 making loan certifications under subsection (7) of this section, the Housing
29 and Community Services Department shall attempt to distribute the tax
30 credits statewide, but shall concentrate the tax credits in those areas of the

1 state that are determined by the Oregon Housing Stability Council to have
2 the greatest need for affordable housing.

3 “(9) The tax credit provided for in this section may be taken whether or
4 not:

5 “(a) The financial institution is eligible to take a federal income tax
6 credit under section 42 of the Internal Revenue Code with respect to the
7 project financed by the qualified loan; or

8 “(b) The project receives financing from bonds, the interest on which is
9 exempt from federal taxation under section 103 of the Internal Revenue Code.

10 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section
11 financed through the purchase of bonds, the interest of which is exempt from
12 federal taxation under section 103 of the Internal Revenue Code, the amount
13 of finance charge that would have been charged under subsection (2)(b) of
14 this section is determined by reference to the finance charge that would have
15 been charged if the federally tax exempt bonds had been issued and the tax
16 credit under this section did not apply.

17 “(11) A lending institution may sell a qualified loan for which a certi-
18 fication has been executed to a qualified assignee whether or not the lending
19 institution retains servicing of the qualified loan so long as a designated
20 lending institution maintains records, annually verified by a loan servicer,
21 that establish the amount of tax credit earned by the taxpayer throughout
22 each year of eligibility.

23 “(12) Notwithstanding any other provision of law, a lending institution
24 that is a community development corporation organized under the Oregon
25 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
26 under this section to one or more other lending institutions that are stock-
27 holders or members of the community development corporation or that oth-
28 erwise participate through the community development corporation in the
29 making of one or more qualified loans for which the tax credit under this
30 section is allowed.

1 “(13) The lending institution shall file an annual statement with the
2 Housing and Community Services Department, specifying that it has con-
3 formed with all requirements imposed by law to qualify for a tax credit under
4 this section.

5 “(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified
6 borrower on a loan to finance the construction, development, acquisition or
7 rehabilitation of a manufactured dwelling park under subsection (5)(c) of this
8 section must be a nonprofit corporation, manufactured dwelling park
9 nonprofit cooperative, state governmental entity, local unit of government
10 as defined in ORS 466.706 or housing authority.

11 “(15) The Housing and Community Services Department and the Depart-
12 ment of Revenue may adopt rules to carry out the provisions of this section.

13 **“SECTION 80.** ORS 344.755 is amended to read:

14 “344.755. Training agents who terminate youth apprentices without cause
15 as determined by the appropriate apprenticeship committee prior to com-
16 pletion of training or who violate ORS 344.745 or 344.750 or rules adopted
17 pursuant thereto by the State Apprenticeship and Training Council or the
18 Department of Education[, *upon notice to the Department of Revenue,*] may
19 lose their eligibility [*for tax credits pursuant to ORS 318.031 and their eligi-*
20 *bility*] to train and employ youth apprentices under ORS 344.745 to 344.757
21 for a period of one year.

22 **“SECTION 81.** ORS 366.505 is amended to read:

23 “366.505. (1) The State Highway Fund shall consist of:

24 “(a) All moneys and revenues derived under and by virtue of the sale of
25 bonds, the sale of which is authorized by law and the proceeds thereof to be
26 dedicated to highway purposes.

27 “(b) All moneys and revenues accruing from the licensing of motor vehi-
28 cles, operators and chauffeurs.

29 “(c) Moneys and revenues derived from any tax levied [*upon gasoline,*
30 *distillate, liberty fuel or other volatile and inflammable liquid fuels,*] **on, with**

1 **respect to or measured by the storage, withdrawal, use, sale, distrib-**
2 **ution, importation or receipt of motor vehicle fuel or any other prod-**
3 **uct used for the propulsion of motor vehicles,** except moneys and
4 revenues described in ORS 184.642 (2)(a) that become part of the Department
5 of Transportation Operating Fund.

6 “(d) Moneys and revenues derived from the road usage charges imposed
7 under ORS 319.885.

8 “(e) Moneys and revenues derived from or made available by the federal
9 government for road construction, maintenance or betterment purposes.

10 “(f) All moneys and revenues received from all other sources which by law
11 are allocated or dedicated for highway purposes.

12 “(2) The State Highway Fund shall be deemed and held as a trust fund,
13 separate and distinct from the General Fund, and may be used only for the
14 purposes authorized by law and is continually appropriated for such pur-
15 poses.

16 “(3) Moneys in the State Highway Fund may be invested as provided in
17 ORS 293.701 to 293.857. All interest earnings on any of the funds designated
18 in subsection (1) of this section shall be placed to the credit of the highway
19 fund.

20 **“SECTION 82.** ORS 401.690 is amended to read:

21 “401.690. (1) Disaster or emergency related work conducted by an out-of-
22 state business may not be used as the sole basis for:

23 “(a) [*Notwithstanding ORS 317.018 and 317.080,*] A finding that the out-
24 of-state business is doing business in this state;

25 “(b) Imposition of the taxes imposed under [*ORS 314.725 or*] ORS chapter
26 316 or [*317*] **sections 4 to 26 of this 2017 Act;**

27 “(c) Notwithstanding ORS 60.704, 63.704, 65.704, 67.705 and 70.355, a re-
28 quirement that the out-of-state business register with or obtain authority to
29 transact business from the Secretary of State during the disaster response
30 period; or

1 “(d) A requirement that the out-of-state business or an out-of-state em-
2 ployee comply with state or local business or professional licensing or reg-
3 istration requirements or state and local taxes or fees including
4 unemployment insurance, state or local occupational licensing fees and ad
5 valorem tax on equipment brought into this state for use during the disaster
6 response period and subsequently removed from this state.

