

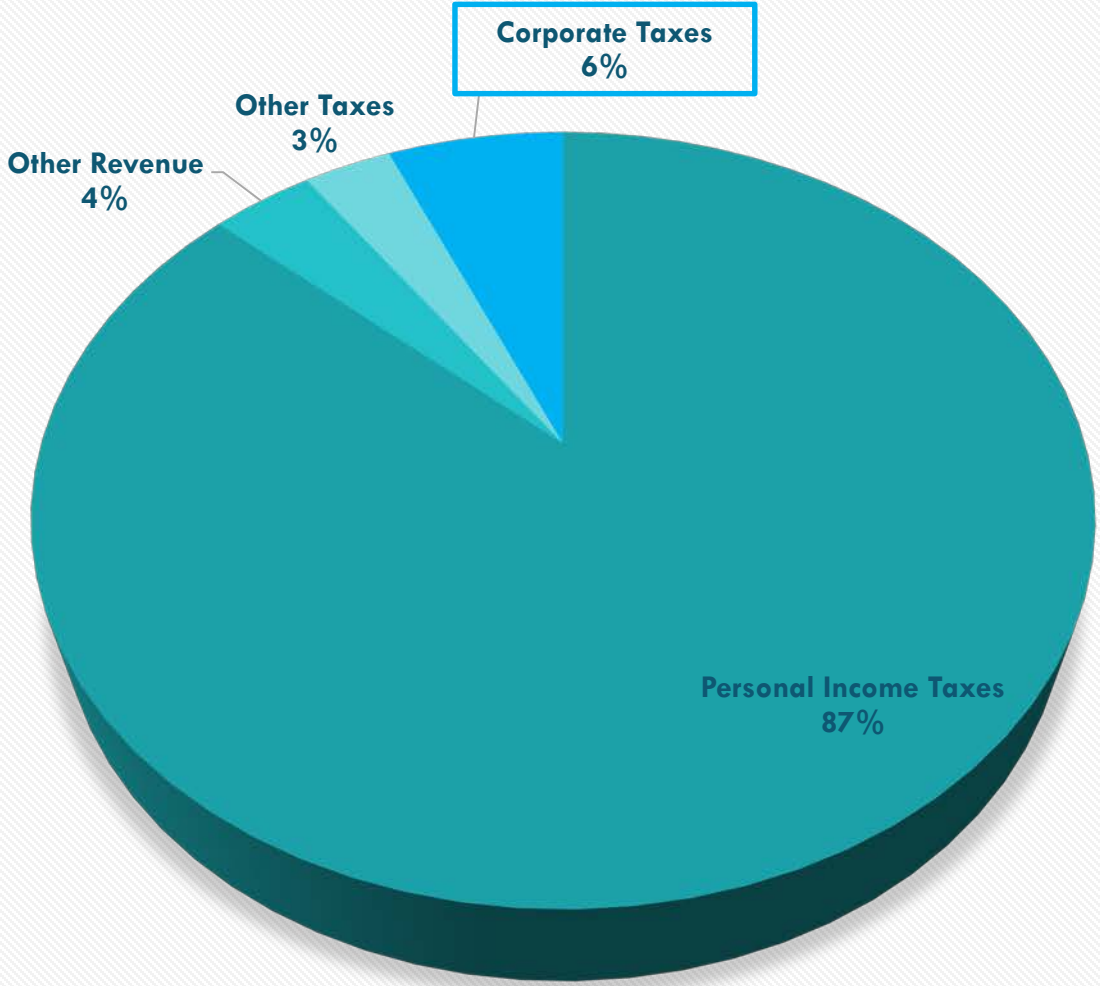
# OREGON CORPORATE TAXES

A Guide to Current Corporate Taxation Practice in Oregon  
**Legislative Revenue Office**

The Oregon Department of Revenue generously provided much of the data used within this presentation.

# GENERAL FUND RESOURCES 2015-2017

General Fund Revenue Source



# OUTLINE OF PRESENTATION

- Taxation Terminology
- Overview of Corporate Tax Structure
  - Types of businesses: legal versus taxation
  - How taxation works
- Current Statistics on Corporate Tax



# TAXATION TERMINOLOGY

# IMPORTANT TERMINOLOGY

Doing Business

Excise Tax versus Income Tax

Unitary Reporting Requirement

Apportionment versus Allocation

Tax Liability versus Tax Collection

Nexus: Tangible and Intangible

Joyce/Finnigan & Worldwide/  
Water's Edge

# DEFINING “DOING BUSINESS” DOR

Oregon Dept. of Revenue (DOR) defines **doing business** as,

- “A taxpayer is doing business when it **engages in any profit-seeking activity in Oregon**. What transaction or transactions need be entered into within this state in the course of such activity to constitute the doing or carrying on of business within the state is primarily a question of fact, depending upon the circumstances in each case. For example, a corporation is doing business in Oregon if **one or more of the following is true**:
  - Provides services to customers in Oregon
  - Has sales activity in Oregon
  - Has inventory in Oregon
  - Has an office in Oregon
  - Has a place of business in Oregon where affairs of the corporation are regularly carried on.

# DEFINING “DOING BUSINESS”

OR 317.010 (4)

“Doing business” means any transaction or **transactions** in the course of its activities **conducted within the state.**

# RELEVANT CORPORATE TAX DEFINITIONS

## Excise tax

Tax imposed on corporations for the privilege of doing business within a state

## Income tax

Tax on the income of those corporations that have Oregon-source income but are not doing business here

- *Note: Income tax filers are not subject to minimum tax*



# RELEVANT CORPORATE TAX DEFINITIONS

## Excise tax

Tax imposed on corporations for the privilege of doing business within a state

**Number: 27,838**

**Net Tax Amount: \$498 million**

## Income tax

Tax on the income of those corporations that have Oregon-source income but are not doing business here

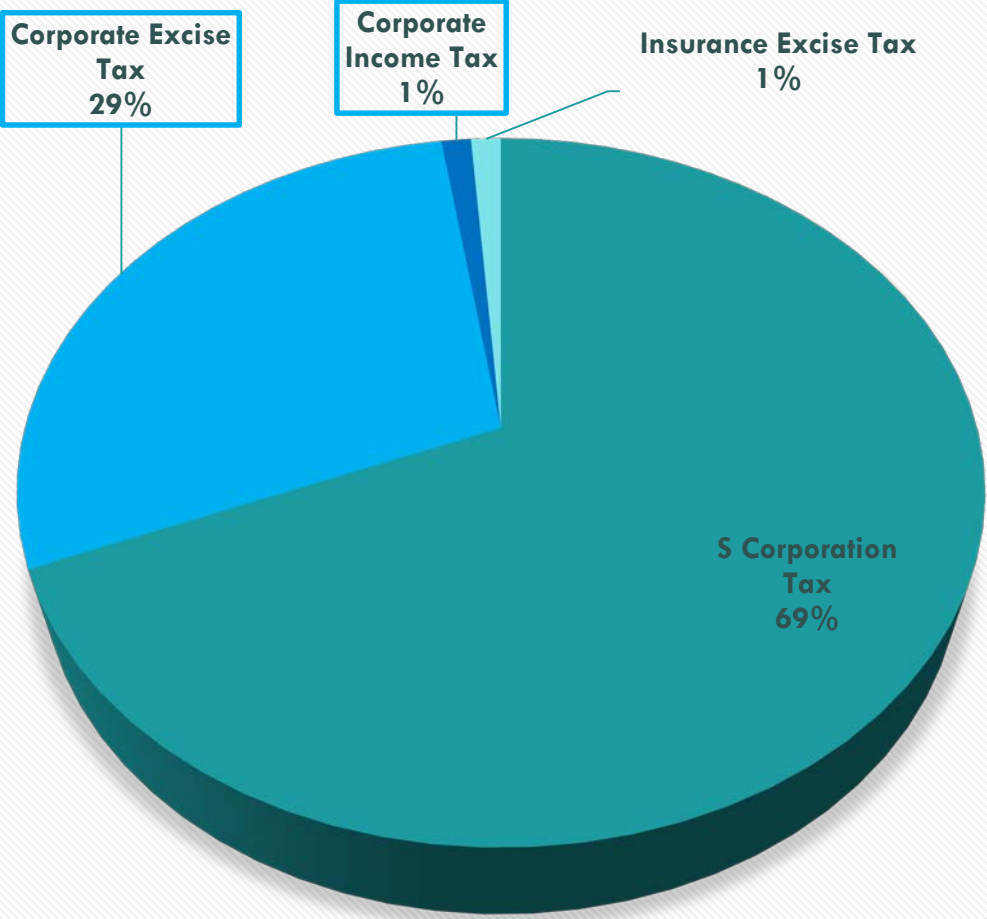
- *Note: Income tax filers are not subject to minimum tax*

**Number: 1,130**

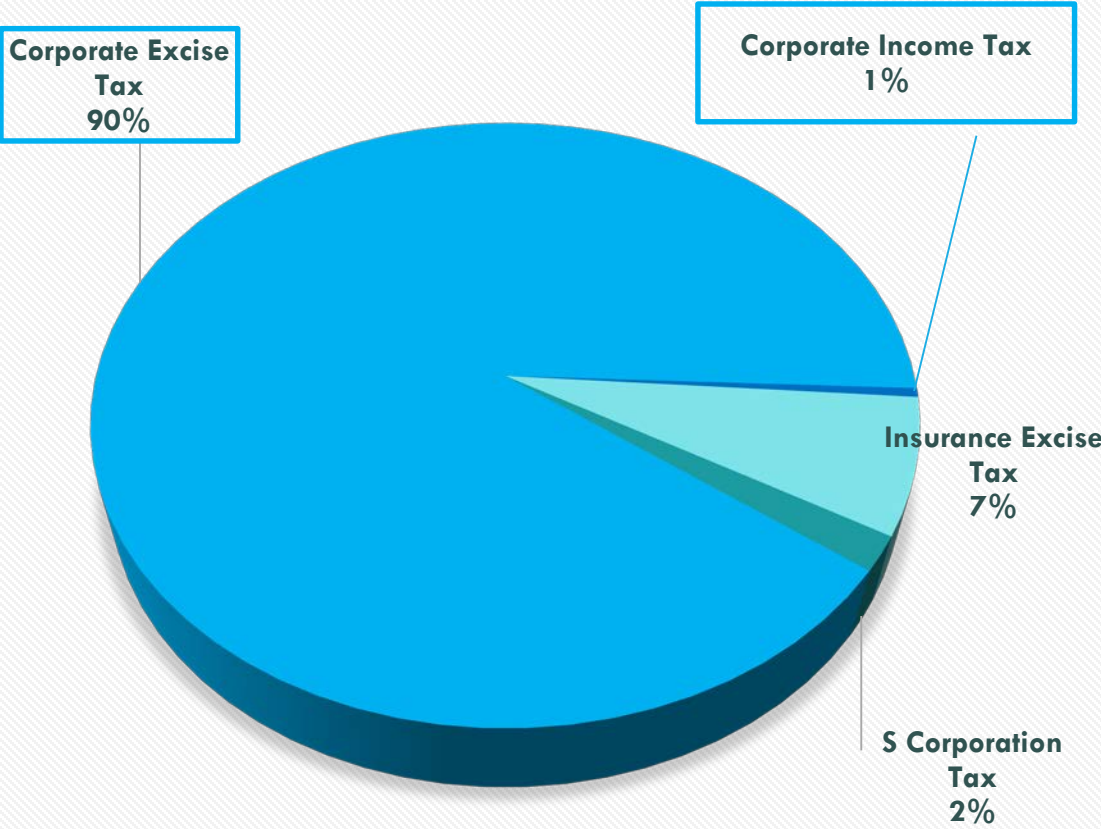
**Amount: \$2.6 million**

# CORPORATE RETURNS, 2016

### Number of Returns



### Oregon Corporate Tax Revenue by Filing Status



# UNITARY BUSINESSES AND GROUPS

## What is a unitary business?

A **business** that **shares** one of the following with another business

- *Management or executive forces*
- *Administrative services or functions*
- *Flow of goods, resources, or services*

## What is a unitary group?

A group of unitary businesses

Group of businesses sharing or exchanging within the group

# Apportionment

How a **multistate corporation's income is divided** among the states

Oregon: 100% Sales Apportionment Factor

# Allocation

Method of **attributing nonbusiness income** to states in the case of multistate or multinational businesses

# HISTORICAL CORPORATE APPORTIONMENT FACTORS

<b>Apportionment Formula Weights</b>			
<b>Tax Year Range</b>	<b>Sales Weight</b>	<b>Payroll Weight</b>	<b>Property Weight</b>
12/31/1990 and earlier	33%	33%	33%
1/1/1991 to 4/30/2003	50%	25%	25%
5/1/2003 to 6/30/2005	80%	10%	10%
7/1/2005 to current	100%	0%	0%

## Tax Liability

- “Net Tax”
- Amount of tax owed to the state

## Tax Collections

- Amount of money the state actually collects

# TAX LIABILITY VERSUS TAX COLLECTIONS

# NEXUS

DOES THE STATE HAVE AUTHORITY TO TAX?

