

Requested by HOUSE COMMITTEE ON REVENUE

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2274**

1 On page 1 of the printed bill, delete lines 6 through 28 and delete pages  
2 2 through 12 and insert:

3 **“SECTION 1.** ORS 314.610 is amended to read:

4 “314.610. As used in ORS 314.605 to 314.675, unless the context otherwise  
5 requires:

6 “(1) ‘Business income’ means income arising from transactions and activ-  
7 ity in the regular course of the taxpayer’s trade or business and includes  
8 income from tangible and intangible property if the acquisition, the man-  
9 agement, use or rental, and the disposition of the property constitute integral  
10 parts of the taxpayer’s regular trade or business operations.

11 “(2) ‘Commercial domicile’ means the principal place from which the trade  
12 or business of the taxpayer is directed or managed.

13 “(3) ‘Compensation’ means wages, salaries, commissions and any other  
14 form of remuneration paid to employees for personal services.

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

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

20 “(b) A savings and loan holding company under the National Housing  
21 Act, 12 U.S.C. 1701 et seq., as amended.

1 “(c) A national bank organized and existing as a national bank associ-  
2 ation under the National Bank Act, 12 U.S.C. 21 et seq., as amended.

3 “(d) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

4 “(e) A bank or thrift institution incorporated or organized under the laws  
5 of any state.

6 “(f) An entity organized under the provisions of 12 U.S.C. 611 to 631, as  
7 amended.

8 “(g) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101,  
9 as amended.

10 “(h) A state credit union with loan assets that exceed \$50,000,000 as of the  
11 first day of the taxable year of the state credit union.

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

14 “(j) A corporation, more than 50 percent of the voting stock of which is  
15 owned, directly or indirectly, by a person, corporation or other business en-  
16 tity described in paragraphs (a) to (i) of this subsection, provided that the  
17 corporation is not an insurer taxable under ORS 317.655.

18 “(k) An entity that is not otherwise described in this subsection, that is  
19 not an insurer taxable under ORS 317.655 and that derives more than 50  
20 percent of its gross income from activities that a person, corporation or en-  
21 tity described in paragraph (c), (d), (e), (f), (g), (h), (i) or (L) of this sub-  
22 section is authorized to conduct, not taking into account any income derived  
23 from nonrecurring extraordinary sources.

24 “(L) A person that derives at least 50 percent of the person’s annual av-  
25 erage gross income, for financial accounting purposes for the current tax  
26 year and the two preceding tax years, from finance leases, excluding any  
27 gross income from incidental or occasional transactions. For purposes of this  
28 paragraph, ‘finance lease’ means:

29 “(A) A lease transaction that is the functional equivalent of an extension  
30 of credit and that transfers substantially all of the benefits and risks of the

1 ownership of the leased property;

2 “(B) A direct financing lease or a leverage lease that meets the criteria  
3 of Financial Accounting Standards Board Statement No. 13; or

4 “(C) Any other lease that is accounted for as a financing by a lessor un-  
5 der generally accepted accounting principles.

6 “(5) ‘Nonbusiness income’ means all income other than business income.

7 “(6) ‘Public utility’ means any business entity whose principal business  
8 is ownership and operation for public use of any plant, equipment, property,  
9 franchise, or license for the transmission of communications, transportation  
10 of goods or persons, or the production, storage, transmission, sale, delivery,  
11 or furnishing of electricity, water, steam, oil, oil products or gas.

12 “(7) [‘Sales’] **‘Receipts’** means all gross receipts of the taxpayer **that are**  
13 **not allocated under ORS 314.615 to 314.645 and that are received from**  
14 **transactions and activity occurring in the regular course of the**  
15 **taxpayer’s trade or business, except receipts from hedging transactions**  
16 **and from the maturity, redemption, sale, exchange, loan or other dis-**  
17 **position of cash or securities.**

18 “(8) ‘State’ means any state of the United States, the District of Columbia,  
19 the Commonwealth of Puerto Rico, any territory or possession of the United  
20 States, and any foreign country or political subdivision thereof.

21 **“SECTION 2.** ORS 314.665 is amended to read:

22 “314.665. (1) As used in ORS 314.650, the [*sales*] **receipts** factor is a frac-  
23 tion, the numerator of which is the total [*sales*] **receipts** of the taxpayer in  
24 this state during the tax period, and the denominator of which is the total  
25 [*sales*] **receipts** of the taxpayer everywhere during the tax period.