7 “(2) For purposes of any state or local tax on or measured by, in whole
8 or in part, net or gross income or receipts, all activity of the out-of-state
9 business that is conducted in this state, or equipment brought into this state,
10 pursuant to ORS 401.685 to 401.695 shall be disregarded with respect to [*the*
11 *filing requirements of ORS 317.710 and 317.715 and*] the apportionment pro-
12 visions of ORS 314.605 to 314.675. Receipts from disaster or emergency re-
13 lated work may not be sourced to and may not otherwise impact or increase
14 the amount of income, revenue or receipts apportioned to this state.

15 “(3) For purposes of ORS chapter 316, an out-of-state employee is not
16 taxed as a resident, nonresident or part-year resident and is not considered
17 to have established domicile or residence in this state. Wages paid for dis-
18 aster or emergency related work are not subject to the withholding pro-
19 visions of ORS 316.162 to 316.221.

20 “(4) Out-of-state businesses and out-of-state employees shall be required
21 to pay transaction taxes and fees including fuel taxes, transient lodging
22 taxes, car rental taxes or applicable fees during the disaster response period,
23 unless an exemption applies to the taxes or fees during the disaster response
24 period.

25 “(5) Any out-of-state business that transacts business in this state or
26 out-of-state employee who remains in this state after the end of the disaster
27 response period will become subject to this state’s normal standards for es-
28 tablishing domicile or residency or doing business in this state and will be-
29 come responsible for any business or employee tax requirements that ensue.

30 “(6) ORS 401.990 does not apply to ORS 401.685 to 401.695.

1 **SECTION 83.** ORS 461.560 is amended to read:

2 “461.560. (1) No state or local taxes shall be imposed upon the sale of
3 lottery tickets or shares of the Oregon State Lottery established by this
4 chapter or any prize awarded by the state lottery established by this chapter
5 that does not exceed \$600. A prize awarded by the state lottery that is
6 greater than \$600 shall be subject to tax under ORS chapters 314 [*to 318*] **and**
7 **316 or sections 4 to 26 of this 2017 Act** and any other applicable state or
8 local tax. For purposes of this section, ‘prize awarded by the state lottery’
9 includes a prize awarded by a multistate lottery association of which the
10 Oregon State Lottery is a member if the ticket upon which the prize is
11 awarded was sold in this state.

12 “(2) A city, county or other political subdivision in this state may not
13 impose, by charter provision or ordinance, or collect a tax that is imposed
14 on lottery game retailers only and that is measured by or based upon the
15 amount of the commissions or other compensation received by lottery game
16 retailers for selling tickets or shares in lottery games. However, if a city,
17 county or other political subdivision levies or imposes generally on a
18 nondiscriminatory basis throughout the jurisdiction of the taxing authority
19 an income, gross income or gross receipts tax, as otherwise provided by law,
20 such tax may be levied or imposed upon lottery game retailers.

21 **SECTION 84.** ORS 526.450 is amended to read:

22 “526.450. ORS 315.104[, *318.031*] and 526.450 to 526.475 may be cited as the
23 ‘Woodland Management Act of 1979.’

24 **SECTION 85.** ORS 526.450, as amended by section 5, chapter 883, Oregon
25 Laws 2007, is amended to read:

26 “526.450. ORS [*318.031 and*] 526.450 to 526.475 may be cited as the
27 ‘Woodland Management Act of 1979.’

28 **SECTION 86.** ORS 526.455 is amended to read:

29 “526.455. As used in ORS 315.104[, *318.031*] and 526.450 to 526.475, unless
30 the context requires otherwise:

1 “(1) ‘Approved forest management practice’ means and includes site prep-
2 aration, tree planting, precommercial thinning, release, fertilization, animal
3 damage control, insect and disease management or such other young growth
4 management practices that increase wood growth as the State Forester shall
5 approve or determine proper generally with regard to any particular appli-
6 cant.

7 “(2) ‘Board’ means State Board of Forestry.

8 “(3) ‘Commercial forestland’ means land for which a primary use is the
9 growing and harvesting of forest tree species and other forest resource val-
10 ues.

11 “(4) ‘Eligible owner’ means any private individual, group, Indian tribe or
12 other native group, association, corporation or other nonpublic legal entity
13 owning 10 to 500 acres of Oregon commercial forestland.

14 “(5) ‘Forest management plan’ means an operation plan to reach land-
15 owner objectives and assures public benefits as they relate to producing
16 timber and other values. It shall include a cover map, basic forest stand de-
17 scription data, treatment opportunities, landowner objectives and a schedule
18 for implementing the forest management plan.

19 “(6) ‘Forest management practices’ means and includes site preparation,
20 tree planting, precommercial thinning, release, fertilization, animal damage
21 control, insect and disease management and other young growth management
22 practices that increase wood growth.

23 “(7) ‘Industrial private forestlands’ means lands capable of producing
24 crops of industrial wood, greater than 10 acres and owned by other than an
25 eligible owner.

26 “(8) ‘Industrial wood’ means forest products used to sustain a sawmill,
27 plywood mill, pulp mill or other forest industry related manufacturing facil-
28 ity.

29 “(9) ‘Landowner’ means any private individual, group, Indian tribe or
30 other native group, association, corporation or other legal entity, owning

1 both the forestland and any timber thereon.

2 “(10) ‘Nonindustrial private forestlands’ means lands capable of producing
3 crops of industrial wood and owned by an eligible owner.

4 “(11) ‘State Forester’ means the individual appointed pursuant to ORS
5 526.031, or the authorized representative of the State Forester.

6 “(12) ‘Timber’ means wood growth, mature or immature, growing or dead,
7 standing or down of species acceptable for regeneration under the Oregon
8 Forest Practices Act.

9 “(13) ‘Underproductive forestlands’ means commercial forestlands not
10 meeting the minimum stocking standards of the Oregon Forest Practices Act.