Yes

Oregon can tax  
company

No

Oregon cannot  
tax the company

# NEXUS

## TANGIBLE PERSONAL PROPERTY

### PL 86-272

If the only interaction a company has with a state is the sale of *tangible personal property*, the state cannot tax the company

- “exempt under PL 86-272”

### Wayfair

Physical presence is *not* required to create substantial nexus

- Wayfair does not overrule PL 86-272
- South Dakota v. Wayfair



# NEXUS

## INTANGIBLE SALES

Cost of  
performance

Sales go to state  
where the work  
was *performed*

Market  
based

Sales go to state  
where *customer*  
*received the benefit*  
of the service

# NEXUS INTANGIBLE SALES

2017: SB 28 (CH 549)

Moved Oregon to market based intangible sales

Cost of performance

Sales go to state where the work was *performed*

Market based

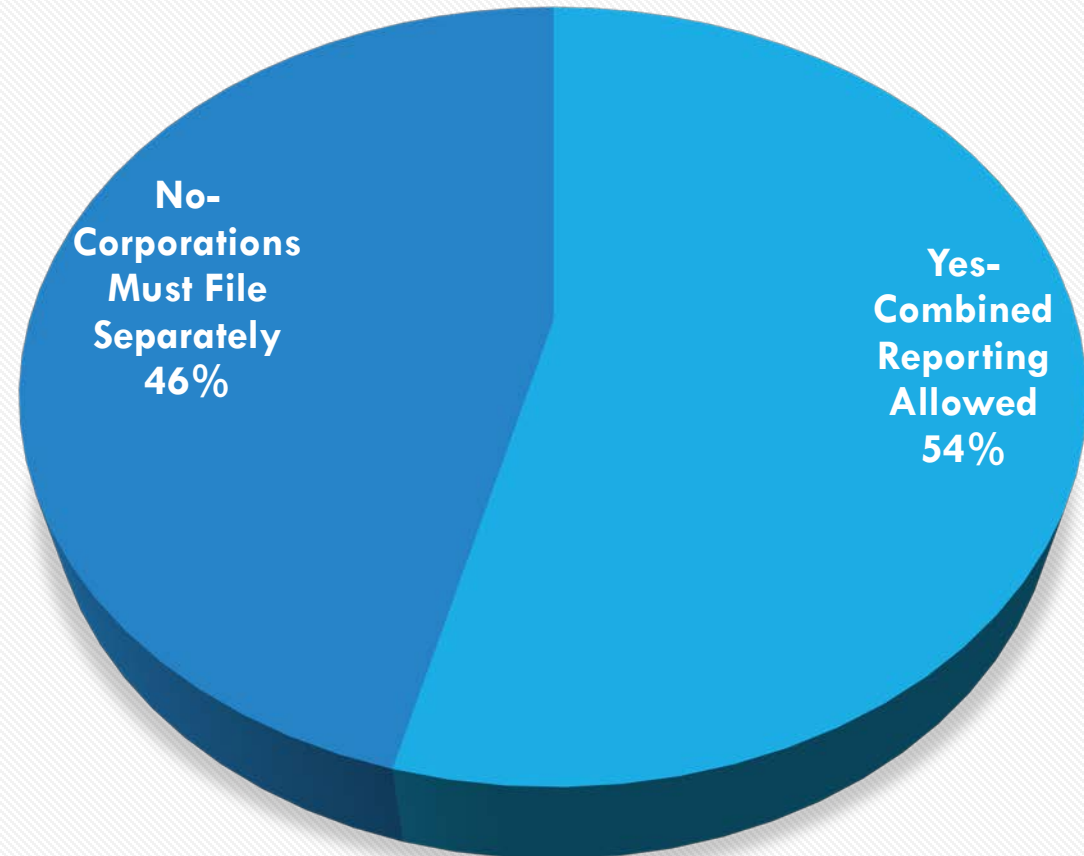
Sales go to state where *customer received the benefit of the service*

# WHO TO TAX? COMBINED REPORTING

If we have nexus, the question is now 'who' to tax?

- Some states allow combined reporting
- Others require all corporations to file separately

States by Combined Reporting Status, 2018



# COMBINED REPORTING ISSUES

## Worldwide

Requires all members of a unitary group, including foreign entities, to be included in taxable income for apportionment

## Water's Edge

Requires only US members of a unitary group to be included in taxable income for apportionment

# COMBINED REPORTING ISSUES

## Joyce Method

Considers each member of a unitary group separately to determine which entities count for apportionment

## Finnigan Method

If one member of a unitary group is taxable in Oregon, then all members are included in apportionment

# Overview of Corporate Tax Structure in Oregon



# TYPES OF BUSINESSES

# Business Types

## LEGAL PURPOSES

Sole  
Proprietorships

Partnerships,  
LLPs, LLCs

Corporations

S Corporations



# WHAT ARE S CORPORATIONS? HOW ARE S CORPORATIONS DIFFERENT THAN C CORPORATIONS?

## PTEs

“Pass through entities”

Elect to pass corporate income, losses, deductions, and credits through to shareholders

## Taxation

Avoid double taxation

Do still pay taxes on income from built-in gains or excess net passive income

Generally, shareholders are taxed, not the corporation

## Rules

One class of stock

No more than 100 shareholders

Only U.S. citizens or residents as shareholders

Only individuals, estates, or trusts as shareholders

# Business Types

## CORPORATE TAXATION PURPOSES

### C- Corporations

- Corporate Excise Payers
- Corporate Income Payers
- Insurance Corporations
  
- Entity-level tax exists

### S- Corporations

- Considered Pass-Through Entities (PTEs)
- No entity-level tax
- Earnings taxed via PIT