26 “(2) **Receipts from** sales of tangible personal property are in this state  
27 if:

28 “(a) The property is delivered or shipped to a purchaser, other than the  
29 United States Government, within this state regardless of the f.o.b. point or  
30 other conditions of the sale; or

1       “(b) The property is shipped from an office, store, warehouse, factory, or  
2 other place of storage in this state and the purchaser is the United States  
3 Government or the taxpayer is not taxable in the state of the purchaser. For  
4 purposes of this paragraph:

5       “(A) The sale of goods shipped from a public warehouse is not considered  
6 to take place in this state if:

7       “(i) The taxpayer’s only activity in Oregon is the storage of the goods in  
8 the public warehouse prior to shipment; or

9       “(ii) The taxpayer’s only activities in Oregon are the storage of the goods  
10 in the public warehouse prior to shipment and the presence of employees  
11 within this state solely for purposes of soliciting sales of the taxpayer’s  
12 products; and

13       “(B) ‘Taxpayer’ means a taxpayer as defined in section 7701 of the Inter-  
14 nal Revenue Code, an affiliate of the person storing goods in a public ware-  
15 house or a person that is related under section 267 of the Internal Revenue  
16 Code to the person storing goods in a public warehouse.

17       “(3) Subsection (2)(b) of this section [*shall*] **does** not apply to sales of  
18 tangible personal property if:

19       “(a) The sales are included in the numerator of a formula used to appor-  
20 tion business income to another state of the United States, a foreign country  
21 or the District of Columbia; and

22       “(b) The other state, a foreign country or the District of Columbia has  
23 imposed a tax on or measured by the apportioned business income.

24       “(4) [*Sales*] **Receipts**, other than **receipts from** sales of tangible personal  
25 property, are in this state if:

26       “(a) The income-producing activity is performed in this state; or

27       “(b) The income-producing activity is performed both in and outside this  
28 state and a greater proportion of the income-producing activity is performed  
29 in this state than in any other state, based on costs of performance.

30       “(5) Where the [*sales*] **receipts** apportionment factor is determined by

1 administrative rule pursuant to ORS 314.682, 314.684, 317.660 or other law,  
2 the Department of Revenue shall adopt rules that are consistent with the  
3 determination of the [*sales*] **receipts** factor under this section.

4 “[*(6) For purposes of this section, ‘sales’:*]

5 “[*(a) Excludes gross receipts arising from the sale, exchange, redemption*  
6 *or holding of intangible assets, including but not limited to securities, unless*  
7 *those receipts are derived from the taxpayer’s primary business activity.*]

8 “[*(b) Includes net gain from the sale, exchange or redemption of intangible*  
9 *assets not derived from the primary business activity of the taxpayer but in-*  
10 *cluded in the taxpayer’s business income.*]

11 “[*(c) Excludes gross receipts arising from an incidental or occasional sale*  
12 *of a fixed asset or assets used in the regular course of the taxpayer’s trade or*  
13 *business if a substantial amount of the gross receipts of the taxpayer arise from*  
14 *an incidental or occasional sale or sales of fixed assets used in the regular*  
15 *course of the taxpayer’s trade or business. Insubstantial amounts of gross re-*  
16 *ceipts arising from incidental or occasional transactions or activities may be*  
17 *excluded from the sales factor unless the exclusion would materially affect the*  
18 *amount of income apportioned to this state.*]

19 “[*(7)*] **(6)** The department may determine that a warehouse that meets the  
20 definition of ‘public warehouse’ under this section may not be treated as a  
21 public warehouse if the warehouse is being used primarily for tax avoidance  
22 purposes or if transactions related to the use of the warehouse are primarily  
23 for tax avoidance purposes.

24 “[*(8)*] **(7)** As used in this section, ‘public warehouse’:

25 “(a) Means a warehouse owned or operated by a person that does not own  
26 the goods stored in the warehouse; and

27 “(b) Does not include a warehouse that is owned by a person that is re-  
28 lated to the person that owns goods that are stored in the warehouse, as  
29 determined under section 267 of the Internal Revenue Code, or an affiliate  
30 of the person that owns goods that are stored in the warehouse.

1        **SECTION 3.** ORS 314.635 is amended to read:

2        “314.635. (1) Capital gains and losses from sales of real property located  
3 in this state are allocable to this state.

4        “(2) Capital gains and losses from sales of tangible personal property are  
5 allocable to this state if (a) the property had a situs in this state at the time  
6 of the sale, or (b) the taxpayer’s commercial domicile is in this state and the  
7 taxpayer is not taxable in the state in which the property had a situs.

8        “(3) Except in the case of the sale of a partnership interest, capital gains  
9 and losses from sales of intangible personal property are allocable to this  
10 state if the taxpayer’s commercial domicile is in this state.