11 **“SECTION 87.** ORS 526.455, as amended by section 6, chapter 883, Oregon
12 Laws 2007, is amended to read:

13 “526.455. As used in ORS [*318.031 and*] 526.450 to 526.475, unless the con-
14 text requires otherwise:

15 “(1) ‘Approved forest management practice’ means and includes site prep-
16 aration, tree planting, precommercial thinning, release, fertilization, animal
17 damage control, insect and disease management or such other young growth
18 management practices that increase wood growth as the State Forester shall
19 approve or determine proper generally with regard to any particular appli-
20 cant.

21 “(2) ‘Board’ means State Board of Forestry.

22 “(3) ‘Commercial forestland’ means land for which a primary use is the
23 growing and harvesting of forest tree species and other forest resource val-
24 ues.

25 “(4) ‘Eligible owner’ means any private individual, group, Indian tribe or
26 other native group, association, corporation or other nonpublic legal entity
27 owning 10 to 500 acres of Oregon commercial forestland.

28 “(5) ‘Forest management plan’ means an operation plan to reach land-
29 owner objectives and assures public benefits as they relate to producing
30 timber and other values. It shall include a cover map, basic forest stand de-

1 description data, treatment opportunities, landowner objectives and a schedule
2 for implementing the forest management plan.

3 “(6) ‘Forest management practices’ means and includes site preparation,
4 tree planting, precommercial thinning, release, fertilization, animal damage
5 control, insect and disease management and other young growth management
6 practices that increase wood growth.

7 “(7) ‘Industrial private forestlands’ means lands capable of producing
8 crops of industrial wood, greater than 10 acres and owned by other than an
9 eligible owner.

10 “(8) ‘Industrial wood’ means forest products used to sustain a sawmill,
11 plywood mill, pulp mill or other forest industry related manufacturing facil-
12 ity.

13 “(9) ‘Landowner’ means any private individual, group, Indian tribe or
14 other native group, association, corporation or other legal entity, owning
15 both the forestland and any timber thereon.

16 “(10) ‘Nonindustrial private forestlands’ means lands capable of producing
17 crops of industrial wood and owned by an eligible owner.

18 “(11) ‘State Forester’ means the individual appointed pursuant to ORS
19 526.031, or the authorized representative of the State Forester.

20 “(12) ‘Timber’ means wood growth, mature or immature, growing or dead,
21 standing or down of species acceptable for regeneration under the Oregon
22 Forest Practices Act.

23 “(13) ‘Underproductive forestlands’ means commercial forestlands not
24 meeting the minimum stocking standards of the Oregon Forest Practices Act.

25 **“SECTION 88.** ORS 526.465 is amended to read:

26 “526.465. The purpose of ORS 315.104[, 318.031] and 526.450 to 526.475 is
27 to encourage long term forestry investments that lead to increased manage-
28 ment of Oregon’s forestlands by:

29 “(1) Providing the forest owner with tax relief during the timber growth
30 period.

1 “(2) Promoting programs that provide forest credit on young stands and
2 encourage harvesting of mature forest crops.

3 “(3) Promoting the establishment of new forest crops on cutover, denuded
4 or underproductive privately owned forestlands.

5 “(4) Protecting the public interest by assuring that the citizens of the
6 state and future generations shall have the benefits to be derived from the
7 continuous production of forest products from the private forestlands of
8 Oregon, including jobs, taxes, water, erosion control and habitat for wild
9 game.

10 **“SECTION 89.** ORS 526.465, as amended by section 7, chapter 883, Oregon
11 Laws 2007, is amended to read:

12 “526.465. The purpose of ORS [318.031 and] 526.450 to 526.475 is to en-
13 courage long term forestry investments that lead to increased management
14 of Oregon’s forestlands by:

15 “(1) Promoting programs that provide forest credit on young stands and
16 encourage harvesting of mature forest crops.

17 “(2) Promoting the establishment of new forest crops on cutover, denuded
18 or underproductive privately owned forestlands.

19 “(3) Protecting the public interest by assuring that the citizens of the
20 state and future generations shall have the benefits to be derived from the
21 continuous production of forest products from the private forestlands of
22 Oregon, including jobs, taxes, water, erosion control and habitat for wild
23 game.

24 **“SECTION 90.** ORS 526.475 is amended to read:

25 “526.475. (1) Any owner affected by a determination of the State Forester
26 made under ORS 315.104[, 318.031] and 526.450 to 526.475 may appeal to the
27 State Board of Forestry under such rules as it may adopt. An appeal to set
28 aside any decision of the board with respect to ORS 315.104 [or 318.031] may
29 be taken within 60 days of the decision to the Oregon Tax Court in the
30 manner provided for tax cases under ORS chapter 305.

1 “(2) Any owner affected by a determination of the Department of Revenue
2 made under ORS 315.104 [or 318.031] may appeal directly to the tax court
3 under ORS 305.404 to 305.560.

4 **“SECTION 91.** ORS 526.475, as amended by section 8, chapter 883, Oregon
5 Laws 2007, is amended to read:

6 “526.475. [(1)] Any owner affected by a determination of the State Forester
7 made under ORS [318.031 and] 526.450 to 526.475 may appeal to the State
8 Board of Forestry under such rules as it may adopt. [An appeal to set aside
9 any decision of the board with respect to ORS 318.031 may be taken within 60
10 days of the decision to the Oregon Tax Court in the manner provided for tax
11 cases under ORS chapter 305.]

12 “[2) Any owner affected by a determination of the Department of Revenue
13 made under ORS 318.031 may appeal directly to the tax court under ORS
14 305.404 to 305.560.]

15 **“SECTION 92.** ORS 701.106 is amended to read:

16 “701.106. (1) A contractor that violates or fails to comply with any of the
17 following provisions or any rules adopted under those provisions is subject
18 to the suspension of, revocation of, refusal to issue or refusal to renew a li-
19 cense, imposition of a civil penalty under ORS 701.992, or a combination of
20 those sanctions:

21 “(a) ORS 87.007 (2).

22 “(b) ORS chapter 316 [or 317].