## Form OR-20

- Corporations doing business in Oregon

## Form OR-20-INC

- Corporations with Oregon source income not doing business within state

## Form OR-20-INS

- Insurance corporations doing business within Oregon

## Form OR-20-S

- S corps. doing business within Oregon

# BUSINESS TYPES CORPORATE TAXATION IN OREGON

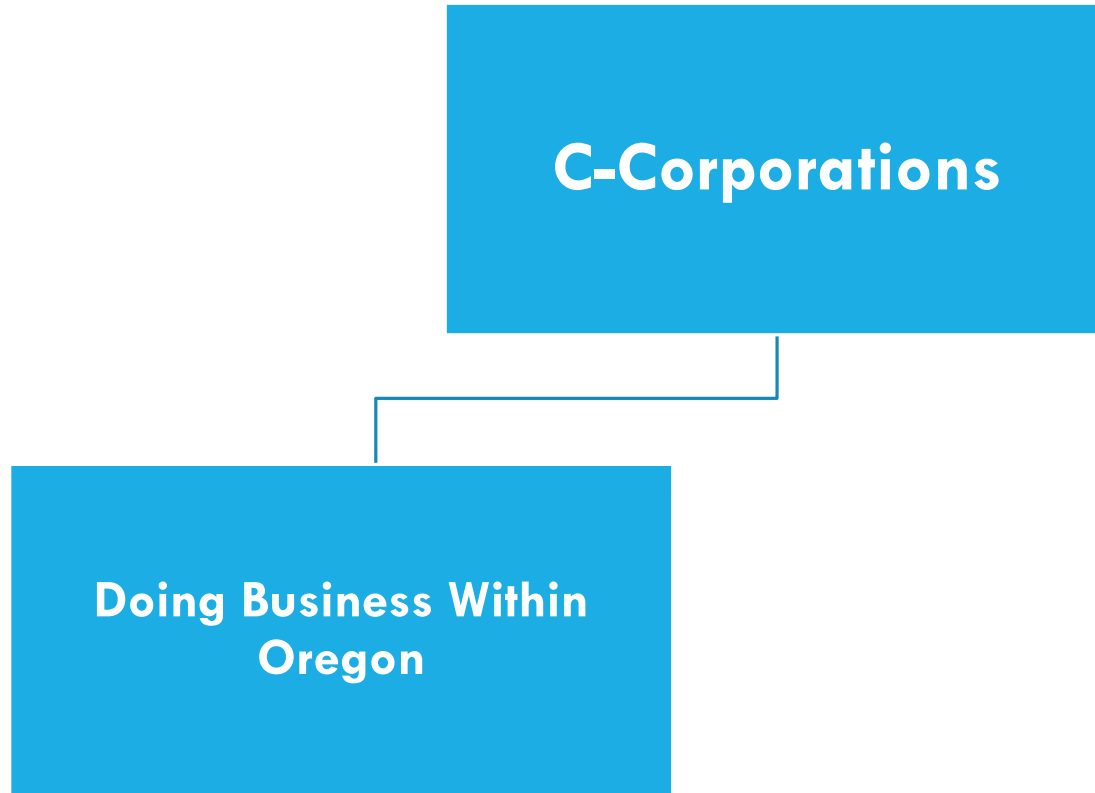


# **OVERVIEW OF CORPORATE TAX FILINGS IN OREGON**

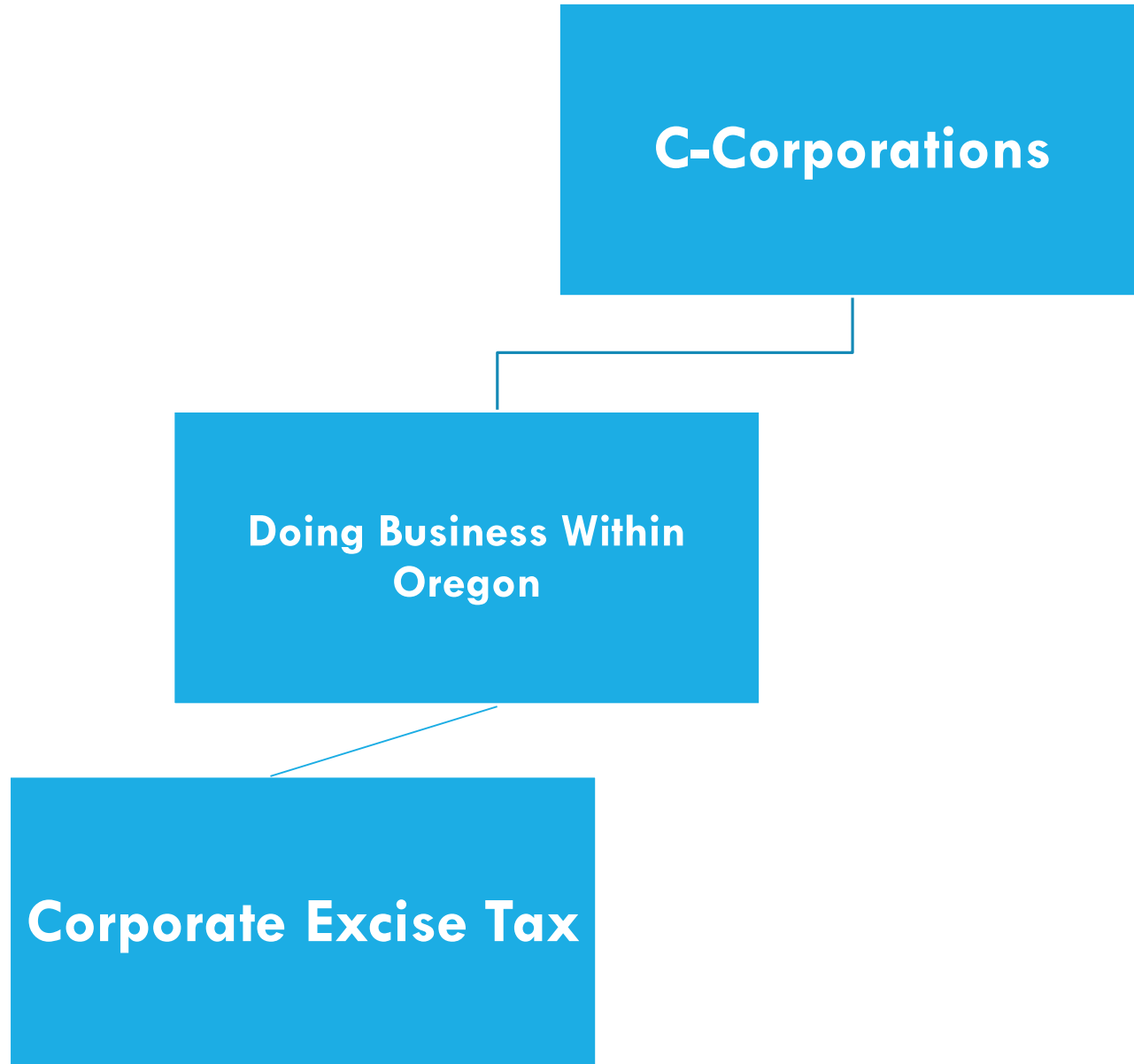
# Structure of C-Corp Tax Filings

**C-Corporations**

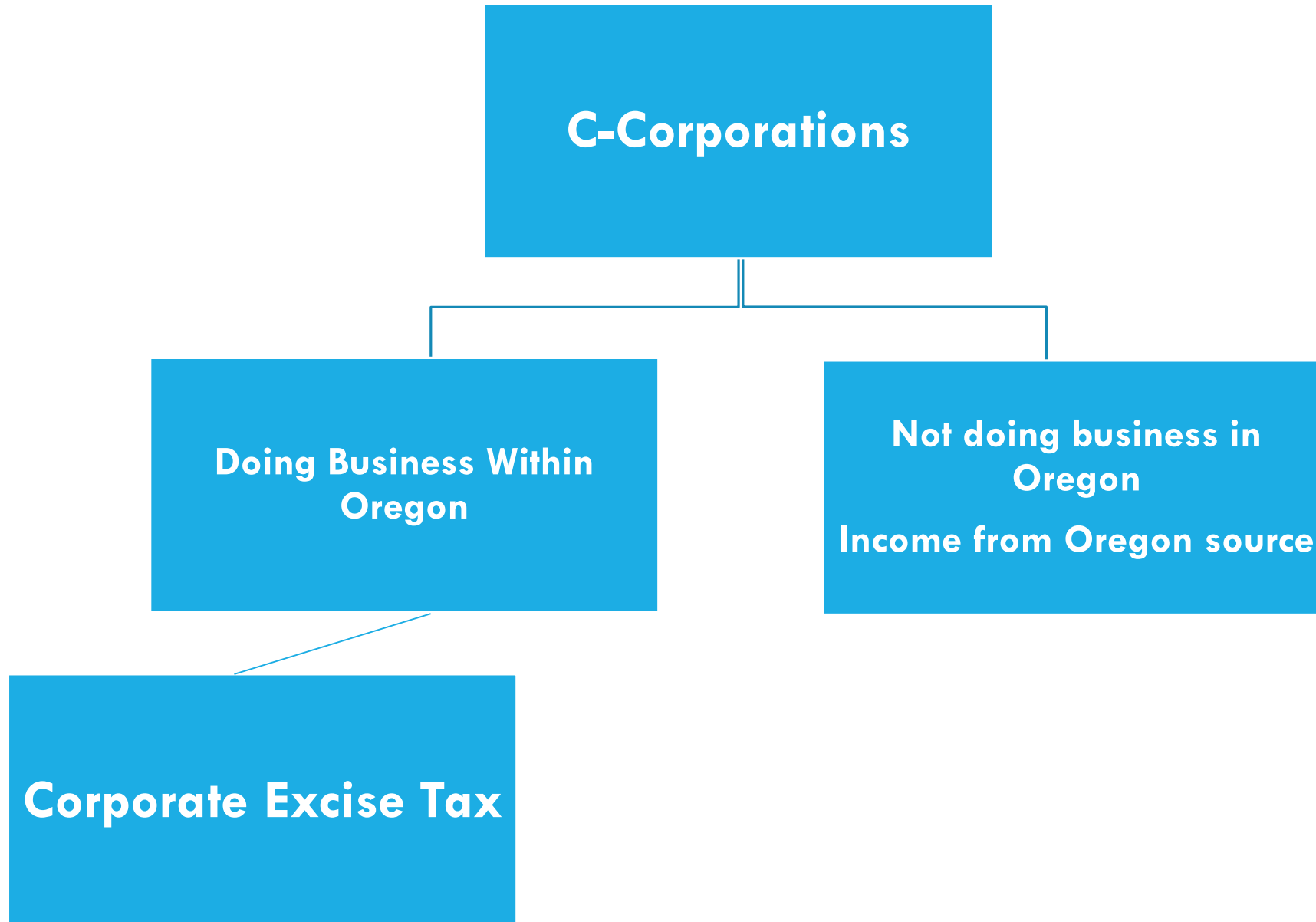
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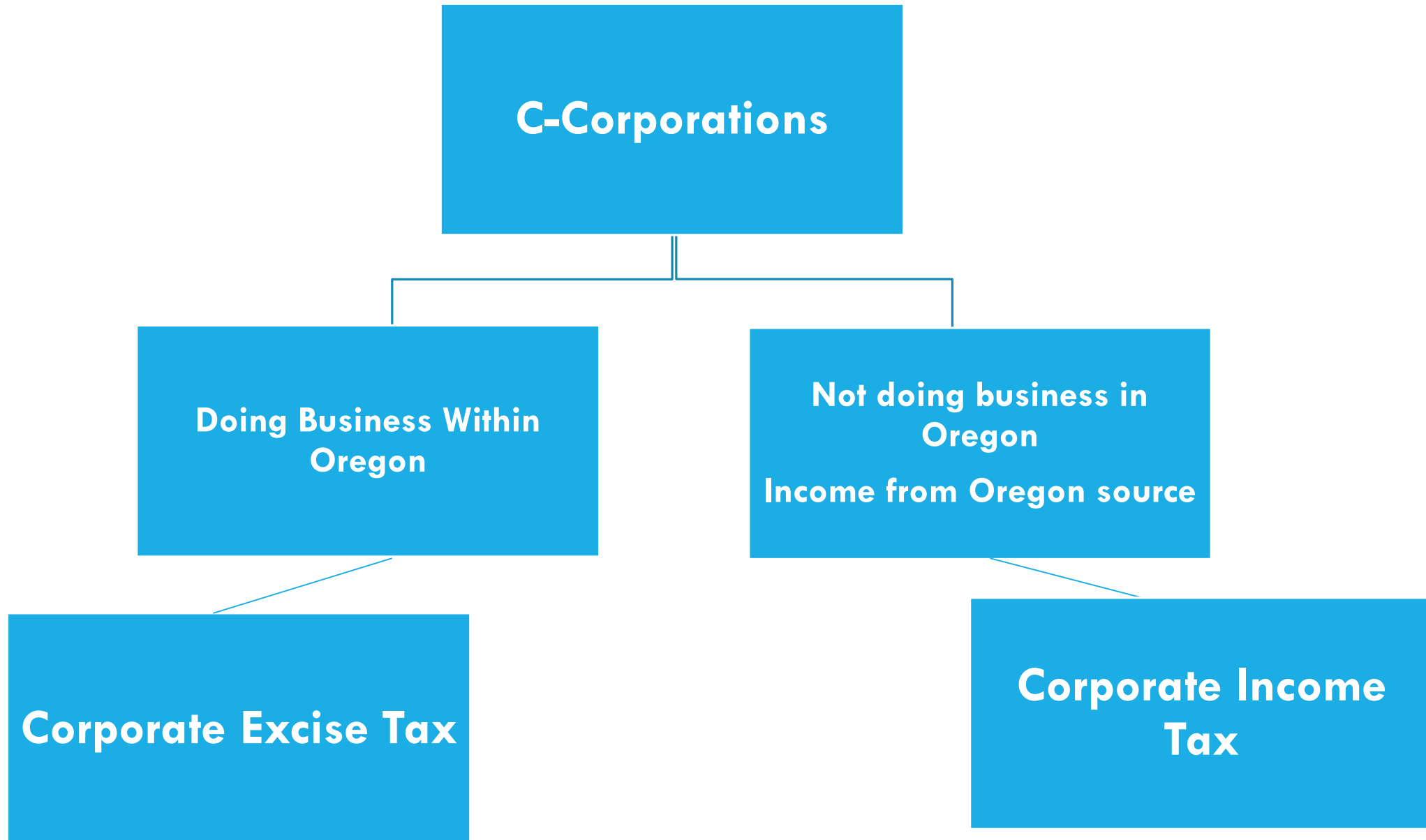


# Structure of C-Corp Tax Filings

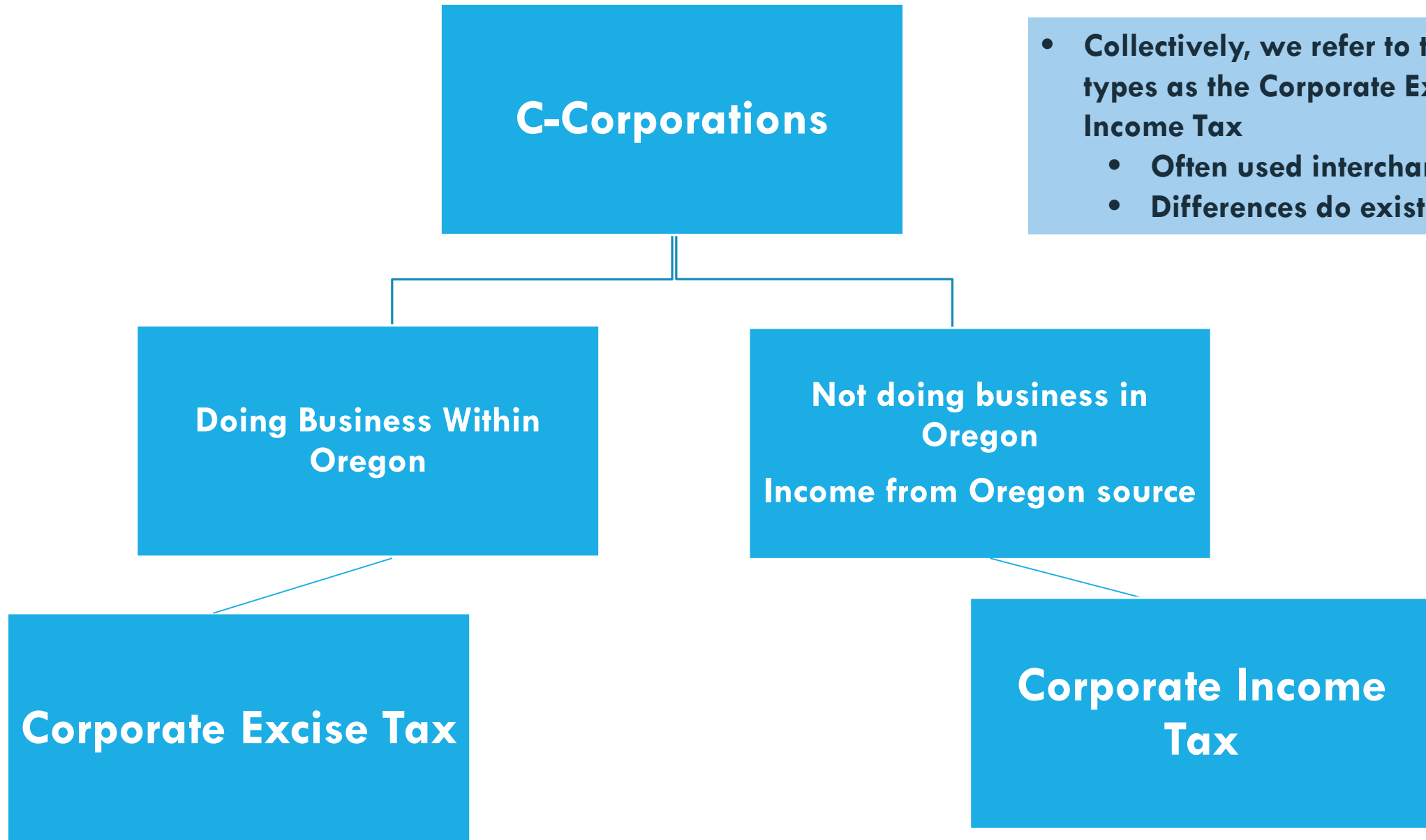




# Structure of C-Corp Tax Filings

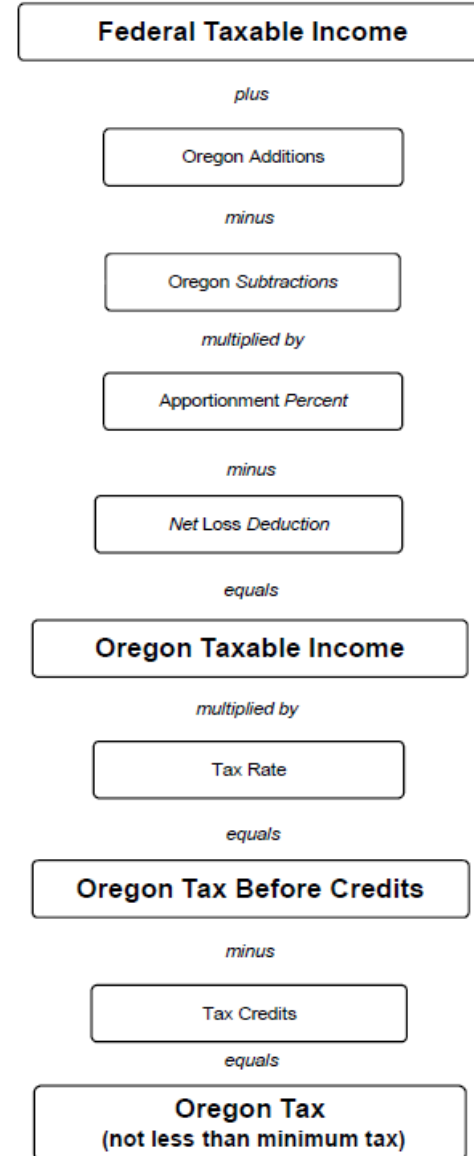


# Structure of C-Corp Tax Filings



# HOW TAXATION WORKS

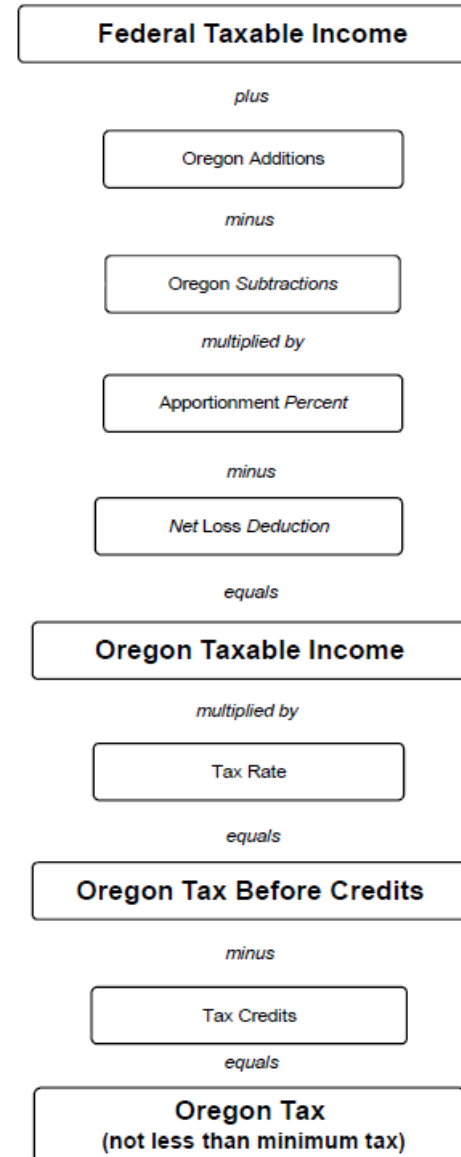
## Exhibit 1.1 Computation of the Oregon Corporate Income Tax