11       “(4) Gain or loss from the sale of a partnership interest is allocable to  
12 this state in the ratio of the original cost of partnership tangible property  
13 in the state to the original cost of partnership tangible property everywhere,  
14 determined at the time of the sale. In the event that more than 50 percent  
15 of the value of a partnership’s assets consists of intangibles, gain or loss  
16 from the sale of the partnership interest shall be allocated to this state in  
17 accordance with the [*sales*] **receipts** factor of the partnership for its first full  
18 tax year immediately preceding its tax year during which the partnership  
19 interest was sold.

20        **SECTION 4.** ORS 314.650 is amended to read:

21        “314.650. All business income shall be apportioned to this state by multi-  
22 plying the income by the [*sales*] **receipts** factor.

23        **SECTION 5.** ORS 314.668 is amended to read:

24        “314.668. As used in ORS 314.668 to 314.673:

25        “(1) ‘Actual cost’ means the costs of labor, materials, supplies, equipment  
26 rental, real or personal property acquisition, permits, engineering, financing,  
27 required fees, insurance, administration, accounting, maintenance, repair or  
28 replacement and debt service, and all other direct or indirect costs incurred  
29 by a person in order to undertake a capital project, or of more than one  
30 capital project undertaken by the same taxpayer as part of the same quali-

1 fying investment.

2 “(2) ‘Capital project’ means a project within this state for the con-  
3 struction, modification, replacement, repair, remodeling or renovation of a  
4 structure or structures, addition to a structure or structures, or other capital  
5 improvement, that qualifies as a qualifying investment, including but not  
6 limited to:

7 “(a) Acquisition of a legal interest or right in land or property in con-  
8 junction with the capital improvement, including but not limited to the  
9 purchase, lease or occupancy of real property, including the buildings,  
10 structures, infrastructure and leasehold improvements on the land or prop-  
11 erty;

12 “(b) Acquisition of existing structures, or legal interests or rights in  
13 structures, in conjunction with the capital improvement;

14 “(c) Acquisition and installation of machinery or equipment, furnishings,  
15 fixtures or other personal property or materials, in conjunction with the  
16 capital improvement; or

17 “(d) Services and activities performed in relation to the capital improve-  
18 ment, including planning, design, authorizing, issuing, carrying or repaying  
19 interim or permanent financing, research, study of land use and environ-  
20 mental impacts, acquiring permits or licenses, or other services connected  
21 with the capital improvement, and costs associated with the performance of  
22 these services and activities.

23 “(3) ‘Debt service’ includes debt service payments or payments into re-  
24 serve accounts for debt service and payment of amounts necessary to meet  
25 debt service coverage requirements.

26 “(4) ‘Qualifying investment’ means expenditures made by the taxpayer  
27 relating to a capital project:

28 “(a) The actual cost of which exceeds \$150 million within a five-year pe-  
29 riod measured from the commencement of the term of the qualifying invest-  
30 ment contract; and

1 “(b) That result in the taxpayer employing at least 500 more full-time  
2 equivalent employees in this state than the taxpayer employed in this state  
3 when the qualifying investment was commenced.

4 “(5) ‘Qualifying investment contract’ means a contract between the State  
5 of Oregon and a taxpayer that meets the requirements of ORS 314.671.

6 “(6) ‘[*Single sales*] **Receipts** factor method’ means the method of business  
7 income apportionment required under ORS 314.650 and 314.665 and the rules  
8 adopted thereunder, as in effect on the date a qualifying investment contract  
9 is executed.

10 “(7) ‘Term of the qualifying investment contract’ means the duration of  
11 the parties’ obligations under a qualifying investment contract.

12 “**SECTION 6.** ORS 314.669 is amended to read:

13 “314.669. (1) The Legislative Assembly finds that:

14 “(a) The State of Oregon has a compelling interest in promoting and  
15 stimulating economic development within this state to better provide for the  
16 welfare of its residents, in encouraging businesses to make significant capital  
17 investments within this state and in creating certainty in the apportionment  
18 of business income for purposes of income and corporate excise taxation that  
19 achieves these ends;

20 “(b) Use of the [*single sales*] **receipts** factor method to apportion business  
21 income promotes an economic development climate that encourages busi-  
22 nesses to locate and remain within this state, encourages existing Oregon  
23 businesses to expand their operations in Oregon and creates incentives for  
24 businesses to make significant capital investments within this state;

25 “(c) Qualifying investments will create significant, long-term economic  
26 benefits and serve as the catalyst for additional economic expansion within  
27 the State of Oregon;

28 “(d) It is in the interest of the State of Oregon to authorize the Governor,  
29 in consultation with the Director of the Oregon Business Development De-  
30 partment and the Director of the Department of Revenue, to enter into



