

Minority Report
B-Engrossed
Senate Bill 1529

Ordered by the House March 1
Including Senate Amendments dated February 9 and House Minority
Report Amendments dated March 1

Sponsored by nonconcurring members of the House Committee on Revenue: Representatives BUEHLER, SMITH G

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law.

Requires, for Oregon income tax purposes, addition to federal taxable income federal dividend received deduction for repatriated income, deemed or otherwise. Applies to tax years beginning on or after January 1, 2017.

Directs Department of Revenue to estimate amount of increased corporate tax revenue attributable to treatment of post-1986 deferred foreign income and [*transfer equal amount*] **distribute estimated amount to Department of Human Services for purpose of stabilizing child welfare division, with remainder if any to Oregon Department of Administrative Services to provide funding for CASA Volunteer Programs, and further balance, if any,** to Oregon Rainy Day Fund, on or before July 1, 2021.

Creates credit against corporate taxes in amount of lesser of Oregon tax attributable to treatment of post-1986 deferred foreign income or Oregon tax attributable to requirement, applicable to previous tax years, to add income of member of unitary group incorporated in off-shore jurisdiction. Applies to tax years beginning on or after January 1, 2017, and before January 1, 2018.

Repeals provisions requiring addition of income of member of unitary group incorporated in off-shore jurisdiction.

Directs Department of Revenue to report to committee of Legislative Assembly on relative efficacy of Oregon law requiring inclusion for corporate tax purposes income of corporation incorporated in off-shore jurisdictions, in comparison to federal law provision requiring shareholders of controlled foreign corporations to include global intangible low-taxed income in gross income.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to connection to federal tax law; creating new provisions; amending ORS 178.300, 238A.005,
3 238A.125, 238A.150, 238A.170, 238A.230, 238A.370, 238A.400, 238A.410, 238A.415, 238A.430,
4 238A.435, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157,
5 317.010, 317.097, 317.267, 458.670 and 657.010; repealing ORS 317.716 and 317.717; and prescribing
6 an effective date.

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

8 **SECTION 1.** ORS 178.300 is amended to read:

9 178.300. As used in ORS 178.300 to 178.355:

10 (1) "Account" means an individual account established in accordance with ORS 178.300 to
11 178.355.

12 (2) "Account owner" means the person who has the right to withdraw funds from the account.

13 The account owner may also be the designated beneficiary of the account.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) "Board" means the Oregon 529 Savings Board established under ORS 178.310.

2 (4) "Designated beneficiary" means, except as provided in ORS 178.350, the individual designated
3 at the time the account is opened as having the right to receive a qualified withdrawal for the
4 payment of qualified higher education expenses, or if the designated beneficiary is replaced in ac-
5 cordance with ORS 178.350, the replacement.

6 (5) "Financial institution" means a bank, a commercial bank, a national bank, a savings bank,
7 a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a
8 mutual fund, an investment firm or other similar entity authorized to do business in this state.

9 (6) "Higher education institution" means an eligible education institution as defined in section
10 529(e)(5) of the Internal Revenue Code.

11 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
12 on December 31, [2016] 2017.

13 (8) "Member of the family" shall have the same meaning as contained in section 529(e) of the
14 Internal Revenue Code.

15 (9) "Network" means the Oregon 529 Savings Network established under ORS 178.305.

16 (10) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified
17 withdrawal.

18 (11) "Qualified higher education expenses" means tuition and other permitted expenses as set
19 forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a designated
20 beneficiary at a higher education institution.

21 (12) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 178.355 and
22 made:

23 (a) From an account to pay the qualified higher education expenses of the designated benefi-
24 ciary;

25 (b) As the result of the death or disability of the designated beneficiary;

26 (c) As the result of a scholarship, allowance or payment described in section 135(d)(1)(A), (B)
27 or (C) of the Internal Revenue Code that is received by the designated beneficiary, but only to the
28 extent of the amount of the scholarship, allowance or payment; or

29 (d) As a rollover or change in the designated beneficiary described in ORS 178.350.

30 **SECTION 2.** ORS 238A.005 is amended to read:

31 238A.005. For the purposes of this chapter:

32 (1) "Active member" means a member of the pension program or the individual account program
33 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

34 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the
35 payment or series of payments replaced, computed on the basis of interest rate and mortality as-
36 sumptions adopted by the board.

37 (3) "Board" means the Public Employees Retirement Board.

38 (4) "Eligible employee" means a person who performs services for a participating public em-
39 ployer, including elected officials other than judges. "Eligible employee" does not include:

40 (a) Persons engaged as independent contractors;

41 (b) Aliens working under a training or educational visa;

42 (c) Persons provided sheltered employment or make-work by a public employer;

43 (d) Persons categorized by a participating public employer as student employees;

44 (e) Any person who is an inmate of a state institution;

45 (f) Employees of foreign trade offices of the Oregon Business Development Department who live

1 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

2 (g) An employee actively participating in an alternative retirement program established under
3 ORS 353.250 or an optional retirement plan established under ORS 341.551;

4 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an
5 optional retirement plan offered under ORS 243.800;

6 (i) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
7 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

8 (j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,
9 for membership in the system under the provisions of ORS chapter 238 or other law;

10 (k) Any person who belongs to a class of employees who are not eligible to become members
11 of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

12 (L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and who
13 continues to receive retirement benefits while employed; and

14 (m) Judges.

15 (5) "Firefighter" means:

16 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job
17 duties include the fighting of fires;

18 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;
19 and

20 (c) An employee of the State Forestry Department who is certified by the State Forester as a
21 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
22 fires as described in ORS 477.064.

23 (6) "Fund" means the Public Employees Retirement Fund.

24 (7)(a) "Hour of service" means:

25 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment
26 by a participating public employer for performance of duties in a qualifying position; and

27 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
28 during which an employee does not perform duties but for which the employee is directly or indi-
29 rectly paid or entitled to payment by a participating public employer for services in a qualifying
30 position, as long as the hour is within the number of hours regularly scheduled for the performance
31 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
32 thorized leave.

33 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
34 maintained solely for the purpose of complying with applicable unemployment compensation laws.

35 (8) "Inactive member" means a member of the pension program or the individual account pro-
36 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
37 is not a retired member and who is not employed in a qualifying position.

38 (9) "Individual account program" means the defined contribution individual account program of
39 the Oregon Public Service Retirement Plan established under ORS 238A.025.

40 (10) "Institution of higher education" means a public university listed in ORS 352.002, the
41 Oregon Health and Science University or a community college, as defined in ORS 341.005.

42 (11) "Member" means an eligible employee who has established membership in the pension pro-
43 gram or the individual account program of the Oregon Public Service Retirement Plan and whose
44 membership has not been terminated under ORS 238A.110 or 238A.310.

45 (12) "Participating public employer" means a public employer as defined in ORS 238.005 that

1 provides retirement benefits for employees of the public employer under the system.

2 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service
3 Retirement Plan established under ORS 238A.025.

4 (14) "Police officer" means a police officer as described in ORS 238.005.

5 (15) "Qualifying position" means one or more jobs with one or more participating public em-
6 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,
7 excluding any service in a job for which benefits are not provided under the Oregon Public Service
8 Retirement Plan pursuant to ORS 238A.070 (2).

9 (16) "Retired member" means a pension program member who is receiving a pension as provided
10 in ORS 238A.180 to 238A.195.

11 (17)(a) "Salary" means the remuneration paid to an active member in return for services to the
12 participating public employer, including remuneration in the form of living quarters, board or other
13 items of value, to the extent the remuneration is includable in the employee's taxable income under
14 Oregon law. "Salary" includes the additional amounts specified in paragraph (b) of this subsection,
15 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether
16 those amounts are includable in taxable income.