23 “(c) ORS 446.225 to 446.285.

24 “(d) ORS 446.395 to 446.420.

25 “(e) ORS 447.010 to 447.156.

26 “(f) ORS chapter 455.

27 “(g) ORS 460.005 to 460.175.

28 “(h) ORS 479.510 to 479.945.

29 “(i) ORS 480.510 to 480.670.

30 “(j) ORS chapter 656.

1 “(k) ORS chapter 657.

2 “(L) ORS 670.600.

3 “(m) ORS 671.510 to 671.760.

4 “(n) ORS chapter 693.

5 “(o) **Sections 4 to 26 of this 2017 Act.**

6 “(2) The imposition of a sanction under this section is subject to ORS
7 183.413 to 183.497.

8 “**SECTION 93.** ORS 731.840 is amended to read:

9 “731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer
10 under ORS 731.854 and 731.859, or the [*corporate excise*] **commercial activity**
11 tax imposed upon a foreign or alien insurer under [*ORS chapter 317*]
12 **sections 4 to 26 of this 2017 Act**, is in lieu of all other state taxes upon
13 premiums, taxes upon income, franchise or other taxes measured by income
14 that might otherwise be imposed upon the foreign or alien insurer except the
15 fire insurance premiums tax imposed under ORS 731.820 and the tax imposed
16 upon wet marine and transportation insurers under ORS 731.824 and 731.828.
17 However, all real and personal property, if any, of the insurer shall be listed,
18 assessed and taxed the same as real and personal property of like character
19 of noninsurers. Nothing in this subsection shall be construed to preclude
20 the imposition of the assessments imposed under ORS 656.612 upon a foreign
21 or alien insurer.

22 “(2) Subsection (1) of this section applies to a reciprocal insurer and its
23 attorney in its capacity as such.

24 “(3) Subsection (1) of this section applies to foreign or alien title insurers
25 and to foreign or alien wet marine and transportation insurers issuing poli-
26 cies and subject to taxes referred to in ORS 731.824 and 731.828.

27 “(4) The State of Oregon hereby preempts the field of regulating or of
28 imposing excise, privilege, franchise, income, license, permit, registration,
29 and similar taxes, licenses and fees upon insurers and their insurance pro-
30 ducers and other representatives as such, and:

1 “(a) No county, city, district, or other political subdivision or agency in
2 this state shall so regulate, or shall levy upon insurers, or upon their in-
3 surance producers and representatives as such, any such tax, license or fee;
4 except that whenever a county, city, district or other political subdivision
5 levies or imposes generally on a nondiscriminatory basis throughout the ju-
6 risdiction of the taxing authority a payroll, excise or income tax, as other-
7 wise provided by law, such tax may be levied or imposed upon domestic
8 insurers; and

9 “(b) No county, city, district, political subdivision or agency in this state
10 shall require of any insurer, insurance producer or representative, duly au-
11 thorized or licensed as such under the Insurance Code, any additional au-
12 thorization, license, or permit of any kind for conducting therein
13 transactions otherwise lawful under the authority or license granted under
14 this code.

15 “**SECTION 94.** ORS 743B.012 is amended to read:

16 “743B.012. (1) As a condition of transacting business in the small em-
17 ployer health insurance market in this state, a carrier shall offer small em-
18 ployers all of the carrier’s health benefit plans, approved by the Department
19 of Consumer and Business Services for use in the small employer market, for
20 which the small employer is eligible.

21 “(2) A carrier shall issue to a small employer any health benefit plan that
22 is offered by the carrier if the small employer applies for the plan and agrees
23 to make the required premium payments and to satisfy the other provisions
24 of the health benefit plan.

25 “(3) A multiple employer welfare arrangement, professional or trade as-
26 sociation or other similar arrangement established or maintained to provide
27 benefits to a particular trade, business, profession or industry or their sub-
28 sidiaries may not issue coverage to a group or individual that is not in the
29 same trade, business, profession or industry as that covered by the arrange-
30 ment. The arrangement shall accept all groups and individuals in the same

1 trade, business, profession or industry or their subsidiaries that apply for
2 coverage under the arrangement and that meet the requirements for mem-
3 bership in the arrangement. For purposes of this subsection, the require-
4 ments for membership in an arrangement may not include any requirements
5 that relate to the actual or expected health status of the prospective
6 enrollee.

7 “(4) A carrier shall, pursuant to subsection (2) of this section, accept ap-
8 plications from and offer coverage to a small employer group covered under
9 an existing health benefit plan regardless of whether a prospective enrollee
10 is excluded from coverage under the existing plan because of late enrollment.
11 When a carrier accepts an application for a small employer group, the car-
12 rier may continue to exclude the prospective enrollee excluded from coverage
13 by the replaced plan until the prospective enrollee would have become eli-
14 gible for coverage under that replaced plan.

15 “(5) A carrier is not required to accept applications from and offer cov-
16 erage pursuant to subsection (2) of this section if the department finds that
17 acceptance of an application or applications would endanger the carrier’s
18 ability to fulfill its contractual obligations or result in financial impairment
19 of the carrier.

20 “(6) A carrier shall actively market all health benefit plans that are of-
21 fered by the carrier to small employers in the geographical areas in which
22 the carrier makes coverage available or provides benefits.

23 “(7)(a) Subsection (2) of this section does not require a carrier to offer
24 coverage to or accept applications from:

25 “(A) A small employer if the small employer is not physically located in
26 the carrier’s approved service area;

27 “(B) An employee of a small employer if the employee does not work or
28 reside within the carrier’s approved service areas; or

29 “(C) Small employers located within an area where the carrier reasonably
30 anticipates, and demonstrates to the department, that it will not have the

1 capacity in its network of providers to deliver services adequately to the
2 enrollees of those small employer groups because of its obligations to exist-
3 ing small employer group contract holders and enrollees.