1 qualifying investment contracts for purposes of stimulating economic devel-  
2 opment through qualifying investments;

3 “(e) In consideration for making qualifying investments, taxpayers should  
4 be entitled to rely on the continued application of the [*single sales*] **receipts**  
5 factor method to apportion their business income for tax purposes;

6 “(f) Factors to be considered in determining the duration of the term of  
7 a qualifying investment contract should include, without limitation, the  
8 number of new employees to be added to the Oregon workforce of the tax-  
9 payer when the qualifying investment is complete, the duration and com-  
10 pensation of the new jobs created, other economic development incentives  
11 received by the company and the extent to which the qualifying investment  
12 will create employment opportunities in rural Oregon; and

13 “(g) The State of Oregon has a compelling interest in contractually  
14 guaranteeing to taxpayers making qualifying investments that such taxpay-  
15 ers may rely on the [*single sales*] **receipts** factor method as the applicable  
16 method to determine the portion of business income subject to income or  
17 corporate excise tax in the State of Oregon.

18 “(2) The purposes of ORS 314.668 to 314.673 are:

19 “(a) To promote and stimulate economic development by creating an in-  
20 centive for qualifying investments;

21 “(b) To authorize the Governor, in consultation with the Director of the  
22 Oregon Business Development Department and the Director of the Depart-  
23 ment of Revenue, to enter into qualifying investment contracts on behalf of  
24 this state; and

25 “(c) To ratify any qualifying investment contracts entered into on or after  
26 December 14, 2012.

27 “(3) The intent of the Legislative Assembly is for ORS 314.668 to 314.673  
28 to establish a contractually binding obligation under which taxpayers that  
29 execute qualifying investment contracts with the State of Oregon may rely  
30 on the [*single sales*] **receipts** factor method of apportionment to apportion

1 their business income for each tax year of the taxpayer that ends during the  
2 term of the qualifying investment contract.

3 **“SECTION 7.** ORS 314.671 is amended to read:

4 “314.671. (1) The Governor, in consultation with the Director of the  
5 Oregon Business Development Department and the Director of the Depart-  
6 ment of Revenue, may enter into, on behalf of the State of Oregon, a quali-  
7 fying investment contract with any taxpayer according to the provisions of  
8 ORS 314.668 to 314.673.

9 “(2) Any contract executed pursuant to subsection (1) of this section on  
10 or after December 14, 2012, and before March 15, 2013, that meets the re-  
11 quirements of a qualifying investment contract is ratified by ORS 314.668 to  
12 314.673.

13 “(3) A taxpayer may not satisfy the requirement that a qualifying invest-  
14 ment result in an increase in the number of employees of the taxpayer by  
15 gain of another entity’s existing Oregon employees through a merger or ac-  
16 quisition of any portion of that entity.

17 “(4) A qualifying investment contract executed under ORS 314.668 to  
18 314.673 may not be less than five years’ duration and may not exceed 30  
19 years’ duration.

20 “(5) The obligations of the State of Oregon under a qualifying investment  
21 contract:

22 “(a) Include the promise of this state that, if the taxpayer commences a  
23 qualifying investment, the taxpayer’s Oregon business income tax liability  
24 may not exceed the amount the taxpayer would pay or owe under the [*single*  
25 *sales*] **receipts** factor method for each tax year that ends during the term  
26 of the qualifying investment contract; and

27 “(b) May not be abridged, impaired, limited or modified by any subsequent  
28 law.

29 “(6) If a taxpayer that has executed a qualifying investment contract files  
30 a report or return with the Department of Revenue for a tax year ending

1 during the term of the qualifying investment contract and reporting personal  
2 income taxes or corporate excise or income taxes imposed under ORS chapter  
3 316, 317 or 318, that are determined in whole or part by apportioning busi-  
4 ness income using the [*single sales*] **receipts** factor method, the department  
5 may not assess a deficiency against the taxpayer that is attributable to the  
6 use of a different method of apportionment.

7 “(7) An action for a breach of a qualifying investment contract may be  
8 brought against the State of Oregon.

9 “(8) The sole and exclusive remedies for the State of Oregon in an action  
10 for breach of a qualifying investment contract brought by the state shall be:

11 “(a) A judgment rescinding the qualifying investment contract; and

12 “(b) A judgment awarding an amount equal to the difference, if any, be-  
13 tween:

14 “(A) The amount of taxes due from the taxpayer under the [*single sales*]  
15 **receipts** factor method from the date of breach through termination of the  
16 qualifying investment contract; and

17 “(B) The amount of taxes due from the taxpayer during the same period  
18 using the method of apportioning business income:

19 “(i) Under the tax laws that would have applied to the taxpayer but for  
20 the qualifying investment contract; or

21 “(ii) Identified in the judgment as fairly representing the extent of the  
22 taxpayer’s business activity in this state.