17 (b) "Salary" includes the following amounts:

18 (A) Payments of employee and employer money into a deferred compensation plan that are made
19 at the election of the employee.

20 (B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the
21 employee.

22 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
23 plan by the employer at the election of the employee and that is not includable in the taxable in-
24 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, [2016]
25 **2017**.

26 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
27 election of the employee and that is not included in the taxable income of the employee by reason
28 of 26 U.S.C. 402(e)(3), as in effect on December 31, [2016] **2017**.

29 (E) Retroactive payments described in ORS 238.008.

30 (F) The amount of an employee contribution to the individual account program that is paid by
31 the employer and deducted from the compensation of the employee, as provided under ORS 238A.335
32 (1) and (2)(a).

33 (G) The amount of an employee contribution to the individual account program that is not paid
34 by the employer under ORS 238A.335.

35 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
36 652.190.

37 (c) "Salary" does not include the following amounts:

38 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
39 employer.

40 (B) Payments made on account of an employee's death.

41 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid
42 leave.

43 (D) Any severance payment, accelerated payment of an employment contract for a future period
44 or advance against future wages.

45 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

1 (F) Payment for a leave of absence after the date the employer and employee have agreed that
2 no future services in a qualifying position will be performed.

3 (G) Payments for instructional services rendered to public universities listed in ORS 352.002 or
4 the Oregon Health and Science University when those services are in excess of full-time employment
5 subject to this chapter. A person employed under a contract for less than 12 months is subject to
6 this subparagraph only for the months covered by the contract.

7 (H) The amount of an employee contribution to the individual account program that is paid by
8 the employer and is not deducted from the compensation of the employee, as provided under ORS
9 238A.335 (1) and (2)(b).

10 (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is
11 determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a
12 fraction, the numerator of which is the number of months in the determination period and the de-
13 nominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate
14 cost-of-living adjustments authorized by the Internal Revenue Service.

15 (18) "System" means the Public Employees Retirement System.

16 (19) "Workers' compensation benefits" means:

17 (a) Payments made under ORS chapter 656; or

18 (b) Payments provided in lieu of workers' compensation benefits under ORS 656.027 (6).

19 **SECTION 3.** ORS 238A.125 is amended to read:

20 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
21 be paid an annual pension for the life of the member as follows:

22 (a) For service as a police officer or firefighter, 1.8 percent of final average salary multiplied
23 by the number of years of retirement credit attributable to service as a police officer or firefighter.

24 (b) For service as other than a police officer or firefighter, 1.5 percent of final average salary
25 multiplied by the number of years of retirement credit attributable to service as other than a police
26 officer or firefighter.

27 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to
28 a member under the pension program and under any other tax-qualified defined benefit plan main-
29 tained by the participating public employer may not exceed the applicable limitations set forth in
30 26 U.S.C. 415(b), as in effect on December 31, [2016] 2017. The Public Employees Retirement Board
31 shall adopt rules for the administration of this limitation, including adjustments in the annual dollar
32 limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

33 (3) The board shall make no actuarial adjustment in a member's pension calculated under this
34 section by reason of the member's retirement after normal retirement age.

35 **SECTION 4.** ORS 238A.150 is amended to read:

36 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an eligible em-
37 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-
38 vices, and who subsequently returns to employment with a participating public employer with
39 reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the
40 probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS
41 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)
42 of this section.

43 (2) The board shall adopt rules establishing benefits and service credit for any period of service
44 in the uniformed services by an employee described in subsection (1) of this section. For the purpose
45 of adopting rules under this subsection, the board shall consider and take into account all federal

1 law relating to benefits and service credit for any period of service in the uniformed services, in-
2 cluding 26 U.S.C. 414(u), as in effect on December 31, [2016] **2017**. Benefits and service credit under
3 rules adopted by the board pursuant to this subsection may not exceed benefits and service credit
4 required under federal law for periods of service in the uniformed services.

5 **SECTION 5.** ORS 238A.170 is amended to read:

6 238A.170. (1) An active member of the pension program who is 70-1/2 years of age or older must
7 retire not later than April 1 of the calendar year following the calendar year in which the member
8 terminates employment with all participating public employers. An inactive member of the pension
9 program must retire not later than April 1 of the calendar year following the calendar year in which
10 the member attains 70-1/2 years of age.

11 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the entire interest of a
12 member of the pension program must be distributed over a time period commencing no later than
13 the required beginning date set forth in subsection (1) of this section, and must be distributed in a
14 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-
15 lations implementing that section, as in effect on December 31, [2016] **2017**. The Public Employees
16 Retirement Board shall adopt rules implementing those minimum distribution requirements.

17 **SECTION 6.** ORS 238A.230 is amended to read:

18 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-
19 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided
20 for in this section to:

21 (a) The spouse of the member to the extent not provided to a former spouse in accordance with
22 a judgment or order under ORS 238.465;

23 (b) The former spouse of the member as provided in a judgment or order under ORS 238.465; or

24 (c) Any other person who is constitutionally required to be treated in the same manner as a
25 spouse for the purpose of retirement benefits.

26 (2)(a) The death benefit to be paid under this section shall be for the life of the spouse, former
27 spouse or other person who is constitutionally required to be treated in the same manner as a
28 spouse, and shall be the actuarial equivalent of 50 percent of the pension that would otherwise have
29 been paid to the deceased member.

30 (b) For the purpose of paragraph (a) of this subsection, the amount of the pension that would
31 otherwise have been paid to the deceased member shall be calculated:

32 (A) As of the date of death if the member dies after the earliest retirement date for the member
33 under ORS 238A.165; or

34 (B) As if the member became an inactive member on the date of death and thereafter retired
35 at the earliest retirement date if the member dies before the earliest retirement date for the member
36 under ORS 238A.165.

37 (3) The death benefit provided under this section is first effective on the first day of the month
38 following the date of death of the member. The surviving spouse, former spouse or other person
39 entitled to the death benefit may elect to delay payment of the death benefit, but payment must
40 commence no later than December 31 of the calendar year in which the member would have reached
41 70-1/2 years of age.

42 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death
43 benefits under the pension program must comply with the minimum distribution requirements of 26
44 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on December 31, [2016]
45 **2017**. The board shall adopt rules implementing those minimum distribution requirements.

1 **SECTION 7.** ORS 238A.370 is amended to read:

2 238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition
3 to the employee and employer accounts of a member of the individual account program for a cal-
4 endar year, together with the annual additions to the accounts of the member under any other de-
5 fined contribution plan maintained by the participating public employer for a calendar year, may
6 not exceed the lesser of \$40,000, or 100 percent of the member's compensation for that calendar year.
7 For purposes of this section, "annual addition" has the meaning given that term in 26 U.S.C.
8 415(c)(2), as in effect on December 31, [2016] **2017**, and "compensation" has the meaning given the
9 term "participant's compensation" in 26 U.S.C. 415(c)(3), as in effect on December 31, [2016] **2017**.
10 The Public Employees Retirement Board shall adopt rules for the administration of this limitation,
11 including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized
12 by the Internal Revenue Service.

13 **SECTION 8.** ORS 238A.400 is amended to read:

14 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
15 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
16 the member's employee account, rollover account and employer account to the extent the member
17 is vested in those accounts under ORS 238A.320.