4 “(b) A carrier that does not offer coverage pursuant to paragraph (a)(C)
5 of this subsection may not offer coverage in the applicable service area to
6 new employer groups other than small employers until the carrier resumes
7 enrolling groups of new small employers in the applicable area.

8 “(8) For purposes of ORS 743B.010 to 743B.013, except as provided in this
9 subsection, carriers that are affiliated carriers or that are eligible to file a
10 [*consolidated*] tax return pursuant to [*ORS 317.715*] **section 6 of this 2017**
11 **Act** shall be treated as one carrier and any restrictions or limitations im-
12 posed by ORS 743B.010 to 743B.013 apply as if all health benefit plans de-
13 livered or issued for delivery to small employers in this state by the affiliated
14 carriers were issued by one carrier. However, any insurance company or
15 health maintenance organization that is an affiliate of a health care service
16 contractor located in this state, or any health maintenance organization lo-
17 cated in this state that is an affiliate of an insurance company or health care
18 service contractor, may treat the health maintenance organization as a sep-
19 arate carrier and each health maintenance organization that operates only
20 one health maintenance organization in a service area in this state may be
21 considered a separate carrier.

22 “(9) A carrier that elects to discontinue offering all of its health benefit
23 plans to small employers under ORS 743B.013 (3)(e) or elects to discontinue
24 renewing all such plans is prohibited from offering health benefit plans to
25 small employers in this state for a period of five years from one of the fol-
26 lowing dates:

27 “(a) The date of notice to the department pursuant to ORS 743B.013 (3)(e);
28 or

29 “(b) If notice is not provided under paragraph (a) of this subsection, from
30 the date on which the department provides notice to the carrier that the

1 department has determined that the carrier has effectively discontinued of-
2 fering health benefit plans to small employers in this state.

3 **“SECTION 95.** ORS 314.520 is amended to read:

4 “314.520. ORS [314.505,] 314.518 and 316.198 do not alter the authority
5 under ORS 293.525 of a state agency to require by rule that certain payments
6 to the agency be made by electronic funds transfer.

7 **“SECTION 96.** ORS 314.610 is amended to read:

8 “314.610. As used in ORS 314.605 to 314.675, unless the context otherwise
9 requires:

10 “(1) ‘Business income’ means income arising from transactions and activ-
11 ity in the regular course of the taxpayer’s trade or business and includes
12 income from tangible and intangible property if the acquisition, the man-
13 agement, use or rental, and the disposition of the property constitute integral
14 parts of the taxpayer’s regular trade or business operations.

15 “(2) ‘Commercial domicile’ means the principal place from which the trade
16 or business of the taxpayer is directed or managed.

17 “(3) ‘Compensation’ means wages, salaries, commissions and any other
18 form of remuneration paid to employees for personal services.

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

21 “(a) A bank holding company under the laws of this state or under the
22 federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq., as
23 amended.

24 “(b) A savings and loan holding company under the National Housing
25 Act, 12 U.S.C. 1701 et seq., as amended.

26 “(c) A national bank organized and existing as a national bank associ-
27 ation under the National Bank Act, 12 U.S.C. 21 et seq., as amended.

28 “(d) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

29 “(e) A bank or thrift institution incorporated or organized under the laws
30 of any state.

1 “(f) An entity organized under the provisions of 12 U.S.C. 611 to 631, as
2 amended.

3 “(g) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101,
4 as amended.

5 “(h) A state credit union with loan assets that exceed \$50,000,000 as of the
6 first day of the taxable year of the state credit union.

7 “(i) A production credit association subject to 12 U.S.C. 2071 et seq., as
8 amended.

9 “(j) A corporation, more than 50 percent of the voting stock of which is
10 owned, directly or indirectly, by a person, corporation or other business en-
11 tity described in paragraphs (a) to (i) of this subsection, provided that the
12 corporation is not an insurer taxable under [ORS 317.655] **sections 4 to 26**
13 **of this 2017 Act.**

14 “(k) An entity that is not otherwise described in this subsection, that is
15 not an insurer taxable under [ORS 317.655] **sections 4 to 26 of this 2017**
16 **Act** and that derives more than 50 percent of its gross income from activities
17 that a person, corporation or entity described in paragraph (c), (d), (e), (f),
18 (g), (h), (i) or (L) of this subsection is authorized to conduct, not taking into
19 account any income derived from nonrecurring extraordinary sources.

20 “(L) A person that derives at least 50 percent of the person’s annual av-
21 erage gross income, for financial accounting purposes for the current tax
22 year and the two preceding tax years, from finance leases, excluding any
23 gross income from incidental or occasional transactions. For purposes of this
24 paragraph, ‘finance lease’ means:

25 “(A) A lease transaction that is the functional equivalent of an extension
26 of credit and that transfers substantially all of the benefits and risks of the
27 ownership of the leased property;

28 “(B) A direct financing lease or a leverage lease that meets the criteria
29 of Financial Accounting Standards Board Statement No. 13; or

30 “(C) Any other lease that is accounted for as a financing by a lessor un-

1 der generally accepted accounting principles.

2 “(5) ‘Nonbusiness income’ means all income other than business income.

3 “(6) ‘Public utility’ means any business entity whose principal business
4 is ownership and operation for public use of any plant, equipment, property,
5 franchise, or license for the transmission of communications, transportation
6 of goods or persons, or the production, storage, transmission, sale, delivery,
7 or furnishing of electricity, water, steam, oil, oil products or gas.

8 “(7) ‘Sales’ means all gross receipts of the taxpayer not allocated under
9 ORS 314.615 to 314.645.

10 “(8) ‘State’ means any state of the United States, the District of Columbia,
11 the Commonwealth of Puerto Rico, any territory or possession of the United
12 States, and any foreign country or political subdivision thereof.

13 **“SECTION 96a.** ORS 314.665 is amended to read:

14 “314.665. (1) As used in ORS 314.650, the sales factor is a fraction, the
15 numerator of which is the total sales of the taxpayer in this state during the
16 tax period, and the denominator of which is the total sales of the taxpayer
17 everywhere during the tax period.