23 “**SECTION 8.** ORS 314.684, as amended by section 4, chapter 103, Oregon  
24 Laws 2014, is amended to read:

25 “314.684. (1) The [*sales*] **receipts** factor for an interstate broadcaster shall  
26 be determined as provided in this section.

27 “(2) The denominator of the [*sales*] **receipts** factor shall include the total  
28 gross receipts derived by the interstate broadcaster from transactions and  
29 activities in the regular course of its trade or business, except receipts ex-  
30 cluded under rules of the Department of Revenue.

1 “(3) The numerator of the [*sales*] **receipts** factor shall include all gross  
2 receipts attributable to this state, with gross receipts from broadcasting to  
3 be included as specified in subsection (4) of this section.

4 “(4) Gross receipts from broadcasting of an interstate broadcaster that  
5 engages in income-producing activity in this state shall be included in the  
6 numerator of the [*sales*] **receipts** factor in the ratio that the interstate  
7 broadcaster’s audience or subscribers located in this state bears to its total  
8 audience and subscribers located both within and without this state.

9 **“SECTION 9.** ORS 317.090 is amended to read:

10 “317.090. (1) As used in this section:

11 “(a) ‘Oregon [*sales*] **receipts**’ means:

12 “(A) If the corporation apportions business income under ORS 314.650 to  
13 314.665 for Oregon tax purposes, the total [*sales*] **receipts** of the taxpayer in  
14 this state during the tax year, as determined for purposes of ORS 314.665;

15 “(B) If the corporation does not apportion business income for Oregon tax  
16 purposes, the total [*sales*] **receipts** in this state that the taxpayer would have  
17 had, as determined for purposes of ORS 314.665, if the taxpayer were required  
18 to apportion business income for Oregon tax purposes; or

19 “(C) If the corporation apportions business income using a method dif-  
20 ferent from the method prescribed by ORS 314.650 to 314.665, Oregon [*sales*]  
21 **receipts** as defined by the Department of Revenue by rule.

22 “(b) If the corporation is an agricultural cooperative that is a cooperative  
23 organization described in section 1381 of the Internal Revenue Code, ‘Oregon  
24 [*sales*] **receipts**’ does not include [*sales*] **receipts** representing business done  
25 with or for members of the agricultural cooperative.

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

29 “(a) If Oregon [*sales*] **receipts** properly reported on a return are:

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

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

2 “(C) \$1 million or more, but less than \$2 million, the minimum tax is  
3 \$1,000.

4 “(D) \$2 million or more, but less than \$3 million, the minimum tax is  
5 \$1,500.

6 “(E) \$3 million or more, but less than \$5 million, the minimum tax is  
7 \$2,000.

8 “(F) \$5 million or more, but less than \$7 million, the minimum tax is  
9 \$4,000.

10 “(G) \$7 million or more, but less than \$10 million, the minimum tax is  
11 \$7,500.

12 “(H) \$10 million or more, but less than \$25 million, the minimum tax is  
13 \$15,000.

14 “(I) \$25 million or more, but less than \$50 million, the minimum tax is  
15 \$30,000.

16 “(J) \$50 million or more, but less than \$75 million, the minimum tax is  
17 \$50,000.

18 “(K) \$75 million or more, but less than \$100 million, the minimum tax is  
19 \$75,000.

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

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

22 “(3) The minimum tax is not apportionable (except in the case of a change  
23 of accounting periods), is payable in full for any part of the year during  
24 which a corporation is subject to tax, and may not be reduced, paid or oth-  
25 erwise satisfied through the use of any tax credit.

26 “**SECTION 10.** ORS 317.090, as amended by section 44, chapter 701,  
27 Oregon Laws 2015, is amended to read:

28 “317.090. (1) As used in this section:

29 “(a) ‘Oregon [*sales*] **receipts**’ means:

30 “(A) If the corporation apportions business income under ORS 314.650 to

1 314.665 for Oregon tax purposes, the total [*sales*] **receipts** of the taxpayer in  
2 this state during the tax year, as determined for purposes of ORS 314.665;

3 “(B) If the corporation does not apportion business income for Oregon tax  
4 purposes, the total [*sales*] **receipts** in this state that the taxpayer would have  
5 had, as determined for purposes of ORS 314.665, if the taxpayer were required  
6 to apportion business income for Oregon tax purposes; or

7 “(C) If the corporation apportions business income using a method dif-  
8 ferent from the method prescribed by ORS 314.650 to 314.665, Oregon [*sales*]  
9 **receipts** as defined by the Department of Revenue by rule.