18 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-
19 ual account program may elect to receive the amounts in the member's employee account and em-
20 ployer account, to the extent the member is vested in those accounts under ORS 238A.320, in
21 substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is
22 equal to the anticipated life span of the member as actuarially determined by the Public Employees
23 Retirement Board. Installments may be made on a monthly, quarterly or annual basis. In no event
24 may the period selected by the member exceed the time allowed by the minimum distribution re-
25 quirements described in subsection (5) of this section. The board shall by rule establish the manner
26 in which installments will be adjusted to reflect investment gains and losses on the unpaid balance
27 during the payout period elected by the member under this subsection. The board by rule may es-
28 tablish minimum monthly amounts payable under this subsection. The board may require that a
29 lump sum payment, or an installment schedule different than the schedules provided for in this
30 subsection, be used to pay the vested amounts in the member's accounts if those amounts are not
31 adequate to generate the minimum monthly amounts specified by the rule.

32 (3) A member of the individual account program electing to receive installments under sub-
33 section (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies
34 before all amounts in the employee and vested employer accounts are paid, all remaining installment
35 payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary
36 may elect to receive a lump sum distribution of the remaining amounts.

37 (4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive
38 vested amounts in the member's employee account, rollover account and employer account in the
39 manner provided by this section when the member retires for service under the provisions of ORS
40 chapter 238.

41 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
42 member of the individual account program must be distributed over a time period commencing no
43 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
44 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
45 plementing that section, as in effect on December 31, [2016] **2017**. The board shall adopt rules im-

1 plementing those minimum distribution requirements.

2 **SECTION 9.** ORS 238A.410 is amended to read:

3 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
4 in the member's employee account, rollover account and employer account, to the extent the member
5 is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or
6 beneficiaries designated by the member for the purposes of this section.

7 (2) If a member of the individual account program is married at the time of death, or there exists
8 at the time of death any other person who is constitutionally required to be treated in the same
9 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the
10 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
11 person consents to the designation of a different beneficiary or beneficiaries before the designation
12 has been made and the consent has not been revoked by the spouse or other person as of the time
13 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a
14 notary public, and submitted to the Public Employees Retirement Board in accordance with rules
15 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
16 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
17 predeceasing the member for purposes of this section, unless the member expressly designates the
18 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
19 quired to be designated as a beneficiary under the provisions of ORS 238.465.

20 (3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a benefi-
21 ciary, or if the person or persons designated do not survive the member, the death benefit provided
22 for in this section shall be paid to the following person or persons, in the following order of priority:

23 (a) The member's surviving spouse or other person who is constitutionally required to be treated
24 in the same manner as a spouse;

25 (b) The member's surviving children, in equal shares; or

26 (c) The member's estate.

27 (4) The entire amount of a deceased member's vested accounts must be distributed by December
28 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
29 provision of this chapter, distributions of death benefits under the individual account program must
30 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
31 plementing that section, as in effect on December 31, [2016] 2017. The Public Employees Retirement
32 Board shall adopt rules implementing those minimum distribution requirements.

33 **SECTION 10.** ORS 238A.415 is amended to read:

34 238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to 238A.415, an eligible em-
35 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-
36 vices, and who subsequently returns to employment with a participating public employer with
37 reemployment rights under federal law, is entitled to credit toward the probationary period required
38 by ORS 238A.300, credit toward the vesting requirements of ORS 238A.320 and contributions under
39 rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

40 (2) The board shall adopt rules establishing contributions and service credit for any period of
41 service in the uniformed services by an employee described in subsection (1) of this section. For the
42 purpose of adopting rules under this subsection, the board shall consider and take into account all
43 federal law relating to benefits and service credit for any period of service in the uniformed ser-
44 vices, including 26 U.S.C. 414(u), as in effect on December 31, [2016] 2017. Contributions and service
45 credit under rules adopted by the board pursuant to this subsection may not exceed contributions

1 and service credit required under federal law for periods of service in the uniformed services.

2 **SECTION 11.** ORS 238A.430 is amended to read:

3 238A.430. (1) To the extent required by law, and except as otherwise provided by rules adopted
4 by the Public Employees Retirement Board under subsection (4) of this section, any portion of a
5 distribution of benefits described in subsection (2) of this section shall, at the election of and in lieu
6 of distribution to the distributee, be paid directly to an eligible retirement plan specified by the
7 distributee.

8 (2) The provisions of subsection (1) of this section apply to a distribution of any benefit under
9 the pension program or the individual account program except:

10 (a) A distribution that is one of a series of substantially equal periodic payments made at least
11 annually for the life or life expectancy of the distributee, or for the joint lives or life expectancies
12 of the distributee and a designated beneficiary;

13 (b) A distribution that is one of a series of substantially equal periodic payments made at least
14 annually for a specified period of 10 years or more; and

15 (c) A distribution to the extent that the distribution is required under 26 U.S.C. 401(a)(9).

16 (3) The provisions of subsection (1) of this section apply to any portion of a distribution of
17 benefits under the pension program or the individual account program even though the portion
18 consists of after-tax employee contributions that are not includable in gross income. Any portion of
19 a distribution that consists of after-tax employee contributions that are not includable in gross in-
20 come may be transferred only to an individual retirement account or annuity described in 26 U.S.C.
21 408(a) or (b), or to a qualified defined contribution or defined benefit plan described in 26 U.S.C.
22 401(a) or 403(b) that agrees to account separately for amounts transferred, including accounting
23 separately for the portion of the distribution that is includable in gross income and the portion of
24 the distribution that is not includable in gross income. The amount transferred shall be treated as
25 consisting first of the portion of the distribution that is includable in gross income, determined
26 without regard to 26 U.S.C. 402(c)(1).

27 (4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C.
28 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions
29 to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-
30 lations implementing that section.

31 (5) All references in this section to federal laws and regulations are to the laws and regulations
32 in effect on December 31, [2016] **2017**.

33 (6) For purposes of this section:

34 (a) "Distributee" means a member, a member's surviving spouse or a member's alternate payee
35 under ORS 238.465.

36 (b) "Eligible retirement plan" means:

37 (A) An individual retirement account described in 26 U.S.C. 408(a);

38 (B) An individual retirement annuity described in 26 U.S.C. 408(b), other than an endowment
39 contract;

40 (C) A qualified trust under 26 U.S.C. 401(a), that is a defined contribution or defined benefit plan
41 and permits the acceptance of rollover contributions;

42 (D) An annuity plan described in 26 U.S.C. 403(a);

43 (E) An eligible deferred compensation plan described in 26 U.S.C. 457(b) that is maintained by
44 an eligible governmental employer described in 26 U.S.C. 457(e)(1)(A) and that agrees to account
45 separately for amounts transferred into such plan from the distributing plan; or

1 (F) An annuity contract described in 26 U.S.C. 403(b).

2 **SECTION 12.** ORS 238A.435 is amended to read:

3 238A.435. (1) If a benefit is payable under this chapter to a beneficiary by reason of the death
4 of a member of the system, the beneficiary may elect to have all or part of the distribution of the
5 death benefit paid in an eligible rollover distribution to an individual retirement plan described in
6 26 U.S.C. 408(a), or an individual retirement annuity, other than an endowment contract, described
7 in 26 U.S.C. 408(b), if the plan or annuity is established for the purpose of receiving the eligible
8 rollover distribution on behalf of the designated beneficiary.

9 (2) Subsection (1) of this section applies to an eligible rollover distribution of death benefits to
10 a beneficiary who is not treated as the spouse of the decedent for federal tax purposes and who is
11 the decedent's designated beneficiary for the purposes of the minimum required distribution re-
12 quirements of 26 U.S.C. 401(a)(9). To the extent provided by rules of the Public Employees Retire-
13 ment Board, a trust maintained for the benefit of one or more beneficiaries must be treated by the
14 board in the same manner as a trust that is designated as a beneficiary for the purposes of the
15 minimum required distribution requirements of 26 U.S.C. 401(a)(9).