18 “(2) Sales of tangible personal property are in this state if:

19 “(a) The property is delivered or shipped to a purchaser, other than the
20 United States Government, within this state regardless of the f.o.b. point or
21 other conditions of the sale; or

22 “(b) The property is shipped from an office, store, warehouse, factory, or
23 other place of storage in this state and the purchaser is the United States
24 Government or the taxpayer is not taxable in the state of the purchaser. For
25 purposes of this paragraph:

26 “(A) The sale of goods shipped from a public warehouse is not considered
27 to take place in this state if:

28 “(i) The taxpayer’s only activity in Oregon is the storage of the goods in
29 the public warehouse prior to shipment; or

30 “(ii) The taxpayer’s only activities in Oregon are the storage of the goods

1 in the public warehouse prior to shipment and the presence of employees
2 within this state solely for purposes of soliciting sales of the taxpayer's
3 products; and

4 “(B) ‘Taxpayer’ means a taxpayer as defined in section 7701 of the Inter-
5 nal Revenue Code, an affiliate of the person storing goods in a public ware-
6 house or a person that is related under section 267 of the Internal Revenue
7 Code to the person storing goods in a public warehouse.

8 “(3) Subsection (2)(b) of this section shall not apply to sales of tangible
9 personal property if:

10 “(a) The sales are included in the numerator of a formula used to appor-
11 tion business income to another state of the United States, a foreign country
12 or the District of Columbia; and

13 “(b) The other state, a foreign country or the District of Columbia has
14 imposed a tax on or measured by the apportioned business income.

15 “(4) Sales, other than sales of tangible personal property, are in this state
16 if (a) the income-producing activity is performed in this state; or (b) the
17 income-producing activity is performed both in and outside this state and a
18 greater proportion of the income-producing activity is performed in this state
19 than in any other state, based on costs of performance.

20 “(5) Where the sales apportionment factor is determined by administrative
21 rule pursuant to ORS 314.682[,] **or** 314.684[, 317.660] or other law, the De-
22 partment of Revenue shall adopt rules that are consistent with the determi-
23 nation of the sales factor under this section.

24 “(6) For purposes of this section, ‘sales’:

25 “(a) Excludes gross receipts arising from the sale, exchange, redemption
26 or holding of intangible assets, including but not limited to securities, unless
27 those receipts are derived from the taxpayer's primary business activity.

28 “(b) Includes net gain from the sale, exchange or redemption of intangible
29 assets not derived from the primary business activity of the taxpayer but
30 included in the taxpayer's business income.

1 “(c) Excludes gross receipts arising from an incidental or occasional sale
2 of a fixed asset or assets used in the regular course of the taxpayer’s trade
3 or business if a substantial amount of the gross receipts of the taxpayer arise
4 from an incidental or occasional sale or sales of fixed assets used in the
5 regular course of the taxpayer’s trade or business. Insubstantial amounts of
6 gross receipts arising from incidental or occasional transactions or activities
7 may be excluded from the sales factor unless the exclusion would materially
8 affect the amount of income apportioned to this state.

9 “(7) The department may determine that a warehouse that meets the de-
10 finition of ‘public warehouse’ under this section may not be treated as a
11 public warehouse if the warehouse is being used primarily for tax avoidance
12 purposes or if transactions related to the use of the warehouse are primarily
13 for tax avoidance purposes.

14 “(8) As used in this section, ‘public warehouse’:

15 “(a) Means a warehouse owned or operated by a person that does not own
16 the goods stored in the warehouse; and

17 “(b) Does not include a warehouse that is owned by a person that is re-
18 lated to the person that owns goods that are stored in the warehouse, as
19 determined under section 267 of the Internal Revenue Code, or an affiliate
20 of the person that owns goods that are stored in the warehouse.

21 **“SECTION 97.** ORS 314.734 is amended to read:

22 “314.734. (1) The shareholder’s pro rata share of the income of an S cor-
23 poration is subject to tax under ORS chapter 316. In determining the tax
24 imposed under ORS chapter 316 of a shareholder for the shareholder’s taxa-
25 ble year in which the taxable year of the S corporation ends (or for the final
26 taxable year of a shareholder who dies, or of a trust or estate that termi-
27 nates, before the end of the corporation’s taxable year), there shall be taken
28 into account the shareholder’s pro rata share of the corporation’s separately
29 stated items of income, loss or deduction and nonseparately computed income
30 or loss, as determined under or for purposes of section 1366 of the Internal

1 Revenue Code (including but not limited to section 1366(d) and (e) of the
2 Internal Revenue Code), with the modifications, additions and subtractions
3 provided under this chapter and ORS chapter 316.

4 “(2) Each item of shareholder income, gain, loss or deduction has the
5 same character for a shareholder under this chapter and ORS chapter 316
6 as it has for federal income tax purposes. If an item is not characterized for
7 federal income tax purposes, it has the same character for a shareholder as
8 if realized directly from the source from which realized by the S corporation
9 or incurred in the same manner as incurred by the S corporation.

10 “(3) In any case where it is necessary to determine the gross income of
11 a shareholder for purposes of ORS chapter 316, such gross income shall in-
12 clude the shareholder’s pro rata share of the gross income of the S corpo-
13 ration.