10 “(b) If the corporation is an agricultural cooperative that is a cooperative  
11 organization described in section 1381 of the Internal Revenue Code, ‘Oregon  
12 [*sales*] **receipts**’ does not include [*sales*] **receipts** representing business done  
13 with or for members of the agricultural cooperative.

14 “(2) Each corporation or affiliated group of corporations filing a return  
15 under ORS 317.710 shall pay annually to the state, for the privilege of car-  
16 rying on or doing business by it within this state, a minimum tax as follows:

17 “(a) If Oregon [*sales*] **receipts** properly reported on a return are:

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

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

20 “(C) \$1 million or more, but less than \$2 million, the minimum tax is  
21 \$1,000.

22 “(D) \$2 million or more, but less than \$3 million, the minimum tax is  
23 \$1,500.

24 “(E) \$3 million or more, but less than \$5 million, the minimum tax is  
25 \$2,000.

26 “(F) \$5 million or more, but less than \$7 million, the minimum tax is  
27 \$4,000.

28 “(G) \$7 million or more, but less than \$10 million, the minimum tax is  
29 \$7,500.

30 “(H) \$10 million or more, but less than \$25 million, the minimum tax is

1 \$15,000.

2 “(I) \$25 million or more, but less than \$50 million, the minimum tax is  
3 \$30,000.

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

6 “(K) \$75 million or more, but less than \$100 million, the minimum tax is  
7 \$75,000.

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

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

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

13 **“SECTION 11.** ORS 317.122 is amended to read:

14 “317.122. (1) A credit against taxes imposed by this chapter shall be al-  
15 lowed insurers for the gross premium tax paid on fire insurance premiums  
16 in accordance with ORS 731.820.

17 “(2) A credit against the taxes otherwise due under this chapter shall be  
18 allowed to an insurer. The amount of the credit shall be the lesser of:

19 “(a) The amount of any assessments paid by the insurer during the tax  
20 year pursuant to ORS 656.612; or

21 “(b) The total profit attributable to the workers’ compensation line of  
22 business, net of reinsurance and including all investment gain attributable  
23 to the workers’ compensation line of business, determined in the manner  
24 prescribed under ORS 731.574 by the Director of the Department of Consumer  
25 and Business Services, with the modifications under ORS 317.655 attributable  
26 to the workers’ compensation line of business, and then apportioned in ac-  
27 cordance with ORS 317.660 and multiplied by the corporate tax rate set forth  
28 in ORS 317.061. In making the apportionment under ORS 317.660 for purposes  
29 of this paragraph, the insurance [*sales*] **receipts** factor shall be determined  
30 using only items attributable to the workers’ compensation line of business.

1       **“SECTION 12.** ORS 317.154 is amended to read:

2       “317.154. (1) A credit against taxes otherwise due under this chapter shall  
3 be allowed for qualified research expenses that exceed 10 percent of Oregon  
4 [*sales*] **receipts**.

5       “(2) For purposes of this section:

6       “(a) ‘Oregon [*sales*] **receipts**’ shall be computed using the laws and ad-  
7 ministrative rules for calculating the numerator of the Oregon [*sales*] **re-**  
8 **ceipts** factor under ORS 314.665.

9       “(b) ‘Qualified research’ has the meaning given the term under section  
10 41(d) of the Internal Revenue Code and shall consist only of research con-  
11 ducted in Oregon.

12       “(3) The credit under this section is equal to five percent of the amount  
13 by which the qualified research expenses exceed 10 percent of Oregon  
14 [*sales*] **receipts**.

15       “(4) The credit under this section shall not exceed \$10,000 times the  
16 number of percentage points by which the qualifying research expenses ex-  
17 ceed 10 percent of Oregon [*sales*] **receipts**.

18       “(5) The maximum credit under this section may not exceed \$1 million.

19       “(6) A deduction may not be taken for the portion of expenses or pay-  
20 ments, otherwise allowable as a deduction, that is equal to the amount of the  
21 credit claimed under this section.

22       “(7) Any tax credit that is otherwise allowable under this section and that  
23 is not used by the taxpayer in that year may be carried forward and offset  
24 against the taxpayer’s tax liability for the next succeeding tax year. Any  
25 credit remaining unused in such next succeeding tax year may be carried  
26 forward and used in the second succeeding tax year, and likewise any credit  
27 not used in that second succeeding tax year may be carried forward and used  
28 in the third succeeding tax year, and any credit not used in that third suc-  
29 ceeding tax year may be carried forward and used in the fourth succeeding  
30 tax year, and any credit not used in that fourth succeeding tax year may be



1 carried forward and used in the fifth succeeding tax year, but may not be  
2 carried forward for any tax year thereafter.