# HOW TAXATION WORKS



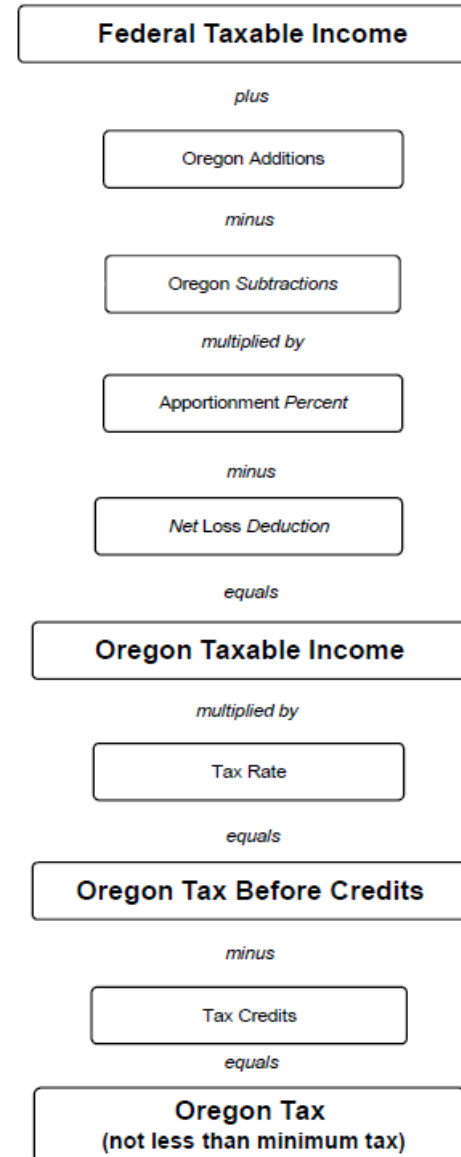
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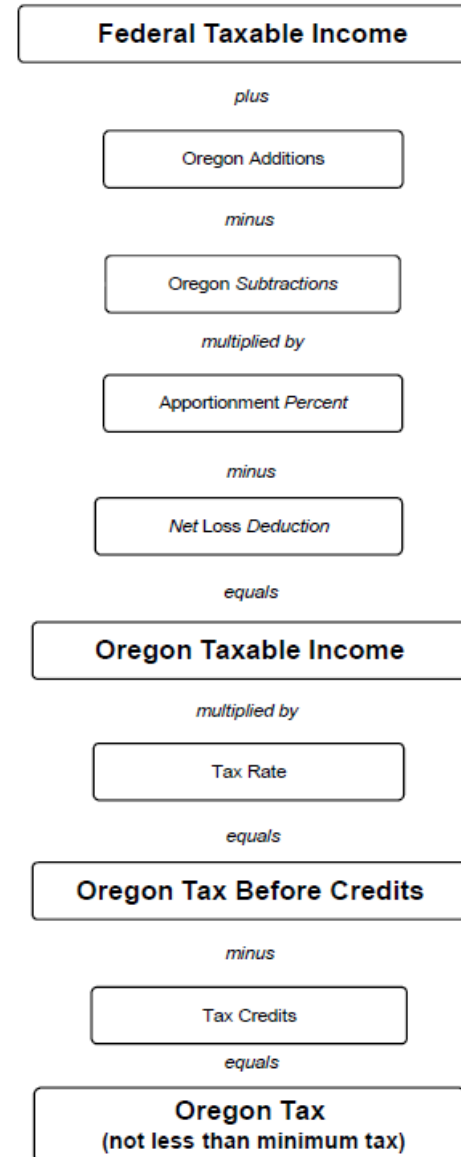
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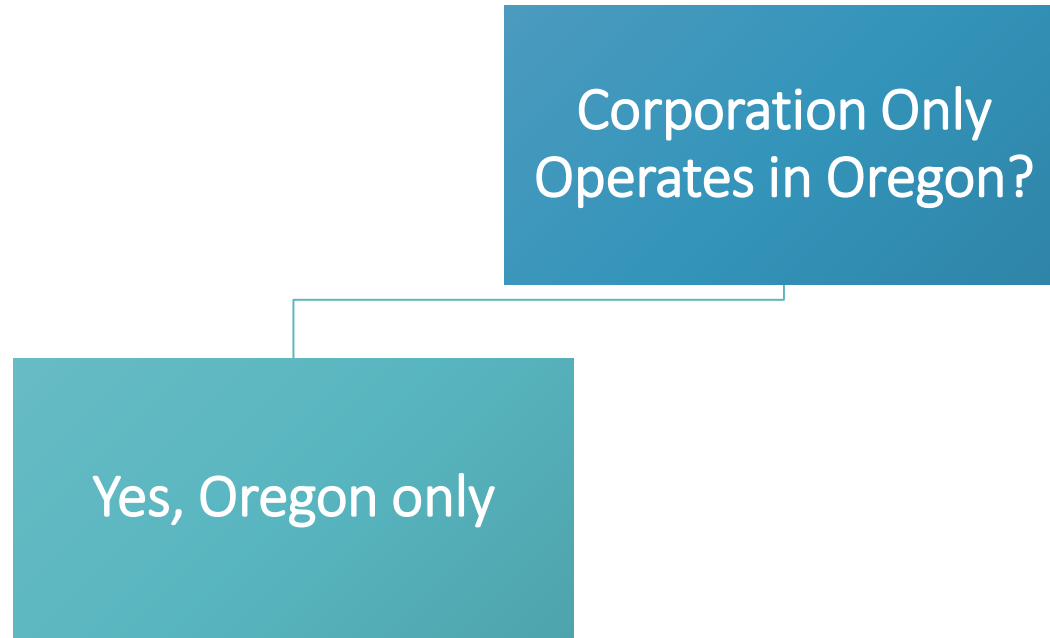
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# Oregon Excise and Income Tax Apportionment Methods

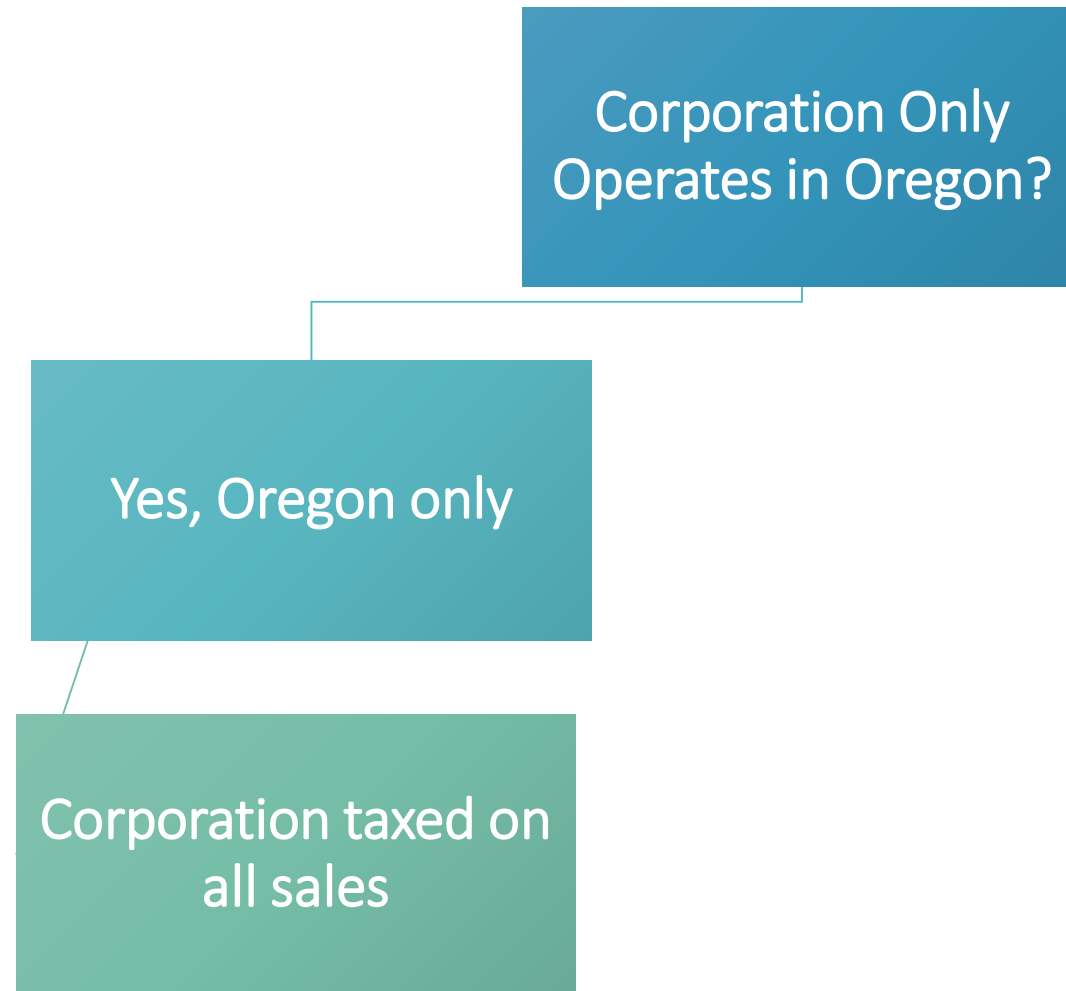
Corporation Only  
Operates in Oregon?

# Oregon Excise and Income Tax Apportionment Methods

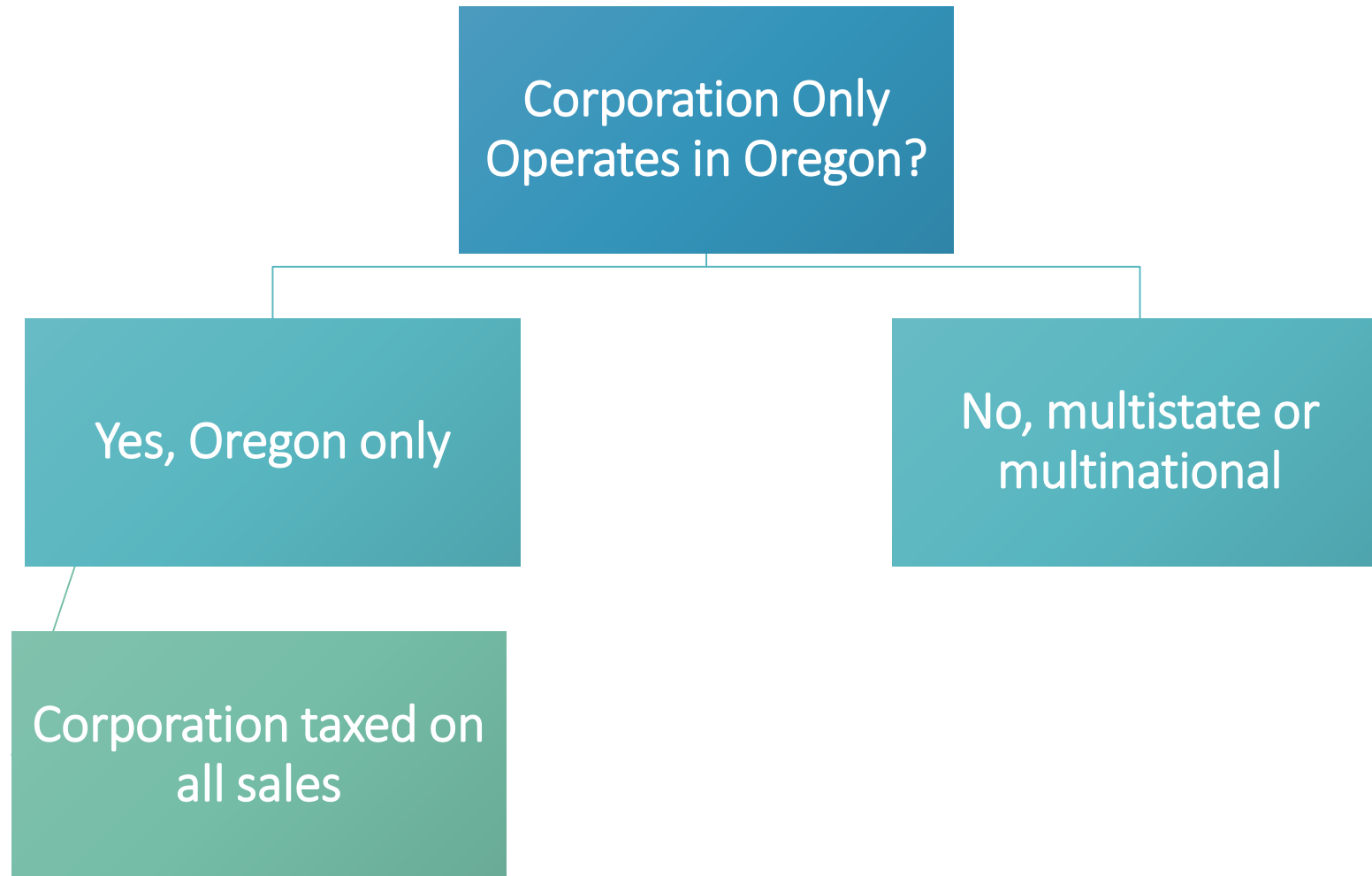




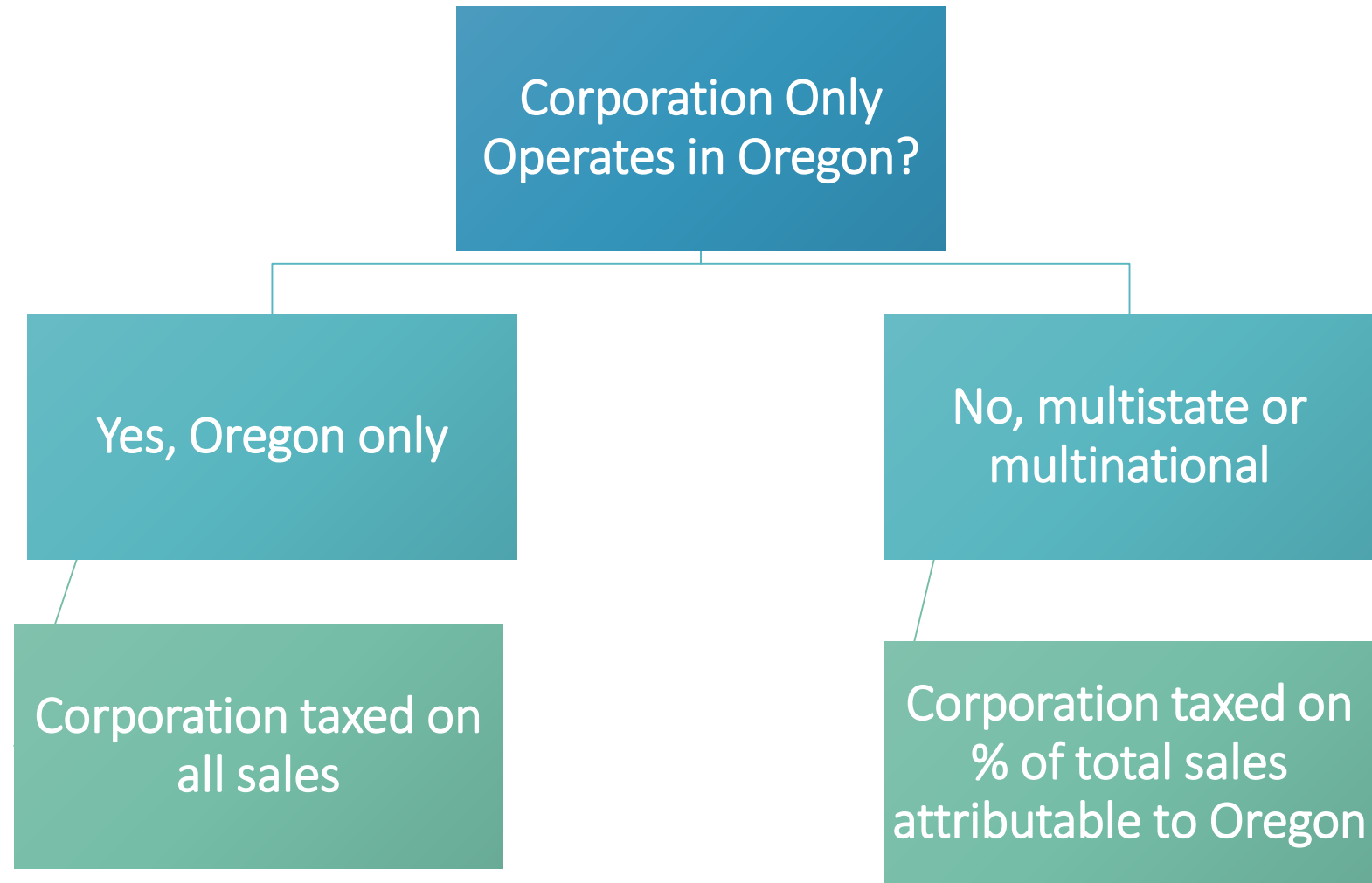
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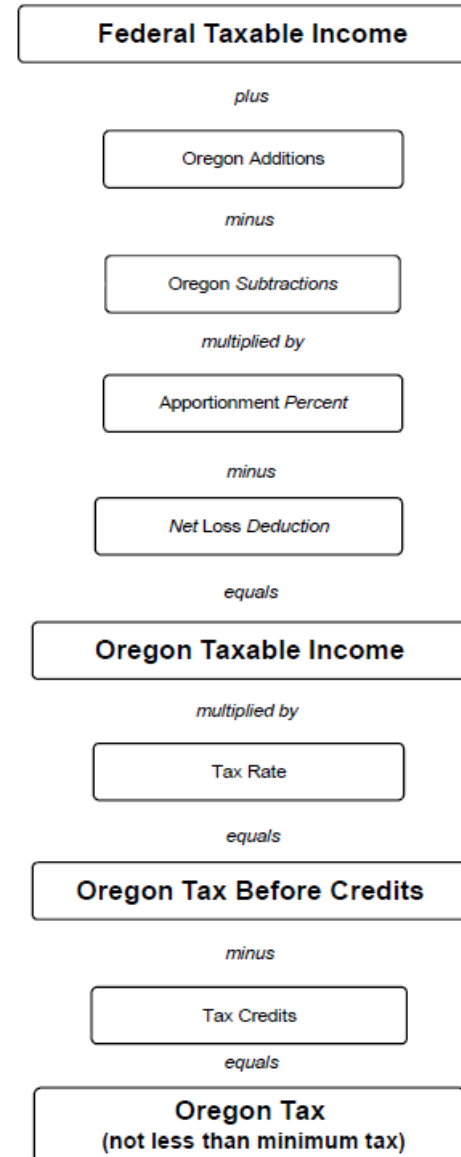
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## Exhibit 1.1 Computation of the Oregon Corporate Income Tax