16 (3) As used in this section, "eligible rollover distribution" has the meaning given that term in
17 26 U.S.C. 402(c)(4), as in effect on December 31, [2016] 2017.

18 **SECTION 13.** ORS 305.230 is amended to read:

19 305.230. (1) Notwithstanding ORS 9.320:

20 (a) Any person who is qualified to practice law or public accountancy in this state, any person
21 who has been granted active enrollment to practice before the Internal Revenue Service and who
22 is qualified to prepare tax returns in this state or any person who is the authorized employee of a
23 taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer be-
24 fore a tax court magistrate or the Department of Revenue in any conference or proceeding with
25 respect to the administration of any tax.

26 (b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from
27 such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer
28 before a tax court magistrate or the department in any conference or proceeding with respect to the
29 administration of any tax on or measured by net income.

30 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue
31 Code, as amended and in effect on December 31, [2016] 2017, may represent the corporation in any
32 proceeding before a tax court magistrate or the department in the same manner as if the share-
33 holder were a partner and the S corporation were a partnership. The S corporation must designate
34 in writing a tax matters shareholder authorized to represent the S corporation.

35 (d) An individual who is licensed as a real estate broker or principal real estate broker under
36 ORS 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a
37 registered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or
38 the department in any conference or proceeding with respect to the administration of any ad
39 valorem property tax.

40 (e) A general partner who has been designated by members of a partnership as their tax matters
41 partner under ORS 305.242 may represent those partners in any conference or proceeding with re-
42 spect to the administration of any tax on or measured by net income.

43 (f) Any person authorized under rules adopted by the department may represent a taxpayer be-
44 fore the department in any conference or proceeding with respect to any tax. Rules adopted under
45 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-

1 tation before the Internal Revenue Service, as federal law is amended and in effect on December 31,
2 [2016] **2017**.

3 (g) Any person authorized under rules adopted by the tax court may represent a taxpayer in a
4 proceeding before a tax court magistrate.

5 (2) A person may not be recognized as representing a taxpayer pursuant to this section unless
6 there is first filed with the magistrate or department a written authorization, or unless it appears
7 to the satisfaction of the magistrate or department that the representative does in fact have au-
8 thority to represent the taxpayer. A person recognized as an authorized representative under rules
9 or procedures adopted by the tax court shall be considered an authorized representative by the de-
10 partment.

11 (3) A taxpayer represented by someone other than an attorney is bound by all things done by
12 the authorized representative, and may not thereafter claim any proceeding was legally defective
13 because the taxpayer was not represented by an attorney.

14 (4) Prior to the holding of a conference or proceeding before the tax court magistrate or de-
15 partment, written notice shall be given by the magistrate or department to the taxpayer of the
16 provisions of subsection (3) of this section.

17 **SECTION 14.** ORS 305.494 is amended to read:

18 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section
19 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2016] **2017**, may
20 represent the corporation in any proceeding before the Oregon Tax Court in the same manner as
21 if the shareholder were a partner and the S corporation were a partnership.

22 **SECTION 15.** ORS 305.690 is amended to read:

23 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

24 (1) "Biennial years" means the two income tax years of individual taxpayers that begin in the
25 two calendar years immediately following the calendar year in which a list is certified under ORS
26 305.715.

27 (2) "Commission" means the Oregon Charitable Checkoff Commission.

28 (3) "Department" means the Department of Revenue.

29 (4) "Eligibility roster" means a list, prepared under ORS 305.715 and maintained by the com-
30 mission in chronological order based on the date of form listing or date of eligibility determination,
31 whichever is later, of charitable and governmental entities seeking inclusion on the Oregon indi-
32 vidual income tax return forms.

33 (5) "Form listed" or "form listing" means being listed on the Oregon individual income tax re-
34 turn form.

35 (6) "Instruction listing" means being listed on the Department of Revenue instructions for tax
36 return checkoff contribution.

37 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
38 on December 31, [2016] **2017**.

39 **SECTION 16.** ORS 305.842 is amended to read:

40 305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800, "Internal Revenue
41 Code" means the federal Internal Revenue Code as amended and in effect on December 31, [2016]
42 **2017**.

43 (2) As used in ORS 311.666, "Internal Revenue Code" means the federal Internal Revenue Code
44 as amended and in effect on December 31, [2016] **2017**, including amendments that take effect after
45 that date.

1 **SECTION 17.** ORS 314.011 is amended to read:

2 314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means
3 the Department of Revenue.

4 (2) As used in this chapter:

5 (a) Any term has the same meaning as when used in a comparable context in the laws of the
6 United States relating to federal income taxes, unless a different meaning is clearly required or the
7 term is specifically defined in this chapter.

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

11 (A) On December 31, [2016] **2017**; or

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

13 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260
14 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,
15 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described
16 in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal
17 Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue
18 Code as they are amended on or before December 31, [2016] **2017**, even when the amendments take
19 effect or become operative after that date, except where the Legislative Assembly has specifically
20 provided otherwise.

21 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and
22 follow the administrative and judicial interpretations of the federal income tax law. When a pro-
23 vision of the federal income tax law is the subject of conflicting opinions by two or more federal
24 courts, the department shall follow the rule observed by the United States Commissioner of Internal
25 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of
26 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-
27 ability of any taxpayer.

28 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-
29 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
30 then such rules or regulations shall be regarded as rules adopted by the department under and in
31 accordance with the provisions of this chapter, whenever they are prescribed or amended.

32 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
33 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
34 States Congress designated as an Act or Title making technical corrections, then notwithstanding
35 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
36 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
37 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title
38 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
39 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
40 adjustment is required to an Oregon return that would otherwise be prevented by operation of law
41 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
42 manner provided under ORS 314.135.

43 (b) As used in this subsection, “Act or Title” includes any subtitle, division or other part of an
44 Act or Title.

45 **SECTION 18.** ORS 314.306 is amended to read:

1 314.306. (1) If a taxpayer excludes an amount from federal gross income by reason of the dis-
2 charge of indebtedness of the taxpayer under section 108(a)(1)(A) of the Internal Revenue Code (re-
3 lating to discharge of indebtedness in a bankruptcy declared under U.S.C. Title 11), then, with
4 respect to that portion of the excluded amount that is apportioned to Oregon, the taxpayer shall
5 apply the rules in 11 U.S.C. 346(j), as amended and in effect on December 31, [2016] **2017**.

6 (2) If a taxpayer excludes an amount from federal gross income by reason of the discharge of
7 indebtedness of the taxpayer under section 108(a)(1)(B) or (C) of the Internal Revenue Code (relating
8 to discharge of indebtedness in insolvency or discharge of qualified farm indebtedness), then, with
9 respect to that portion of the excluded amount that is apportioned to Oregon, the following para-
10 graphs shall apply, in the following order:

11 (a) If the taxpayer has made the election under section 108(b)(5) of the Internal Revenue Code
12 to first reduce the basis of the depreciable property of the taxpayer, the election shall also be ef-
13 fective for Oregon tax purposes. A corresponding reduction in the basis of the depreciable property
14 of the taxpayer shall be made for Oregon tax purposes.

15 (b) The amount, if any, by which the following attributes are reduced under section 108(b)(1) of
16 the Internal Revenue Code for federal tax purposes shall be added back for Oregon tax purposes:

17 (A) Federal net operating loss.