3 **“SECTION 13.** ORS 317.267 is amended to read:

4 “317.267. (1) To derive Oregon taxable income, there shall be added to  
5 federal taxable income amounts received as dividends from corporations de-  
6 ducted for federal purposes pursuant to section 243 or 245 of the Internal  
7 Revenue Code, except section 245(c) of the Internal Revenue Code, amounts  
8 paid as dividends by a public utility or telecommunications utility and de-  
9 ducted for federal purposes pursuant to section 247 of the Internal Revenue  
10 Code or dividends eliminated under Treasury Regulations adopted under  
11 section 1502 of the Internal Revenue Code that are paid by members of an  
12 affiliated group that are eliminated from a consolidated federal return pur-  
13 suant to ORS 317.715 (2).

14 “(2) To derive Oregon taxable income, after the modification prescribed  
15 under subsection (1) of this section, there shall be subtracted from federal  
16 taxable income an amount equal to 70 percent of dividends (determined  
17 without regard to section 78 of the Internal Revenue Code) received or  
18 deemed received from corporations if such dividends are included in federal  
19 taxable income. However:

20 “(a) In the case of any dividend on debt-financed portfolio stock as de-  
21 scribed in section 246A of the Internal Revenue Code, the subtraction al-  
22 lowed under this subsection shall be reduced under the same conditions and  
23 in same amount as the dividends received deduction otherwise allowable for  
24 federal income tax purposes is reduced under section 246A of the Internal  
25 Revenue Code.

26 “(b) In the case of any dividend received from a 20 percent owned corpo-  
27 ration, as defined in section 243(c) of the Internal Revenue Code, this sub-  
28 section shall be applied by substituting ‘80 percent’ for ‘70 percent.’

29 “(c) A dividend that is not treated as a dividend under section 243(d) or  
30 965(c)(3) of the Internal Revenue Code may not be treated as a dividend for

1 purposes of this subsection.

2 “(d) If a dividends received deduction is not allowed for federal tax pur-  
3 poses because of section 246(a) or (c) of the Internal Revenue Code, a sub-  
4 traction may not be made under this subsection for received dividends that  
5 are described in section 246(a) or (c) of the Internal Revenue Code.

6 “(3) There shall be excluded from the [*sales*] **receipts** factor of any ap-  
7 portionment formula employed to attribute income to this state any amount  
8 subtracted from federal taxable income under subsection (2) of this section.

9 **“SECTION 14.** ORS 317.660 is amended to read:

10 “317.660. (1)(a) If the income of an insurer is derived from business done  
11 both within and without this state, the determination of Oregon taxable in-  
12 come shall be arrived at by multiplying the insurer’s net income by the in-  
13 surance [*sales*] **receipts** factor.

14 “(b) The insurance [*sales*] **receipts** factor shall consist of a fraction, the  
15 numerator of which is the amount of direct premiums (excluding reinsurance  
16 accepted and without deduction of reinsurance ceded) received or earned by  
17 the insurer during the tax year on policies and contracts that are allocated  
18 to this state and to other jurisdictions in which the insurer is not authorized  
19 to do business, and the denominator of which is the total of such premiums  
20 received or earned by the insurer during the tax year on policies and con-  
21 tracts that had been sold within and without this state.

22 “(2) For purposes of this section:

23 “(a) ‘Net income’ means net income properly recorded in the statement  
24 of income reported in the annual statement filed by the insurer with the  
25 Director of the Department of Consumer and Business Services.

26 “(b) ‘Premiums’ means sums properly included in those schedules of the  
27 annual statement filed by the insurer with the Director of the Department  
28 of Consumer and Business Services that appropriately allocate premiums by  
29 jurisdiction. If the exclusion of reinsurance premiums results in an insurance  
30 [*sales*] **receipts** factor that does not fairly represent the extent of the

1 taxpayer's activity in this state, the taxpayer may petition for and the De-  
2 partment of Revenue may permit, or the Department of Revenue may require,  
3 the inclusion of reinsurance premiums in the insurance [sales] **receipts** fac-  
4 tor. If the annual statement of the insurer does not report received premiums  
5 then the insurance [sales] **receipts** factor shall be determined based on  
6 earned premiums.