14 “[4] *If any tax is imposed under ORS 314.740 for any taxable year on an*
15 *S corporation, for purposes of subsection (1) of this section, the amount of each*
16 *recognized built-in gain for such taxable year shall be reduced by its propor-*
17 *tionate share of such tax.]*

18 “[5] *If any tax is imposed under ORS 314.742 on an S corporation, for*
19 *purposes of subsection (1) of this section, each item of passive investment in-*
20 *come shall be reduced by an amount which bears the same ratio to the amount*
21 *of such tax as the amount of such item bears to the total passive investment*
22 *income for the taxable year.]*

23 **“SECTION 98.** ORS 723.586 is amended to read:

24 “723.586. A credit union may enter into cooperative marketing arrange-
25 ments to facilitate its members’ voluntary purchases of such goods and ser-
26 vices as are in the interest of improving economic and social conditions of
27 the members. Said investment shall not exceed one percent of the credit
28 union’s assets. *[Notwithstanding any other provision of law, the taxable in-*
29 *come from such activities which are conducted by the credit union shall be*
30 *subject to tax pursuant to ORS 317.920.]*

1 **“SECTION 99. ORS 314.605 to 314.675 do not apply to the tax imposed**
2 **under sections 4 to 26 of this 2017 Act.**

3 **“SECTION 99a. The Legislative Assembly finds and declares that:**

4 **“(1) A fundamental purpose of chapter 1, Oregon Laws 2012 (special**
5 **session), which governs qualifying investment contracts, was to pro-**
6 **vide certainty for businesses in order to encourage them to make in-**
7 **vestments that would promote and stimulate economic development**
8 **within this state.**

9 **“(2) Those businesses that entered into a qualifying investment**
10 **contract with the State of Oregon on or after December 14, 2012, and**
11 **before March 15, 2013, have exceeded the level of investment and job**
12 **creation required under their contracts by completing capital projects**
13 **costing more than \$150 million and by employing in excess of 500 more**
14 **full-time equivalent employees in Oregon than when the qualifying**
15 **investment commenced.**

16 **“(3) The enactment of chapter 1, Oregon Laws 2012 (special session)**
17 **governing qualifying investment contracts was premised upon contin-**
18 **uation of Oregon’s system of corporate net income taxation and ac-**
19 **companying minimum tax as in effect in 2012. In light of the**
20 **substantial changes adopted by sections 4 to 26 of this 2017 Act and the**
21 **accompanying amendments to statutes, the Governor should be au-**
22 **thorized to amend an existing qualifying investment contract to con-**
23 **tinue to provide certainty to a party to the contract, including by**
24 **preserving the rate of the commercial activity tax at the rate initially**
25 **imposed by law and by otherwise limiting the amount of the party’s**
26 **tax liability to the amount that would have been computed for any tax**
27 **period under section 4 to 26 of this 2017 Act as enacted and absent any**
28 **future amendments.**

29 **“SECTION 99b. ORS 314.671 is amended to read:**

30 **“314.671. (1) The Governor, in consultation with the Director of the**

1 Oregon Business Development Department and the Director of the Depart-
2 ment of Revenue, may enter into, on behalf of the State of Oregon, a quali-
3 fying investment contract with any taxpayer according to the provisions of
4 ORS 314.668 to 314.673.

5 “(2) Any contract executed pursuant to subsection (1) of this section on
6 or after December 14, 2012, and before March 15, 2013, that meets the re-
7 quirements of a qualifying investment contract is ratified by ORS 314.668 to
8 314.673.

9 “(3) A taxpayer may not satisfy the requirement that a qualifying invest-
10 ment result in an increase in the number of employees of the taxpayer by
11 gain of another entity’s existing Oregon employees through a merger or ac-
12 quisition of any portion of that entity.

13 “(4) A qualifying investment contract executed under ORS 314.668 to
14 314.673 may not be less than five years’ duration and may not exceed 30
15 years’ duration.

16 “(5)(a) The obligations of the State of Oregon under a qualifying invest-
17 ment contract:

18 “[a)] (A) Include the promise of this state that, if the taxpayer com-
19 mences a qualifying investment, the taxpayer’s Oregon business income tax
20 liability may not exceed the amount the taxpayer would pay or owe under
21 the single sales factor method for each tax year that ends during the term
22 of the qualifying investment contract; and

23 “[b)] (B) May not be abridged, impaired, limited or modified by any
24 subsequent law.

25 “(b) Notwithstanding paragraph (a) of this subsection:

26 “(A) For any tax period after the effective date of this 2017 Act and
27 for which a taxpayer that is a party to a qualifying investment con-
28 tract makes a timely request pursuant to subparagraph (B) of this
29 paragraph, the aggregate liability for commercial activity tax and all
30 taxes imposed upon or measured by gross receipts or gross or net in-

1 **come of the taxpayer may not, for any such tax period for which the**
2 **contract is effective, exceed by more than 10 percent the amount of**
3 **commercial activity tax that would have been computed for the tax**
4 **period pursuant to the requirements of sections 4 to 26 of this 2017 Act**
5 **as enacted and absent any future amendments.**

6 **“(B) If timely requested by a taxpayer that is a party to a qualifying**
7 **investment contract, the Governor, in consultation with the Director**
8 **of the Oregon Business Development Department and the Director of**
9 **the Department of Revenue, shall, on behalf of the State of Oregon,**
10 **negotiate in good faith to modify the contract to conform with this**
11 **section. If within 90 days after the taxpayer’s request the parties have**
12 **not executed a modification applicable to a tax period, the Department**
13 **of Revenue may not assess a deficiency against the taxpayer for the**
14 **tax period to the extent the deficiency is attributable to tax in excess**
15 **of 110 percent of the amount of commercial activity tax that would**
16 **have been computed for the tax period pursuant to the requirements**
17 **of sections 4 to 26 of this 2107 Act as enacted and absent any future**
18 **amendments. A taxpayer’s request must be made in writing and de-**
19 **livered to the Office of the Governor and is timely if made within one**
20 **year after the effective date of a change in applicable law.**

21 **“(6) For any tax year prior to a period to which the commercial**
22 **activity tax applies, if a taxpayer that has executed a qualifying investment**
23 **contract files a report or return with the Department of Revenue for a tax**
24 **year ending during the term of the qualifying investment contract and re-**
25 **porting personal income taxes or corporate excise or income taxes imposed**
26 **under ORS chapter 316, 317 or 318, that are determined in whole or part by**
27 **apportioning business income using the single sales factor method, the de-**
28 **partment may not assess a deficiency against the taxpayer that is attribut-**
29 **able to the use of a different method of apportionment.**

30 **“(7) An action for a breach of a qualifying investment contract may be**

1 brought against the State of Oregon.