18 (B) Capital loss carryover.

19 (C) Basis of the property of the taxpayer, excluding amounts subject to the election under sec-
20 tion 108(b)(5) of the Internal Revenue Code.

21 (D) Passive activity loss carryover.

22 (c) Excluding amounts subject to the election in section 108(b)(5) of the Internal Revenue Code:

23 (A) Any Oregon net operating loss of an individual or corporate taxpayer, including a net op-
24 erating loss carryover to the taxpayer, shall be reduced by the amount of discharged indebtedness.

25 (B) Any net capital loss for the taxable year of the discharge, and any capital loss carryover to
26 the taxable year, shall be reduced by the amount of discharged indebtedness minus the total amount
27 taken into account under subparagraph (A) of this paragraph.

28 (C) The basis of the property of the taxpayer shall be reduced by the amount of discharged
29 indebtedness minus the total amount taken into account under subparagraphs (A) and (B) of this
30 paragraph.

31 (D) The passive activity loss carryover under section 469(b) of the Internal Revenue Code from
32 the taxable year of the discharge shall be reduced by the amount of discharged indebtedness minus
33 the total amount taken into account under subparagraphs (A), (B) and (C) of this paragraph.

34 **SECTION 19.** ORS 315.004 is amended to read:

35 315.004. (1) Except when the context requires otherwise, the definitions contained in ORS
36 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of
37 the personal and corporate income and excise tax credits contained in this chapter.

38 (2)(a) For purposes of the tax credits contained in this chapter, any term has the same meaning
39 as when used in a comparable context in the laws of the United States relating to federal income
40 taxes, unless a different meaning is clearly required or the term is specifically defined for purposes
41 of construing, interpreting and applying the credit.

42 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the
43 United States or to the Internal Revenue Code means the laws of the United States relating to in-
44 come taxes or the Internal Revenue Code as they are amended on or before December 31, [2016]
45 **2017**, even when the amendments take effect or become operative after that date.

1 (3) Insofar as is practicable in the administration of this chapter, the Department of Revenue
2 shall apply and follow the administrative and judicial interpretations of the federal income tax law.
3 When a provision of the federal income tax law is the subject of conflicting opinions by two or more
4 federal courts, the department shall follow the rule observed by the United States Commissioner of
5 Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right
6 or duty of the department to audit the return of any taxpayer or to determine any fact relating to
7 the tax liability of any taxpayer.

8 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-
9 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
10 then such rules or regulations shall be regarded as rules adopted by the department under and in
11 accordance with the provisions of this chapter, whenever they are prescribed or amended.

12 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
13 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
14 States Congress designated as an Act or Title making technical corrections, then notwithstanding
15 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
16 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
17 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title
18 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
19 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
20 adjustment is required to an Oregon return that would otherwise be prevented by operation of law
21 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
22 manner provided under ORS 314.135.

23 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an
24 Act or Title.

25 **SECTION 20.** ORS 316.012 is amended to read:

26 316.012. Any term used in this chapter has the same meaning as when used in a comparable
27 context in the laws of the United States relating to federal income taxes, unless a different meaning
28 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
29 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
30 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
31 Code as they are amended and in effect:

32 (1) On December 31, [2016] **2017**; or

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

34 **SECTION 21.** ORS 316.147 is amended to read:

35 316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

36 (1) "Eligible taxpayer" includes any individual who must pay taxes otherwise imposed by this
37 chapter and:

38 (a) Who pays or incurs expenses for the care of a qualified individual, through a payment
39 method determined by rule of the Department of Revenue; and

40 (b) Who has a household income, for the taxable year, not to exceed the maximum amount of
41 household income allowed in ORS 310.640 (1989 Edition) for a homeowner or renter refund.

42 (2) "Household income" means the aggregate income of the eligible taxpayer and the spouse of
43 the taxpayer who reside in the household, that was received during a calendar year. "Household
44 income" includes payments received by the eligible taxpayer or the spouse of the taxpayer under the
45 federal Social Security Act for the benefit of a minor child or minor children who reside in the

1 household.

2 (3) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
3 as amended and in effect on December 31, [2016] 2017, even when the amendments take effect or
4 become operative after that date, relating to the measurement of taxable income of individuals, es-
5 tates and trusts, with the following modifications:

6 (a) There shall be added to adjusted gross income the following items of otherwise exempt in-
7 come:

8 (A) The gross amount of any otherwise exempt pension less return of investment, if any.

9 (B) Child support received by the taxpayer.

10 (C) Inheritances.

11 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

12 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is
13 not a member of the taxpayer's household.

14 (F) Life insurance proceeds.

15 (G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

16 (H) Personal injury damages.

17 (I) Sick pay that is not included in federal adjusted gross income.

18 (J) Strike benefits excluded from federal gross income.

19 (K) Worker's compensation, except for reimbursement of medical expense.

20 (L) Military pay and benefits.

21 (M) Veteran's benefits.

22 (N) Payments received under the federal Social Security Act that are excluded from federal
23 gross income.

24 (O) Welfare payments, except as follows:

25 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly
26 to the welfare recipient;

27 (ii) In-home services authorized and approved by the Department of Human Services; and

28 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
29 training programs.

30 (P) Nontaxable dividends.

31 (Q) Nontaxable interest not included in federal adjusted gross income.

32 (R) Rental allowance paid to a minister that is excluded from federal gross income.

33 (S) Income from sources without the United States that is excluded from federal gross income.

34 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

35 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
36 properties.

37 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

38 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
39 profession or other activity entered into for the production or collection of income.

40 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for
41 the production of rents, royalties or other income.

42 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
43 gross income.

44 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
45 ciation, amortization or depletion.

1 (G) The amount added or subtracted, as required within the context of this section, for adjust-
2 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

3 (c) "Income" does not include the following:

4 (A) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
5 stead of the taxpayer.

6 (B) Any refund of Oregon personal income taxes that were imposed under this chapter.

7 (4) "Qualified individual" includes an individual at least 60 years of age on the date that the
8 expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:

9 (a) Whose household income does not exceed \$7,500 for the calendar year in which the taxable
10 year of the taxpayer begins;

11 (b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project In-
12 dependence;

13 (c) Who is certified by the Department of Human Services; and

14 (d) Whose care or any portion thereof is not paid for under ORS chapter 414.

15 **SECTION 22.** ORS 316.157 is amended to read:

16 316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the
17 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax
18 liability of the taxpayer or nine percent of net pension income.

19 (2) For purposes of this section:

20 (a) "Eligible individual" means any individual who is receiving pension income and who has at-
21 tained 62 years of age before the close of the taxable year.

22 (b) "Household income" means the aggregate income of the taxpayer and the spouse of the tax-
23 payer who reside in the household, that was received during the taxable year for which a credit is
24 claimed, except that "household income" does not include Social Security benefits received by the
25 taxpayer or the spouse of the taxpayer.

26 (c) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
27 as amended and in effect on December 31, [2016] 2017, even when the amendments take effect or
28 become operative after that date, relating to the measurement of taxable income of individuals, es-
29 tates and trusts, with the following modifications:

30 (A) There shall be added to adjusted gross income the following items of otherwise exempt in-
31 come:

32 (i) The gross amount of any otherwise exempt pension less return of investment, if any.

33 (ii) Child support received by the taxpayer.

34 (iii) Inheritances.

35 (iv) Gifts and grants, the sum of which are in excess of \$500 per year.

36 (v) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is
37 not a member of the taxpayer's household.

38 (vi) Life insurance proceeds.