# CARRY-BACK VERSUS CARRY-FORWARD

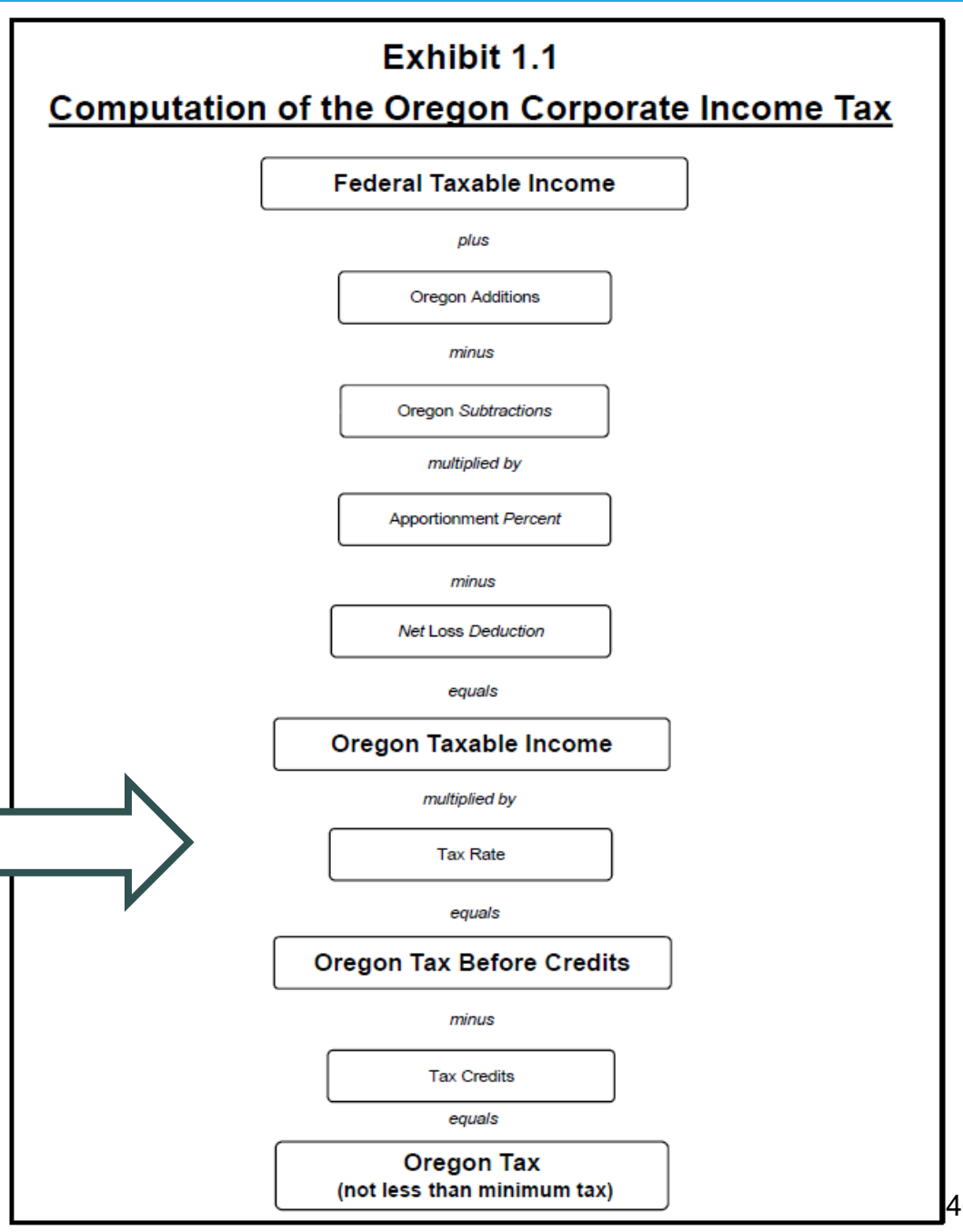
## Operating losses

- Offset future tax liability for up to 15 years
- Can be *carried forward*
- Cannot be *carried backward*

## Capital losses

- Can be *carried forward* up to five years
- Can be *carried backward* up to three years
- Only applied to reduce the amount of capital gain income taxed by Oregon

# HOW TAXATION WORKS



## 2018 Tax Year Rate Schedule

### C-Corporations

<u>Taxable Income</u>	<u>Tax Before Credits</u>
Not over \$1M	6.6% of taxable income
Over \$1M	\$66,000 + 7.6% of income over \$1M

# HOW TAXATION WORKS

## Exhibit 1.1 Computation of the Oregon Corporate Income Tax

Federal Taxable Income

*plus*

Oregon Additions

*minus*

Oregon Subtractions

*multiplied by*

Apportionment Percent

*minus*

Net Loss Deduction

*equals*

Oregon Taxable Income

*multiplied by*

Tax Rate

*equals*

Oregon Tax Before Credits

*minus*

Tax Credits

*equals*

Oregon Tax  
(not less than minimum tax)







# CORPORATE TAX CREDITS

# CORPORATE TAX CREDITS

*STILL AVAILABLE*

Agricultural workforce housing [ORS 315.164]

Bovine manure tax [ORS 315.176]

Child care fund contributions [ORS 315.213]

Crop donation [ORS 315.156]

Employer scholarship [ORS 315.237]

Fish screening devices [ORS 315.128]

Individual development account donation [ORS 315.271]

Oregon Life and Health Insurance Guaranty Association offset [ORS 734.835]

Opportunity Grant Fund (auction with DOR and HECC)

Oregon's affordable housing lender's credit [ORS 317.097]

Oregon Cultural Trust contribution [ORS 315.675]

Oregon Production Investment Fund (auction) [ORS 315.514]

Reservation enterprise zone [ORS 315.506]

Rural technology workforce development [ORS 315.523]

University venture fund [315.521]

# CORPORATE TAX CREDITS

## *CARRYFORWARD ONLY*

Alternative fuel vehicle (auction) [ORS 315.336]

Biomass production/collection [ORS 315.131, 315.144]

Business energy [ORS 315.354, 315.356, 469B.130]

Contribution of computers or scientific equipment [ORS 317.151]

Electronic commerce zone for investment [ORS 315.507, 315.508]

Employer-provided dependent care assistance [ORS 315.204]

Energy conservation projects [ORS 315.331]

Lender's credit: Energy conservation [ORS 317.112]

Long term enterprise zone facilities [ORS 317.124, 317.125, 285C.406]

Oregon low-income community jobs initiative [ORS 315.533]

Pollution control facilities [ORS 315.304]

Qualified research activities [ORS 317.152, 317.153, 317.154]

Reforestation of underproductive forestlands [ORS 315.104, 315.106]

Renewable energy development contributions [ORS 315.326]

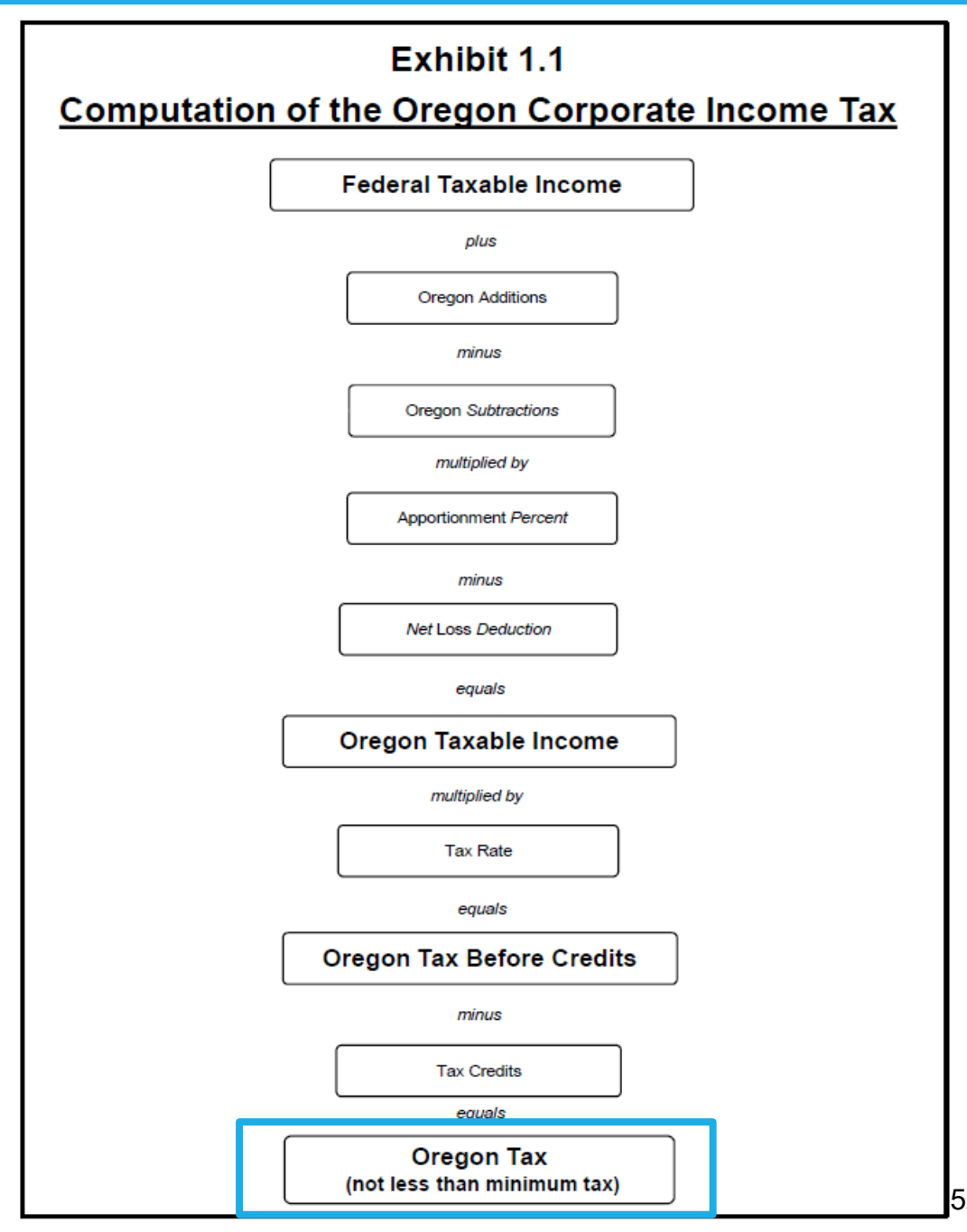
Renewable energy resource equipment manufacturing facility [ORS 315.341]

Repatriation credit

Transportation projects [ORS 315.336]

# HOW TAXATION WORKS

Source: Oregon Department of Revenue, Corporate Excise and Income Tax Report (2017)



# MINIMUM TAX SCHEDULE

C-Corporation Minimum Tax	
Oregon Sales (\$)	Minimum Tax (\$)
< \$500,000	\$150
\$500,000 to \$1 Million	\$500
\$1 Million to \$2 Million	\$1,000
\$2 Million to \$3 Million	\$1,500
\$3 Million to \$5 Million	\$2,000
\$5 Million to \$7 Million	\$4,000
\$7 Million to \$10 Million	\$7,500
\$10 Million to \$25 Million	\$15,000
\$25 Million to \$50 Million	\$30,000
\$50 Million to \$75 Million	\$50,000
\$75 Million to \$100 Million	\$75,000
\$100 Million or more	\$100,000

# MINIMUM TAX SCHEDULE

- This table shows the minimum tax schedule for **C-Corporations paying excise tax**
  - C-Corporations filing income tax in Oregon have no minimum tax
- S-Corporations have a minimum tax of \$150
  - OR 317.090(2)(b)

C-Corporation Minimum Tax	
Oregon Sales (\$)	Minimum Tax (\$)
< \$500,000	\$150
\$500,000 to \$1 Million	\$500
\$1 Million to \$2 Million	\$1,000
\$2 Million to \$3 Million	\$1,500
\$3 Million to \$5 Million	\$2,000
\$5 Million to \$7 Million	\$4,000
\$7 Million to \$10 Million	\$7,500
\$10 Million to \$25 Million	\$15,000
\$25 Million to \$50 Million	\$30,000
\$50 Million to \$75 Million	\$50,000
\$75 Million to \$100 Million	\$75,000
\$100 Million or more	\$100,000