2 “(8) The sole and exclusive remedies for the State of Oregon in an action
3 for breach of a qualifying investment contract brought by the state shall be:

4 “(a) A judgment rescinding the qualifying investment contract; and

5 “(b) A judgment awarding an amount equal to the difference, if any, be-
6 tween:

7 “(A) **For any tax year prior to a period to which the commercial
8 activity tax applies:**

9 “(i) The amount of taxes due from the taxpayer under the single sales
10 factor method from the date of breach through termination of the qualifying
11 investment contract; and

12 “[B] (ii) The amount of taxes due from the taxpayer during the same
13 period using the method of apportioning business income:

14 “[i] (I) Under the tax laws that would have applied to the taxpayer but
15 for the qualifying investment contract; or

16 “[ii] (II) Identified in the judgment as fairly representing the extent of
17 the taxpayer’s business activity in this state.

18 “(B) **For any tax period beginning after the effective date of this
19 2107 Act:**

20 “(i) **110 percent of the amount of taxes due from the taxpayer under
21 the commercial activity tax that would have been computed for the
22 tax period pursuant to the requirements of sections 4 to 26 of this 2017
23 Act as enacted and absent any future amendments, calculated from
24 the date of breach through termination of the qualifying investment
25 contract; and**

26 “(ii) **The amount of commercial activity tax and all taxes imposed
27 upon or measured by gross receipts or gross or net income due from
28 the taxpayer during the same period using the method of determining
29 tax liability:**

30 “(I) **Under the tax laws that would have applied to the taxpayer but**

1 for the qualifying investment contract; or

2 “(II) Identified in the judgment as fairly representing the extent of
3 the taxpayer’s commercial activity in this state.

4 **“SECTION 100.** ORS 314.265, 314.505, 314.515, 314.525, 314.680, 314.688,
5 314.690, 314.723, 314.725, 314.740, 314.742, 314.750, 314.752, 316.279, 316.749,
6 317.005, 317.010, 317.013, 317.018, 317.019, 317.025, 317.030, 317.035, 317.038,
7 317.063, 317.067, 317.070, 317.080, 317.090, 317.122, 317.129, 317.151, 317.259,
8 317.267, 317.273, 317.283, 317.286, 317.301, 317.303, 317.304, 317.307, 317.309,
9 317.310, 317.311, 317.312, 317.314, 317.319, 317.322, 317.327, 317.329, 317.344,
10 317.349, 317.351, 317.356, 317.362, 317.374, 317.379, 317.388, 317.394, 317.398,
11 317.401, 317.476, 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635,
12 317.650, 317.655, 317.660, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715,
13 317.716, 317.717, 317.720, 317.725, 317.850, 317.853, 317.920, 317.950, 317.991,
14 318.010, 318.020, 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and
15 318.130 are repealed.

16 **“SECTION 101.** (1) Except as provided in subsection (2) of this sec-
17 tion, sections 4 to 26 of this 2017 Act, the amendments to statutes by
18 sections 29 to 98 and 99b of this 2017 Act and the repeal of statutes by
19 section 100 of this 2017 Act apply:

20 “(a) For purposes of sections 4 to 26 of this 2017 Act, to calendar
21 years and calendar quarters beginning on or after January 1, 2019; and

22 “(b) For purposes of ORS chapters 314, 315, 316, 317 and 318, to tax
23 years beginning on or after January 1, 2019.

24 “(2) The amendments to section 15 of this 2017 Act by section 16 of
25 this 2017 Act apply to tax years beginning on or after January 1, 2020.

26 “(3) The amendments to statutes by sections 29 to 98 and 99b of this
27 2017 Act and the repeal of statutes by section 100 of this 2017 Act may
28 not be construed to limit the authority of the Department of Revenue
29 to administer and enforce the taxes imposed under ORS chapters 317
30 and 318, as applicable to tax years beginning before January 1, 2019.

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3 **“REPORTS**

4 **“SECTION 102. Not later than February 28, 2018, the Department**
5 **of Revenue shall prepare the following reports and submit the reports**
6 **to a committee of Legislative Assembly related to revenue, in the**
7 **manner required under ORS 192.245:**

8 **“(1) After consultation with the Department of Consumer and**
9 **Business Services and with members of the insurance industry, the**
10 **Department of Revenue shall report on appropriate methods for de-**
11 **termining taxable gross receipts of insurers and appropriate sourcing**
12 **methods applicable to insurers under sections 4 to 26 of this 2017 Act.**

13 **“(2) After consultation with financial institutions, the Department**
14 **of Revenue shall report on appropriate methods for determining taxa-**
15 **ble gross receipts of financial institutions and appropriate sourcing**
16 **methods applicable to financial institutions under sections 4 to 26 of**
17 **this 2017 Act.**

18 **“PARTS NOT SEVERABLE**

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20 **“SECTION 103. It is the intent of the Legislative Assembly that**
21 **each part of this 2017 Act be considered as essentially and inseparably**
22 **connected with and dependent upon every other part. The Legislative**
23 **Assembly does not intend that any part of this 2017 Act be the law if**
24 **any other part does not become law.**

25
26 **“CAPTIONS**

27
28 **“SECTION 104. The unit and section captions used in this 2017 Act**
29 **are provided only for the convenience of the reader and do not become**
30 **part of the statutory law of this state or express any legislative intent**

1 in the enactment of this 2017 Act.

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“EFFECTIVE DATE

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5 **“SECTION 105. This 2017 Act takes effect on the 91st day after the**
6 **date on which the 2017 regular session of the Seventy-ninth Legislative**
7 **Assembly adjourns sine die.”.**

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