39 (vii) Accident and health insurance proceeds, except reimbursement of incurred medical ex-
40 penses.

41 (viii) Personal injury damages.

42 (ix) Sick pay that is not included in federal adjusted gross income.

43 (x) Strike benefits excluded from federal gross income.

44 (xi) Worker's compensation, except for reimbursement of medical expense.

45 (xii) Military pay and benefits.

- 1 (xiii) Veteran's benefits.
- 2 (xiv) Payments received under the federal Social Security Act that are excluded from federal
3 gross income.
- 4 (xv) Welfare payments, except as follows:
- 5 (I) Payments for medical care, drugs and medical supplies, if the payments are not made directly
6 to the welfare recipient;
- 7 (II) In-home services authorized and approved by the Department of Human Services; and
- 8 (III) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
9 training programs.
- 10 (xvi) Nontaxable dividends.
- 11 (xvii) Nontaxable interest not included in federal adjusted gross income.
- 12 (xviii) Rental allowance paid to a minister that is excluded from federal gross income.
- 13 (xix) Income from sources without the United States that is excluded from federal gross income.
- 14 (B) Adjusted gross income shall be increased due to the disallowance of the following de-
15 ductions:
- 16 (i) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
17 properties.
- 18 (ii) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.
- 19 (iii) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
20 profession or other activity entered into for the production or collection of income.
- 21 (iv) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for
22 the production of rents, royalties or other income.
- 23 (v) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
24 gross income.
- 25 (vi) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
26 ciation, amortization or depletion.
- 27 (vii) The amount added or subtracted, as required within the context of this section, for adjust-
28 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.
- 29 (C) "Income" does not include the following:
- 30 (i) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
31 stead of the taxpayer.
- 32 (ii) Any refund of Oregon personal income taxes that were imposed under this chapter.
- 33 (d) "Net pension income" means:
- 34 (A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible
35 individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the
36 following amounts:
- 37 (i) Any Social Security benefits received by the eligible individual, or by the spouse of the in-
38 dividual, during the taxable year; and
- 39 (ii) The excess, if any, of household income over \$30,000.
- 40 (B) For an eligible individual filing a return other than a joint return, the lesser of the pension
41 income of the eligible individual received during the taxable year or the excess, if any, of \$7,500
42 over the sum of the following amounts:
- 43 (i) Any Social Security benefits received by the eligible individual during the taxable year; and
- 44 (ii) The excess, if any, of household income over \$15,000.
- 45 (e) "Pension income" means income included in Oregon taxable income from:

1 (A) Distributions from or pursuant to an employee pension benefit plan, as defined in section
2 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of
3 section 401 of the Internal Revenue Code;

4 (B) Distributions from or pursuant to a public retirement system of this state or a political
5 subdivision of this state, or a public retirement system created by an Act of this state or a political
6 subdivision of this state, or the public retirement system of any other state or local government;

7 (C) Distributions from or pursuant to a federal retirement system created by the federal gov-
8 ernment for any officer or employee of the United States, including any person retired from service
9 in the United States Civil Service, the Armed Forces of the United States or any agency or subdi-
10 vision thereof;

11 (D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan
12 which satisfies the requirements of section 457 of the Internal Revenue Code;

13 (E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity
14 or trust or simplified employee pension which satisfies the requirements of section 408 of the Inter-
15 nal Revenue Code; and

16 (F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial
17 accounts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.

18 (f) "Social Security benefits" means Social Security benefits, as defined in section 86 of the
19 Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).

20 (3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,
21 or if the Department of Revenue terminates the tax year of the eligible individual under ORS
22 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with
23 ORS 314.085.

24 (4) If a change in the status of the eligible individual from resident to nonresident or from
25 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
26 consistent with subsection (1) of this section.

27 **SECTION 23.** ORS 317.010 is amended to read:

28 317.010. As used in this chapter, unless the context requires otherwise:

29 (1) "Centrally assessed corporation" means every corporation the property of which is assessed
30 by the Department of Revenue under ORS 308.505 to 308.681.

31 (2) "Department" means the Department of Revenue.

32 (3)(a) "Consolidated federal return" means the return permitted or required to be filed by a
33 group of affiliated corporations under section 1501 of the Internal Revenue Code.

34 (b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

35 (4) "Doing business" means any transaction or transactions in the course of its activities con-
36 ducted within the state by a national banking association, or any other corporation; provided, how-
37 ever, that a foreign corporation whose activities in this state are confined to purchases of personal
38 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be
39 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-
40 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-
41 termined as provided in section 1504 of the Internal Revenue Code.

42 (5) "Excise tax" means a tax measured by or according to net income imposed upon national
43 banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing
44 and business corporations for the privilege of carrying on or doing business in this state.

45 (6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does

1 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
2 723.001 or a federal credit union.

3 (7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,
4 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
5 in effect:

6 (a) On December 31, [2016] **2017**; or

7 (b) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

8 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS
9 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
10 ORS 317.650 to 317.665.

11 (9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers
12 in subsection (11) of this section and ORS 317.650 to 317.665.

13 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a
14 corporation for which no federal taxable income or loss is determined, as would be determined, un-
15 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States
16 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,
17 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-
18 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or
19 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a
20 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of
21 income from transactions or activities carried on both within and without the state) applies, to
22 derive taxable income or loss, the following shall occur:

23 (a) From the amount otherwise determined under this subsection, subtract nonapportionable in-
24 come, or add nonapportionable loss, whichever is applicable.

25 (b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon ap-
26 portionment percentage defined under ORS 314.280, 314.650 or 314.667, whichever is applicable. The
27 resulting product shall be Oregon apportioned income or loss.

28 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
29 subsection, add nonapportionable income allocable entirely to Oregon under ORS 314.280 or 314.625
30 to 314.645, or subtract nonapportionable loss allocable entirely to Oregon under ORS 314.280 or
31 314.625 to 314.645. The resulting figure is "taxable income or loss" for those corporations carrying
32 on taxable transactions or activities both within and without Oregon.

33 (11) As used in ORS 317.122 and 317.650 to 317.665, "insurer" means any domestic, foreign or
34 alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its at-
35 torney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting
36 as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or
37 interinsurance exchange. However, "insurer" does not include title insurers or health care service
38 contractors operating pursuant to ORS 750.005 to 750.095.

39 **SECTION 24.** ORS 317.097 is amended to read:

40 317.097. (1) As used in this section:

41 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-
42 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

43 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed
44 by the lending institution, and other charges related to the cost of obtaining credit.

45 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,

1 any mortgage banking company that maintains an office in this state or any community development
2 corporation that is organized under the Oregon Nonprofit Corporation Law.

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

4 (e) “Nonprofit corporation” means a corporation that is exempt from income taxes under section
5 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, [2016]
6 **2017.**

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

11 (g) “Qualified assignee” means any investor participating in the secondary market for real estate
12 loans.

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

17 (i) “Qualified loan” means:

18 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-
19 finance a loan that meets the criteria described in subsection (5) of this section; or

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

23 (j) “Sponsoring entity” means a nonprofit corporation, nonprofit cooperative, state governmental
24 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
25 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
26 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

27 (2) The Department of Revenue shall allow a credit against taxes otherwise due under this
28 chapter for the taxable year to a lending institution that makes a qualified loan certified by the
29 Housing and Community Services Department as provided in subsection (7) of this section. The
30 amount of the credit is equal to the difference between:

31 (a) The amount of finance charge charged by the lending institution during the taxable year at
32 an annual rate less than the market rate for a qualified loan that is made before January 1, 2026,
33 that complies with the requirements of this section; and

34 (b) The amount of finance charge that would have been charged during the taxable year by the
35 lending institution for the qualified loan for housing construction, development, acquisition or re-
36 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans
37 made under like terms and conditions at the time the qualified loan for housing construction, de-
38 velopment, acquisition or rehabilitation is made.