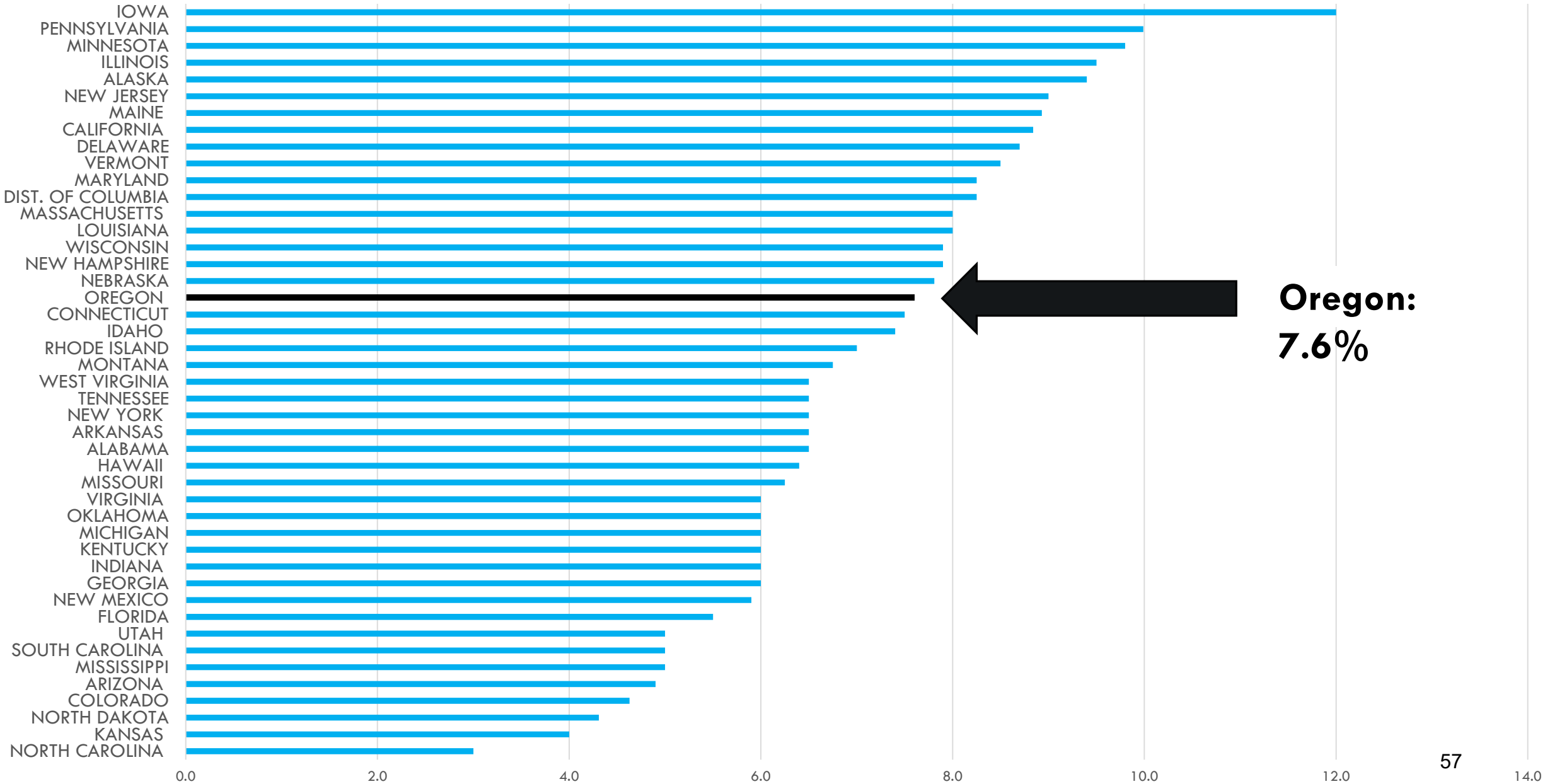
# **CURRENT STATISTICS ON CORPORATE TAX**



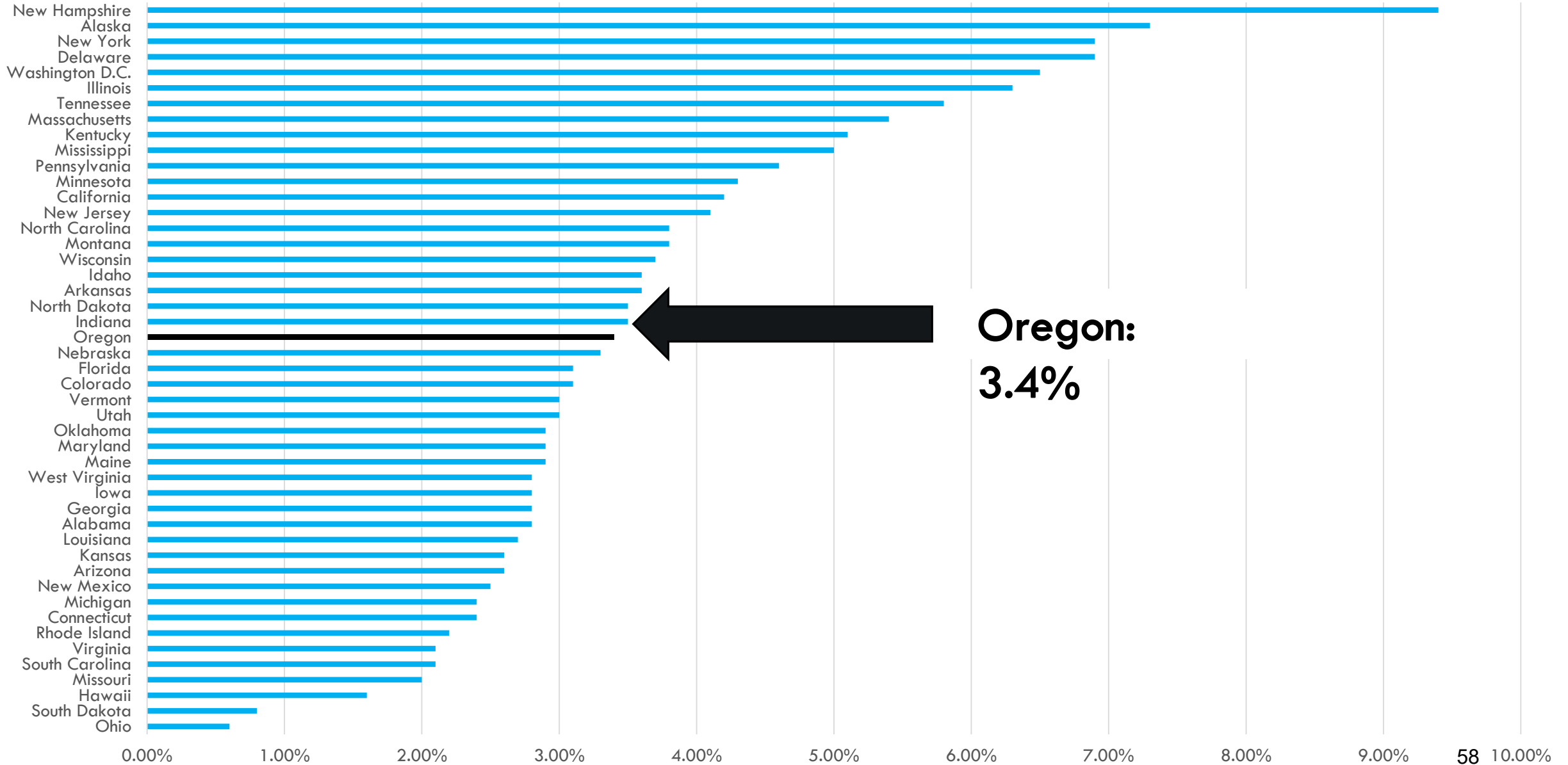
# COMPARISON TO OTHER STATES



# Top Corporate Tax Rate (%) by State - Tax Year 2018



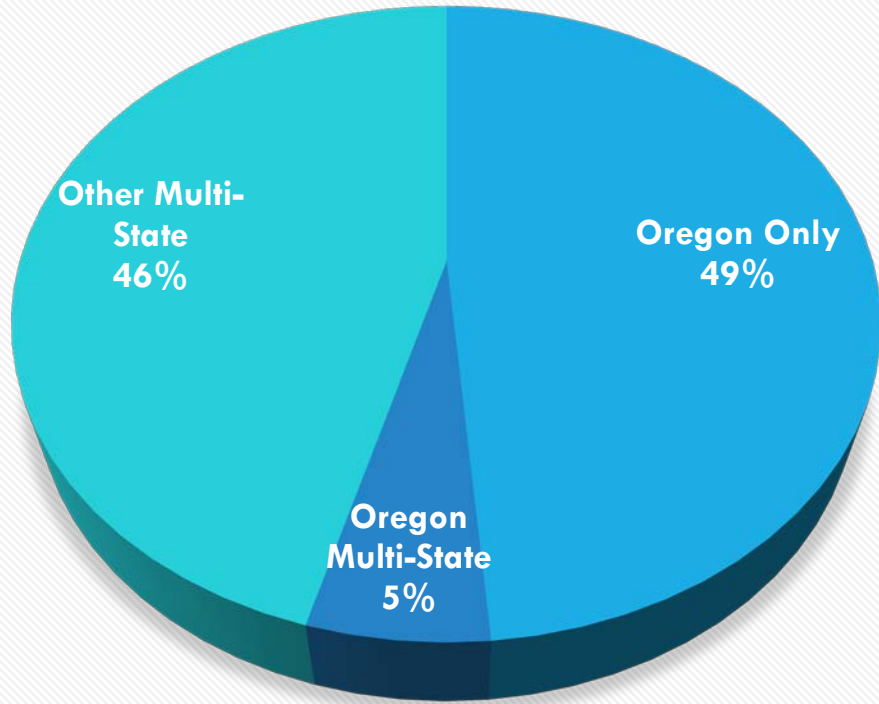
# Corporate Tax Revenue as a Percentage of State Revenue





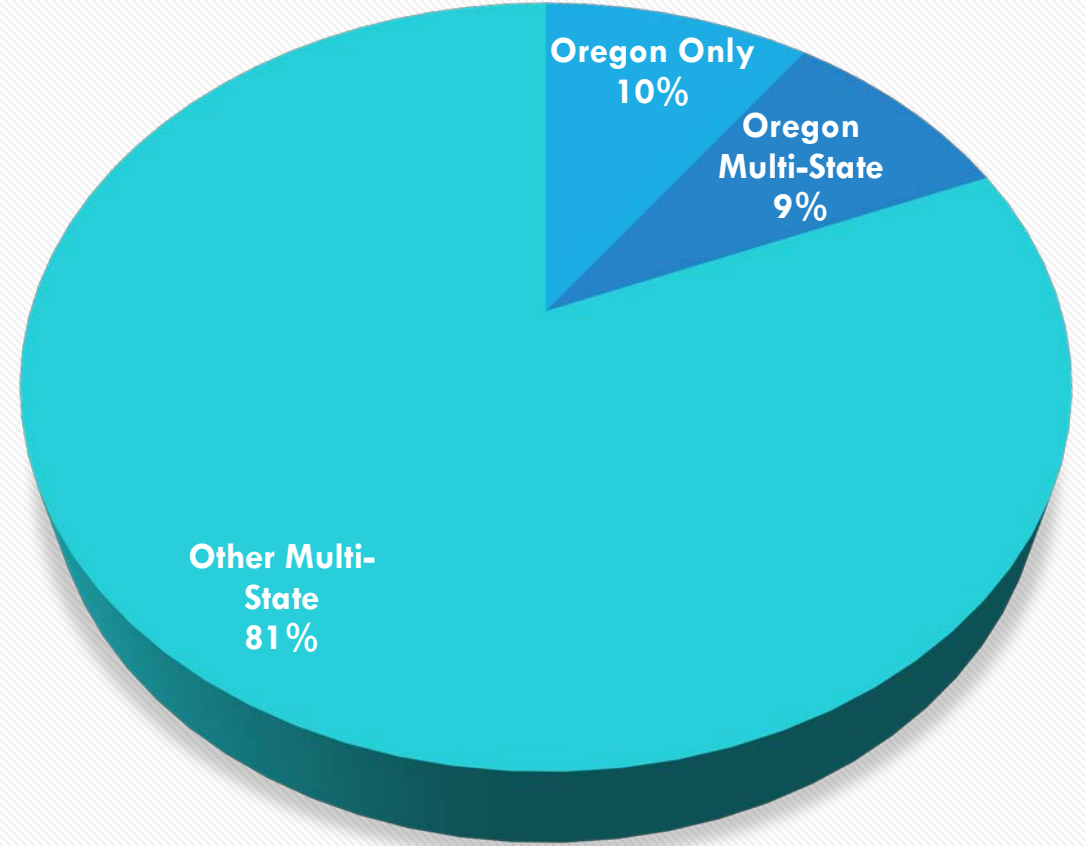
# TAX LIABILITY IN OREGON

### Number of C-Corporation Returns, 2015



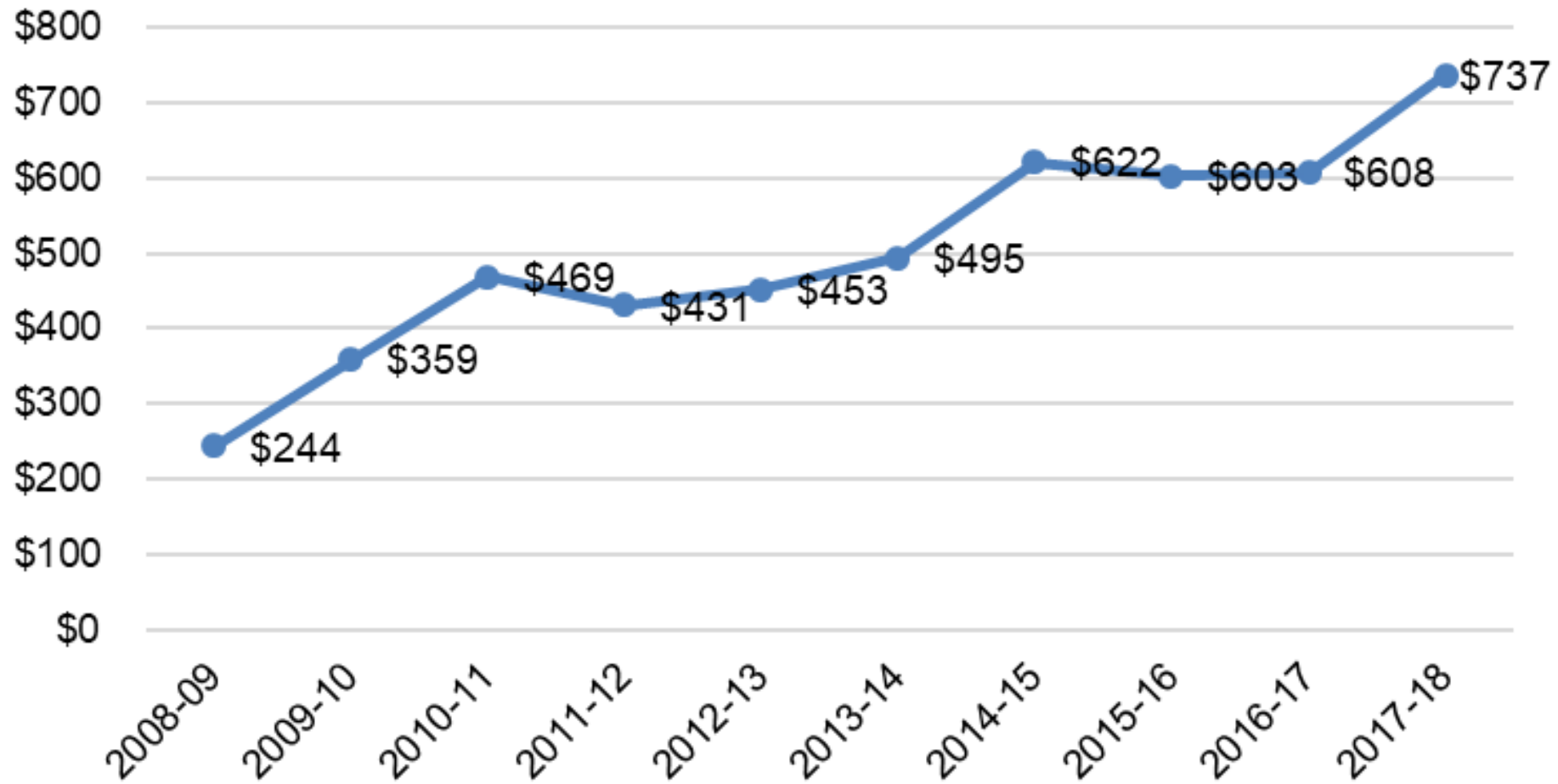
■ Oregon Only   ■ Oregon Multi-State   ■ Other Multi-State