7 “(3) If application of the apportionment formula described in subsection  
8 (1) of this section results in an apportionment that does not fairly and  
9 equitably represent the taxpayer's insurance business activity in this state,  
10 the taxpayer may petition the Department of Revenue for and the department  
11 may permit, or the department may require, to achieve an apportionment  
12 that fairly and equitably represents the taxpayer's insurance business activ-  
13 ity:

14 “(a)(A) The exclusion of the insurance [sales] **receipts** factor; and

15 “(B) The inclusion of one or more additional factors that will fairly and  
16 equitably represent the taxpayer's business activity in this state;

17 “(b) The inclusion of the insurance [sales] **receipts** factor and one or  
18 more additional factors that will fairly and equitably represent the  
19 taxpayer's business activity in this state; or

20 “(c) The employment of any other method to achieve a fair and equitable  
21 apportionment of the taxpayer's income.

22 “**SECTION 15.** ORS 317.715 is amended to read:

23 “317.715. (1) If a corporation required to make a return under this chapter  
24 is a member of an affiliated group of corporations making a consolidated  
25 federal return under sections 1501 to 1505 of the Internal Revenue Code, the  
26 corporation's Oregon taxable income shall be determined beginning with  
27 federal consolidated taxable income of the affiliated group as provided in this  
28 section.

29 “(2) If the affiliated group, of which the corporation subject to taxation  
30 under this chapter is a member, consists of more than one unitary group,

1 before the additions, subtractions, adjustments and modifications to federal  
2 taxable income provided for in this chapter are made, and before allocation  
3 and apportionment as provided in ORS 317.010 (10), if any, modified federal  
4 consolidated taxable income shall be computed. Modified federal consolidated  
5 taxable income shall be determined by eliminating from the federal consol-  
6 idated taxable income of the affiliated group the separate taxable income,  
7 as determined under Treasury Regulations adopted under section 1502 of the  
8 Internal Revenue Code, and any deductions or additions or items of income,  
9 expense, gain or loss for which consolidated treatment is prescribed under  
10 Treasury Regulations adopted under section 1502 of the Internal Revenue  
11 Code, attributable to the member or members of any unitary group of which  
12 the corporation is not a member.

13 “(3)(a) After modified federal consolidated taxable income is determined  
14 under subsection (2) of this section, the additions, subtractions, adjustments  
15 and modifications prescribed by this chapter shall be made to the modified  
16 federal consolidated taxable income of the remaining members of the affil-  
17 iated group, where applicable, as if all such members were subject to taxa-  
18 tion under this chapter. After those modifications are made, Oregon taxable  
19 income or loss shall be determined as provided in ORS 317.010 (10)(a) to (c),  
20 if necessary.

21 “(b) In the computation of the Oregon apportionment percentage for a  
22 corporation that is a member of an affiliated group filing a consolidated  
23 federal return, there shall be taken into consideration only the property,  
24 payroll, [*sales*] **receipts** or other factors of those members of the affiliated  
25 group whose items of income, expense, gain or loss remain in modified fed-  
26 eral consolidated taxable income after the eliminations required under sub-  
27 section (2) of this section. Those members of an affiliated group making a  
28 consolidated federal return or a consolidated state return may not be treated  
29 as one taxpayer for purposes of determining whether any member of the  
30 group is taxable in this state or any other state with respect to questions

1 of jurisdiction to tax or the composition of the apportionment factors used  
2 to attribute income to this state under ORS 314.280 or 314.605 to 314.675.

3 **“SECTION 16. Section 17 of this 2017 Act is added to and made a**  
4 **part of ORS 314.668 to 314.673.**

5 **“SECTION 17. (1) Notwithstanding the amendments to ORS 314.610,**  
6 **314.635, 314.650, 314.665, 314.668, 314.669, 314.671, 314.684, 317.090, 317.122,**  
7 **317.154, 317.267, 317.660 and 317.715 by sections 1 to 15 of this 2017 Act,**  
8 **a qualifying investment contract that is otherwise valid shall remain**  
9 **in force after the effective date of this 2017 Act.**

10 **“(2) Use of the term ‘single sales factor’ in a qualifying investment**  
11 **contract is equivalent to the use of the term ‘receipts factor’ in ORS**  
12 **314.605 to 314.675.**

13 **“SECTION 18. The amendments to ORS 314.610, 314.635, 314.650,**  
14 **314.665, 314.668, 314.669, 314.671, 314.684, 317.090, 317.122, 317.154, 317.267,**  
15 **317.660 and 317.715 by sections 1 to 15 of this 2017 Act apply to tax years**  
16 **beginning on or after January 1, 2018.**

17 **“SECTION 19. This 2017 Act takes effect on the 91st day after the**  
18 **date on which the 2017 regular session of the Seventy-ninth Legislative**  
19 **Assembly adjourns sine die.”.**

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