39 (3) The maximum amount of credit for the difference between the amounts described in sub-
40 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
41 the qualified loan during the tax year for which the credit is claimed.

42 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
43 year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding
44 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
45 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding

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

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

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

12 (b) A qualified borrower who:

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

15 (B) Provides a written certification executed by the Housing and Community Services Depart-
16 ment that the:

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

19 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
20 or will be passed on to the tenants in the form of reduced housing payments;

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

22 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
23 of housing consisting of a manufactured dwelling park; and

24 (B) Provides a written certification executed by the Housing and Community Services Depart-
25 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-
26 riod for which the tax credit is allowed; or

27 (d) A qualified borrower who:

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

30 (B) Provides a written certification executed by the Housing and Community Services Depart-
31 ment that the housing preserved by the loan:

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

34 (ii) Is the subject of a rent assistance contract with the United States Department of Housing
35 and Urban Development or the United States Department of Agriculture that will be maintained by
36 the qualified borrower.

37 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-
38 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-
39 tion.

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

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

44 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-
45 tion.

1 (8) The Housing and Community Services Department may certify qualified loans that are eligi-
2 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible
3 for credits under this section and then outstanding do not exceed \$25 million for any fiscal year. In
4 making loan certifications under subsection (7) of this section, the Housing and Community Services
5 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax
6 credits in those areas of the state that are determined by the Oregon Housing Stability Council to
7 have the greatest need for affordable housing.

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

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

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

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

19 (11) A lending institution may sell a qualified loan for which a certification has been executed
20 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan
21 so long as a designated lending institution maintains records, annually verified by a loan servicer,
22 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

23 (12) Notwithstanding any other provision of law, a lending institution that is a community de-
24 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or
25 part of a tax credit allowed under this section to one or more other lending institutions that are
26 stockholders or members of the community development corporation or that otherwise participate
27 through the community development corporation in the making of one or more qualified loans for
28 which the tax credit under this section is allowed.

29 (13) The lending institution shall file an annual statement with the Housing and Community
30 Services Department, specifying that it has conformed with all requirements imposed by law to
31 qualify for a tax credit under this section.

32 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to
33 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park
34 under subsection (5)(c) of this section must be a nonprofit corporation, manufactured dwelling park
35 nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706
36 or housing authority.

37 (15) The Housing and Community Services Department and the Department of Revenue may
38 adopt rules to carry out the provisions of this section.

39 **SECTION 25.** ORS 458.670 is amended to read:

40 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
41 wise:

42 (1) "Account holder" means a resident of this state who:

43 (a) Is 12 years of age or older;

44 (b) Is a member of a lower income household; and

45 (c) Has established an individual development account with a fiduciary organization.

1 (2) "Fiduciary organization" means an organization selected under ORS 458.695 to administer
2 state moneys directed to individual development accounts and that is:

3 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
4 of the Internal Revenue Code as amended and in effect on December 31, [2016] 2017; or

5 (b) A federally recognized Oregon Indian tribe that is located, to a significant degree, within the
6 boundaries of this state.

7 (3) "Financial institution" means:

8 (a) An organization regulated under ORS chapters 706 to 716 or 723; or

9 (b) In the case of individual development accounts established for the purpose described in ORS
10 458.685 (1)(c), a financial institution as defined in ORS 178.300.

11 (4) "Individual development account" means a contract between an account holder and a
12 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
13 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
14 the account holder to accumulate assets for use toward achieving a specific purpose approved by
15 the fiduciary organization.

16 (5) "Lower income household" means a household having an income equal to or less than the
17 greater of the following:

18 (a) 80 percent of the median household income for the area as determined by the Housing and
19 Community Services Department. In making the determination, the department shall give consider-
20 ation to any data on area household income published by the United States Department of Housing
21 and Urban Development.

22 (b) 200 percent of the poverty guidelines as determined by the Housing and Community Services
23 Department. In making the determination, the department shall give consideration to poverty
24 guidelines published by the United States Department of Health and Human Services and may con-
25 sider other income data periodically published by other federal or Oregon agencies.

26 (6) "Resident of this state" has the meaning given that term in ORS 316.027.

27 **SECTION 26.** ORS 657.010 is amended to read:

28 657.010. As used in this chapter, unless the context requires otherwise:

29 (1) "Base year" means the first four of the last five completed calendar quarters preceding the
30 benefit year.

31 (2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

32 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with
33 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-
34 utive weeks period beginning with the first week with respect to which the individual next files an
35 initial valid claim after the termination of the individual's last preceding benefit year except that
36 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping
37 any quarter of the base year of a previously filed initial valid claim.

38 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March
39 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
40 of the Employment Department may, by regulation, prescribe.

41 (5) "Contribution" or "contributions" means the taxes, as defined in subsection (13) of this sec-
42 tion, that are the money payments required by this chapter, or voluntary payments permitted, to be
43 made to the Unemployment Compensation Trust Fund.

44 (6) "Educational institution," including an institution of higher education as defined in sub-
45 section (9) of this section, means an institution:

1 (a) In which participants, trainees or students are offered an organized course of study or
2 training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities
3 from, by or under the guidance of an instructor or teacher;

4 (b) That is accredited, registered, approved, licensed or issued a permit to operate as a school
5 by the Department of Education or other government agency, or that offers courses for credit that
6 are transferable to an approved, registered or accredited school;

7 (c) In which the course or courses of study or training that it offers may be academic, technical,
8 trade or preparation for gainful employment in a recognized occupation; and

9 (d) In which the course or courses of study or training are offered on a regular and continuing
10 basis.

11 (7) "Employment office" means a free public employment office or branch thereof, operated by
12 this state or maintained as a part of a state-controlled system of public employment offices.

13 (8) "Hospital" means an organization that has been licensed, certified or approved by the Oregon
14 Health Authority as a hospital.

15 (9) "Institution of higher education" means an educational institution that:

16 (a) Admits as regular students only individuals having a certificate of graduation from a high
17 school, or the recognized equivalent of such a certificate;

18 (b) Is legally authorized in this state to provide a program of education beyond high school;

19 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-
20 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate
21 or post-doctoral studies, or a program of training to prepare students for gainful employment in a
22 recognized occupation; and

23 (d) Is a public or other nonprofit institution.

24 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-
25 fect on December 31, [2016] **2017**.

26 (11) "Nonprofit employing unit" means an organization, or group of organizations, described in
27 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)
28 of the Internal Revenue Code.

29 (12) "State" includes, in addition to the states of the United States of America, the District of
30 Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be
31 considered a state on and after the day on which the United States Secretary of Labor first approves
32 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by
33 Public Law 94-566.

34 (13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund re-
35 quired, or voluntary payments permitted, by this chapter.

36 (14) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the
37 individual meets the wages-paid-for-employment requirements of ORS 657.150.

38 (15) "Week" means any period of seven consecutive calendar days ending at midnight, as the
39 director may, by regulation, prescribe. The director may by regulation prescribe that a "week" shall
40 be "in," "within," or "during" the calendar quarter that includes the greater part of such week.