### Tax Liability (Net Tax) for C-Corp., 2015

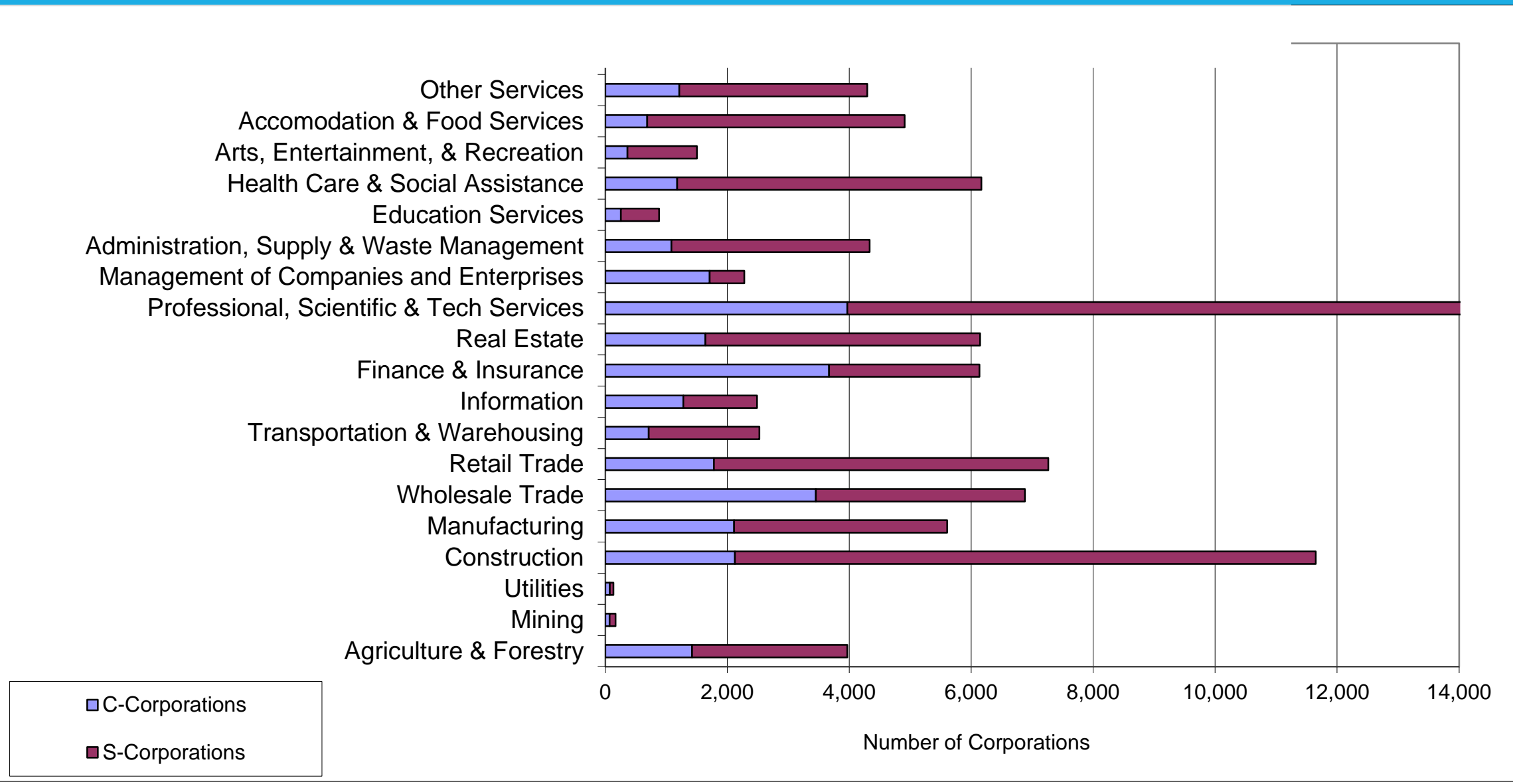


■ Oregon Only   ■ Oregon Multi-State   ■ Other Multi-State

## Corporate Tax Collections (\$millions)

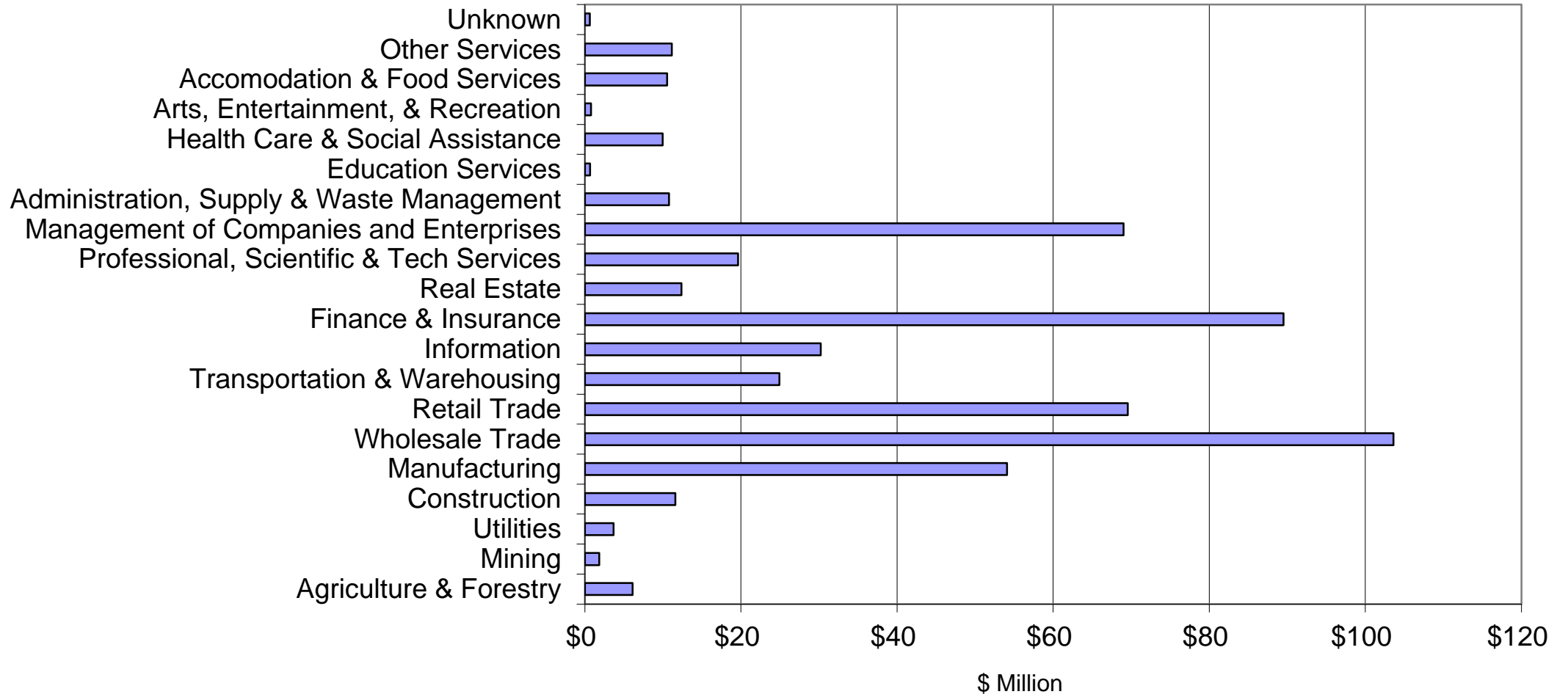


# Oregon Filers by Industry, 2016



# C-Corp Net Tax by Industry, 2016

## C-Corporations

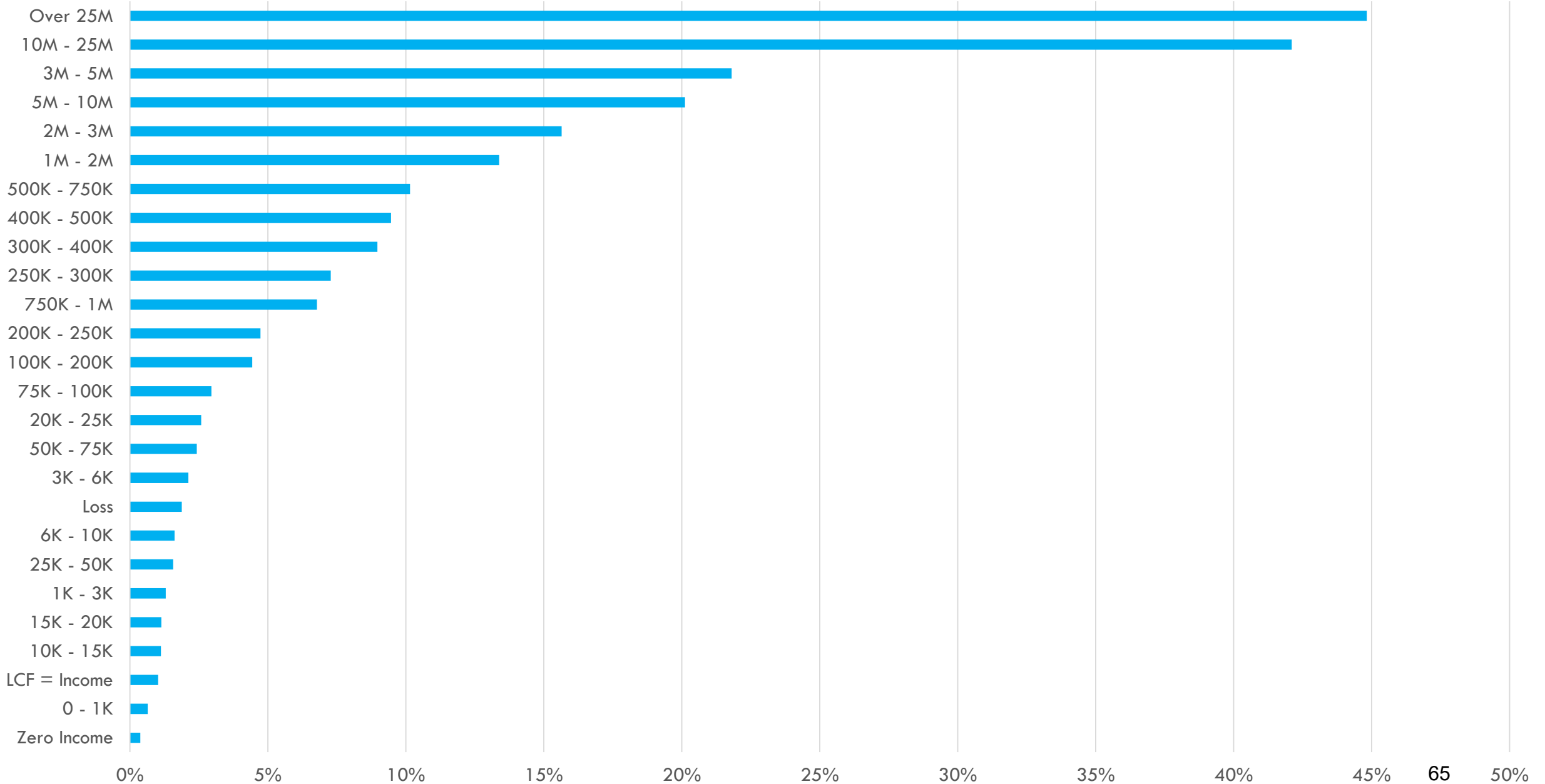




# **CORPORATE TAX CREDIT USE IN OREGON**



# Percent of Filers Using Credits, Separated by Income Group



# OREGON CORPORATE TAXES

A Guide to Current Corporate Taxation Practice in Oregon  
**Legislative Revenue Office**

The Oregon Department of Revenue generously provided much of the data used within this presentation.