41 **SECTION 27. (1) Except as provided in subsections (2) and (3) of this section, the**
42 **amendments to statutes by sections 1 to 26 of this 2018 Act apply to transactions or activities**
43 **occurring on or after January 1, 2018, in tax years beginning on or after January 1, 2018.**

44 **(2) The effective and applicable dates, and the exceptions, special rules and coordination**
45 **with the Internal Revenue Code, as amended, relative to those dates, contained in the Dis-**

1 aster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), and An Act to
2 Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the
3 Budget for Fiscal Year 2018 (P.L. 115-97) and other federal law amending the Internal Re-
4 venue Code and enacted before January 1, 2018, apply for Oregon personal income and cor-
5 porate excise and income tax purposes, to the extent they can be made applicable, in the
6 same manner as they are applied under the Internal Revenue Code and related federal law.

7 (3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before
8 January 1, 2018, and the deficiency or any portion thereof is attributable to any retroactive
9 treatment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011,
10 314.306, 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of this
11 2018 Act, then any interest or penalty assessed under ORS chapter 305, 314, 315, 316, 317 or
12 318 with respect to the deficiency or portion thereof shall be canceled.

13 (b) If a refund is due any taxpayer for a tax year beginning before January 1, 2018, and
14 the refund or any portion thereof is due the taxpayer on account of any retroactive treat-
15 ment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306,
16 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of this 2018 Act,
17 for a tax year beginning before January 1, 2018, then notwithstanding ORS 305.270 or 314.415
18 or any other law, the refund or portion thereof shall be paid without interest.

19 (c) Any changes required because of the amendments to ORS 178.300, 305.230, 305.494,
20 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by
21 sections 1 and 13 to 24 of this 2018 Act, for a tax year beginning before January 1, 2018, shall
22 be made by filing an amended return within the time prescribed by law.

23 (d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection,
24 the Department of Revenue shall make any changes under paragraph (c) of this subsection
25 on the return to which the changes relate within the period specified for issuing a notice of
26 deficiency or claiming a refund as otherwise provided by law with respect to that return, or
27 within one year after a return for a tax year beginning on or after January 1, 2018, and be-
28 fore January 1, 2019, is filed, whichever period expires later.

29 **SECTION 28.** ORS 317.267 is amended to read:

30 317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income
31 amounts received as dividends from corporations deducted for federal purposes pursuant to section
32 243 or 245 of the Internal Revenue Code, except section 245(c) of the Internal Revenue Code,
33 **amounts deducted for income repatriated, deemed or otherwise, under An Act to Provide for**
34 **Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for**
35 **Fiscal Year 2018 (P.L. 115-97),** amounts paid as dividends by a public utility or telecommunications
36 utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code or
37 dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue
38 Code that are paid by members of an affiliated group that are eliminated from a consolidated federal
39 return pursuant to ORS 317.715 (2).

40 (2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of
41 this section, there shall be subtracted from federal taxable income an amount equal to 70 percent
42 of dividends (determined without regard to section 78 of the Internal Revenue Code) received or
43 deemed received from corporations if such dividends are included in federal taxable income. How-
44 ever:

45 (a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of

1 the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the
2 same conditions and in same amount as the dividends received deduction otherwise allowable for
3 federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

4 (b) In the case of any dividend received from a 20 percent owned corporation, as defined in
5 section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting “80
6 percent” for “70 percent.”

7 (c) A dividend that is not treated as a dividend under section 243(d) or 965(c)(3) of the Internal
8 Revenue Code may not be treated as a dividend for purposes of this subsection.

9 (d) If a dividends received deduction is not allowed for federal tax purposes because of section
10 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for
11 received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

12 (e) In the case of any dividend received from an alien, domestic or foreign insurer, as defined
13 in ORS 731.082, that would be included in the taxpayer’s consolidated Oregon return but for the
14 application of ORS 317.710 (5) or (7), this subsection shall be applied by substituting “100 percent”
15 for “70 percent.”

16 (3) There shall be excluded from the sales factor of any apportionment formula employed to at-
17 tribute income to this state any amount subtracted from federal taxable income under subsection (2)
18 of this section.

19 **SECTION 29. The amendments to ORS 317.267 by section 28 of this 2018 Act apply to tax**
20 **years beginning on or after January 1, 2017.**

21 **SECTION 30. Section 31 of this 2018 Act is added to and made a part of ORS chapter 317.**

22 **SECTION 31. On or before July 1, 2021, the Department of Revenue shall:**

23 (1) **Estimate the increase, if any, of corporate tax revenue received by the department**
24 **and attributable to the treatment of post-1986 deferred foreign income under An Act to**
25 **Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the**
26 **Budget for Fiscal Year 2018 (P.L. 115-97); and**

27 (2) **Notwithstanding ORS 317.853, distribute an amount equal to the estimate required**
28 **under subsection (1) of this section as follows:**

29 (a) **\$50 million, or the amount of the estimate if it is less than \$50 million, shall be**
30 **transferred to the Department of Human Services for the purpose of stabilizing the child**
31 **welfare division through the funding of a rapid response team;**

32 (b) **\$2 million, or the amount remaining after the transfer required under paragraph (a)**
33 **of this subsection if the amount remaining is less than \$2 million, to the Oregon Department**
34 **of Administrative Services to provide funding for CASA Volunteer Programs as defined in**
35 **ORS 184.489; and**

36 (c) **The balance, if any, to the Oregon Rainy Day Fund established under ORS 293.144.**

37 **SECTION 32. Section 33 of this 2018 Act is added to and made a part of ORS chapter 317.**

38 **SECTION 33. (1) A credit against the taxes otherwise due under ORS chapter 317 or 318**
39 **shall be allowed to a taxpayer for Oregon tax attributable to income reported under section**
40 **965 of the Internal Revenue Code as post-1986 deferred foreign income.**

41 (2) **The credit allowed under this section may not exceed the lesser of:**

42 (a) **The amount of Oregon tax attributable to income reported under section 965 of the**
43 **Internal Revenue Code as post-1986 deferred foreign income for tax years beginning on or**
44 **after January 1, 2017, and before January 1, 2018; or**

45 (b) **The total amount of tax, if any, attributable to the addition required under ORS**

1 317.716 and imposed for all tax years beginning on or after January 1, 2014, and before Jan-
2 uary 1, 2017.

3 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer
4 for the tax year.

5 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer
6 in a particular tax year may be carried forward and offset against the taxpayer's tax liability
7 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
8 year may be carried forward and used in the second succeeding tax year. Any credit re-
9 maining unused in the second succeeding tax year may be carried forward and used in the
10 third succeeding tax year. Any credit remaining unused in the third succeeding tax year may
11 be carried forward and used in the fourth succeeding tax year. Any credit remaining unused
12 in the fourth succeeding tax year may be carried forward and used in the fifth succeeding
13 tax year, but may not be used in any tax year thereafter.

14 SECTION 34. Except as provided in section 33 (4) of this 2018 Act, section 33 of this 2018
15 Act applies to tax years beginning on or after January 1, 2017, and before January 1, 2018.

16 SECTION 35. ORS 317.716 and 317.717 are repealed.

17 SECTION 36. The repeal of ORS 317.716 and 317.717 by section 35 of this 2018 Act applies
18 to tax years beginning on or after January 1, 2017.

19 SECTION 37. On or before December 1, 2020, the Department of Revenue shall report in
20 the manner required by ORS 192.245 to a committee of the Legislative Assembly related to
21 revenue regarding the relative efficacy of the provisions of ORS 317.716, in comparison to the
22 provisions of section 951A of the Internal Revenue Code, requiring shareholders of controlled
23 foreign corporations to include global intangible low-taxed income in gross income.

24 SECTION 38. This 2018 Act takes effect on the 91st day after the date on which the 2018
25 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.
26