**Additional slides  
with formal  
definitions, historical  
tables, etc. for  
reference**

# **EXTRA SLIDES**

# INSURANCE CORPORATION TAXATION HISTORY

## Pre 1997

- In-state insurers: corporate excise tax
- Out-of-state insurers: other taxes in lieu of corporate excise tax
  - Retaliatory Tax
  - Gross- Premiums Tax
- Due to legal issues out-of-state insurers faced, in 1995 legislature changed to make all (in-state and out-of-state) insurers face the same taxes

## 1997-2001

- Effective as of 1997, all insurance corporations pay corporate excise tax
- Foreign insurers paid a transition tax as the gross premiums tax was being phased out
- Retaliatory tax still in place

## Pre 2007

- Equally weighted income apportionment formula
  - 33.3% Share of company's total real estate income from Oregon
  - 33.3% Share of company's total wages and commissions paid to Oregon citizens
  - 33.3% Share of company's total insurance sales and premiums written in Oregon

## 2007

- Insurance corporations use an equally weighted sales factor for apportionment
  - Now similar to C Corporation apportionment formula
  - Means that a foreign insurer's apportionment factor is the percent of sales from Oregon

# HISTORY OF MINIMUM TAX & USE OF TAX CREDITS

2013

- Oregon Tax Court rules that tax credits can be applied to minimum tax

2015

- Legislature modified the law so that credits can no longer be used towards minimum tax for years 2015-2020

2017

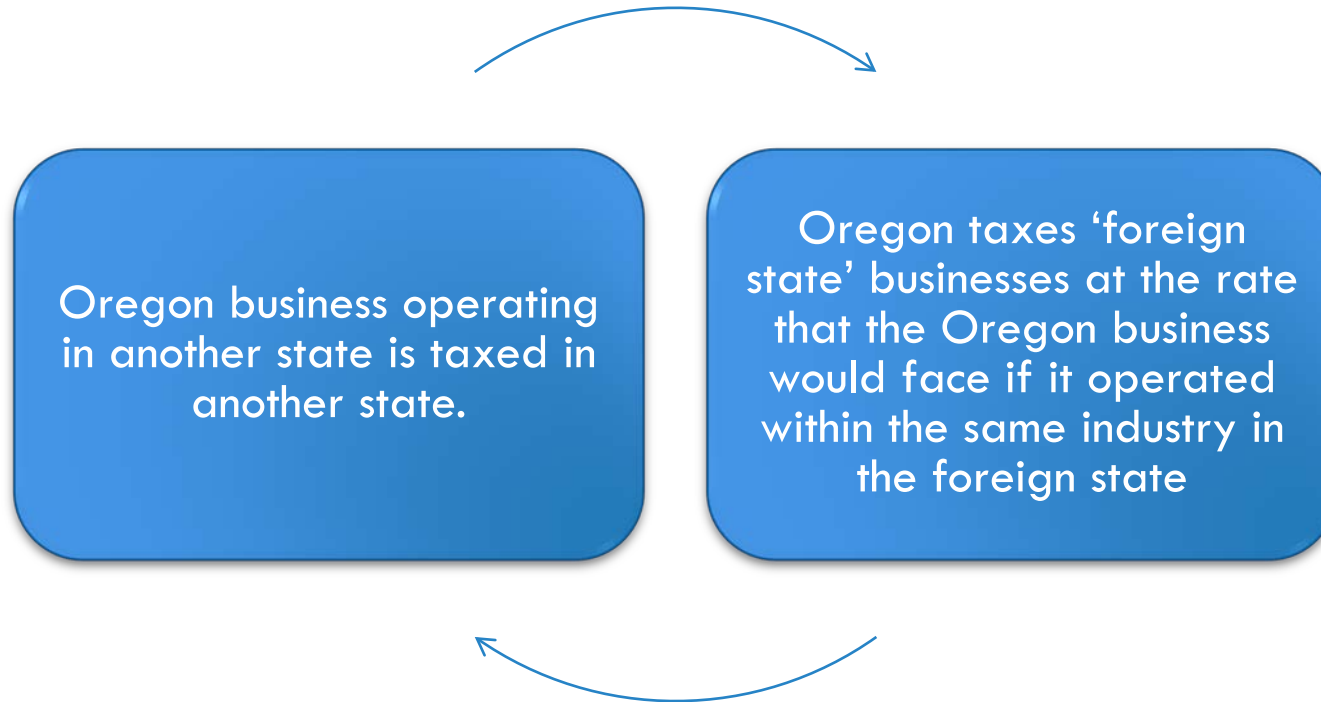
- Minimum tax modification above was made permanent

**Implication** of these policy changes is that **2009-2014**, when tax credits could be applied to minimum tax, the **minimum tax is really a minimum gross tax**

# RETALIATORY TAX

- Tax based on a comparison of the taxes, fees, assessments, penalties, and fines that an Oregon insurance company would pay in another state to those that an insurer from that state actually pays in Oregon.
- Example
  - Suppose a business from a foreign state operates within Oregon in an industry where a retaliatory tax is in place. In that case, the foreign state business is taxed at the rate that the Oregon business would face if it operated within the same industry in the foreign state .

# RETALIATORY TAX



# Differences in State Apportionment of Corporate Income Calculations

Source: Federal Tax Administrators, State Apportionment of Corporate Income (2018)

STATE APPORTIONMENT OF CORPORATE INCOME- Tax Year 2018			
ALABAMA *	Double wtd Sales	NEBRASKA	Sales
ALASKA *	3 Factor	NEVADA	No State Income Tax
ARIZONA *	Sales/Double wtd Sales	NEW HAMPSHIRE	Double wtd Sales
ARKANSAS *	Double wtd Sales	NEW JERSEY	Sales
CALIFORNIA *	Sales	NEW MEXICO *	Sales
COLORADO *	Sales	NEW YORK	Sales
CONNECTICUT	Sales	NORTH CAROLINA *	Sales
DELAWARE (3)	Triple wtd Sales	NORTH DAKOTA * (4)	75% Sales, 12.5% Property & Payroll/3 Factor
FLORIDA	Double wtd Sales	OHIO	N/A (2)
GEORGIA	Sales	OKLAHOMA	3 Factor
HAWAII *	3 Factor	OREGON	Sales
IDAHO *	Double wtd Sales	PENNSYLVANIA	Sales
ILLINOIS *	Sales	RHODE ISLAND	Sales
INDIANA	Sales	SOUTH CAROLINA	Sales
IOWA	Sales	SOUTH DAKOTA	No State Income Tax
KANSAS *	3 Factor	TENNESSEE	Triple wtd Sales
KENTUCKY *	Double wtd Sales	TEXAS	Sales
LOUISIANA	Sales	UTAH	Sales
MAINE *	Sales	VERMONT	Double wtd Sales
MARYLAND	Sales/Double wtd Sales	VIRGINIA	Double wtd Sales/Sales
MASSACHUSETTS	Sales/Double wtd Sales	WASHINGTON	No State Income Tax
MICHIGAN	Sales	WEST VIRGINIA *	Double wtd Sales
MINNESOTA	Sales	WISCONSIN *	Sales
MISSISSIPPI	Sales/Other (1)	WYOMING	No State Income Tax
MISSOURI *	3 Factor	DIST. OF COLUMBIA	Sales
MONTANA *	3 Factor		

Source: Compiled by FTA from state sources.



# RAINY DAY FUND AND CORPORATE TAXES OR 317.853

- (1) For tax years beginning on or after **January 1, 2013, and before January 1, 2017**, any revenue that is received as a result of a rate of tax **above 7.5 percent** imposed under this chapter and that is in excess of the revenue that would be received under this chapter at a rate of 7.5 percent shall be **deposited into the Oregon Rainy Day Fund** established by ORS 293.144.
- (2) For tax years beginning **on or after January 1, 2017**, any revenue that is received as a result of a rate of tax above **7.2 percent** imposed under this chapter and that is in excess of the revenue that would be received under this chapter at a rate of 7.2 percent shall be deposited into the **Oregon Rainy Day Fund** established by ORS 293.144.
- (3) Before the end of each biennium, beginning with the biennium ending on June 30, 2015, the **Department of Revenue shall estimate the revenue** described in subsection (1) or (2) of this section that is received during the biennium. An amount equal to that estimate shall be **transferred into the Oregon Rainy Day Fund** established by ORS 293.144 on or before June 30 of each odd-numbered year. [2009 c.747 §2; 2013 s.s. c.5 §8]

# UNITARY REPORTING REQUIREMENT

As of 1984, Oregon requires....

**operating in Oregon AND consolidated federal return  
must  
file a consolidated return for Oregon.**

# EXCEPTIONS TO APPORTIONMENT

## Utility Corporations, Telecommunication Corporations

- May elect to use a double-weighted sales formula (i.e. Sales 50% , 25 % property, 25% payroll)

## Insurance Companies

- Single sales factor method
- Different calculation of taxable income
  - Based on annual statement filed with Oregon Insurance Commissioner

# CARRY-BACK VERSUS CARRY-FORWARD

## Operating losses

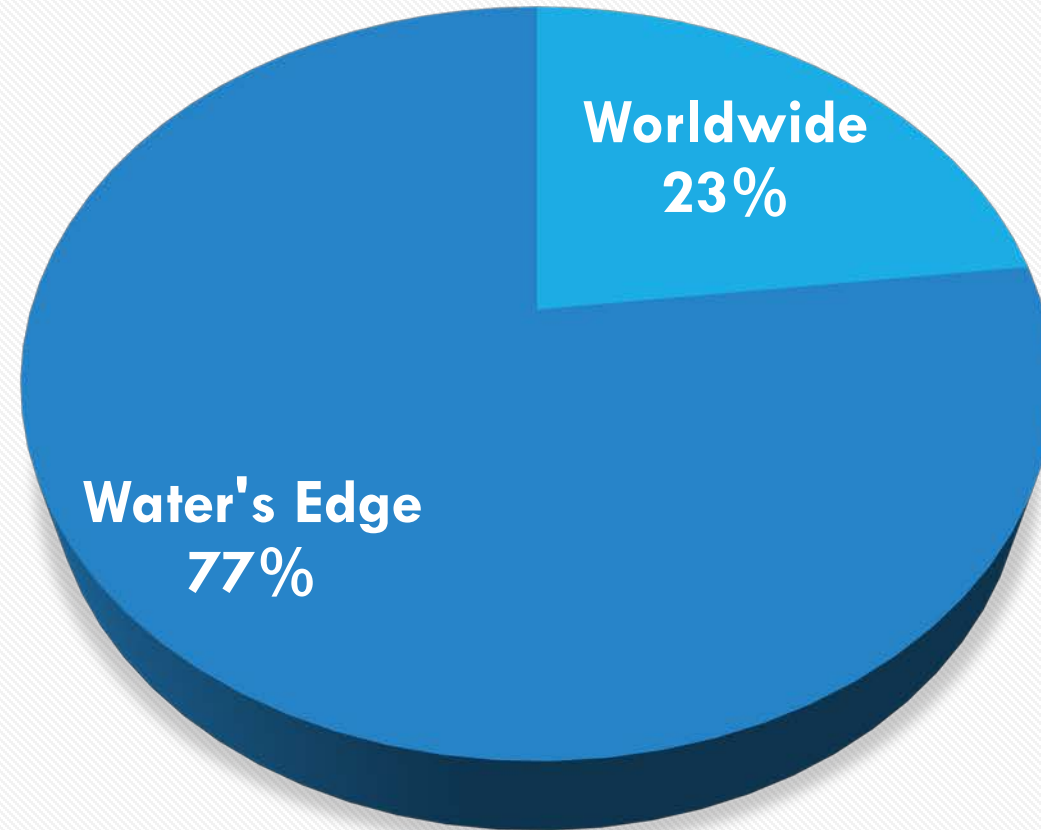
- Offset future tax liability for up to 15 years
- Can be *carried forward*
- Cannot be *carried backward*

## Capital losses

- Can be *carried forward* up to five years
- Can be *carried backward* up to three years
- Only applied to reduce the amount of capital gain income taxed by Oregon

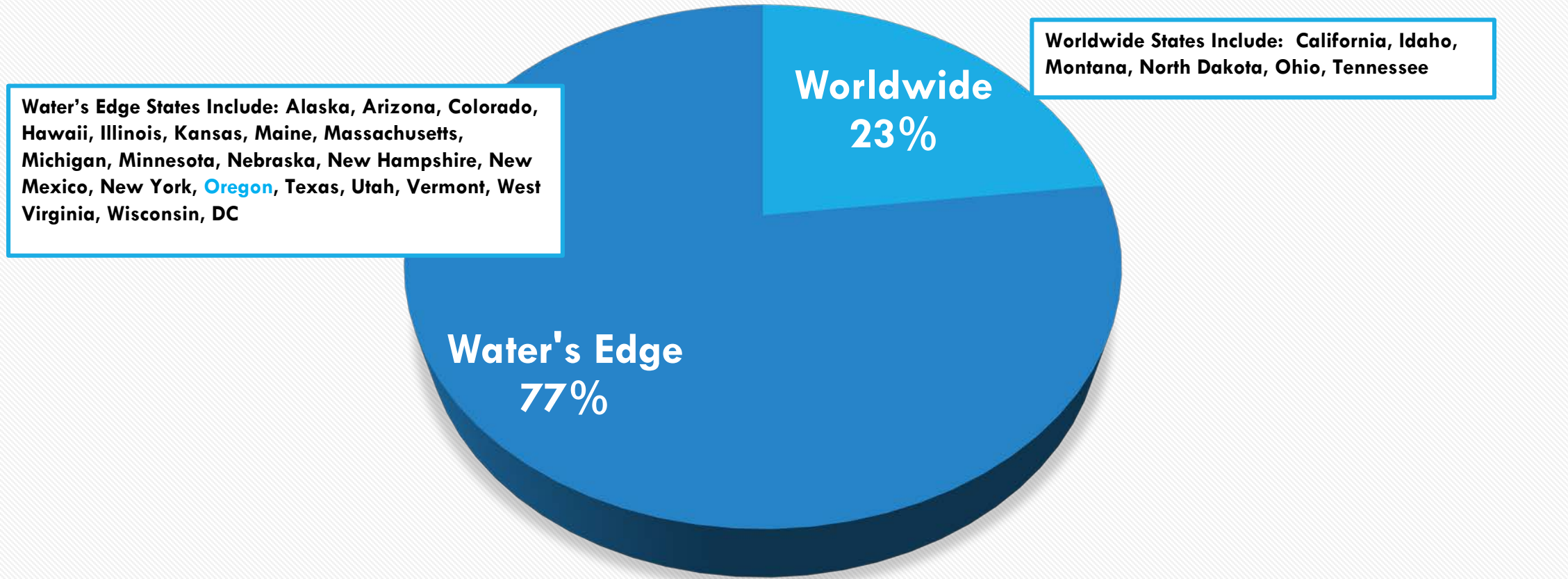
# States by Reporting Status, 2018

Note: Only states allowing combined reporting use these methods.



# States by Reporting Status, 2018

Note: Only states allowing combined reporting use these methods.



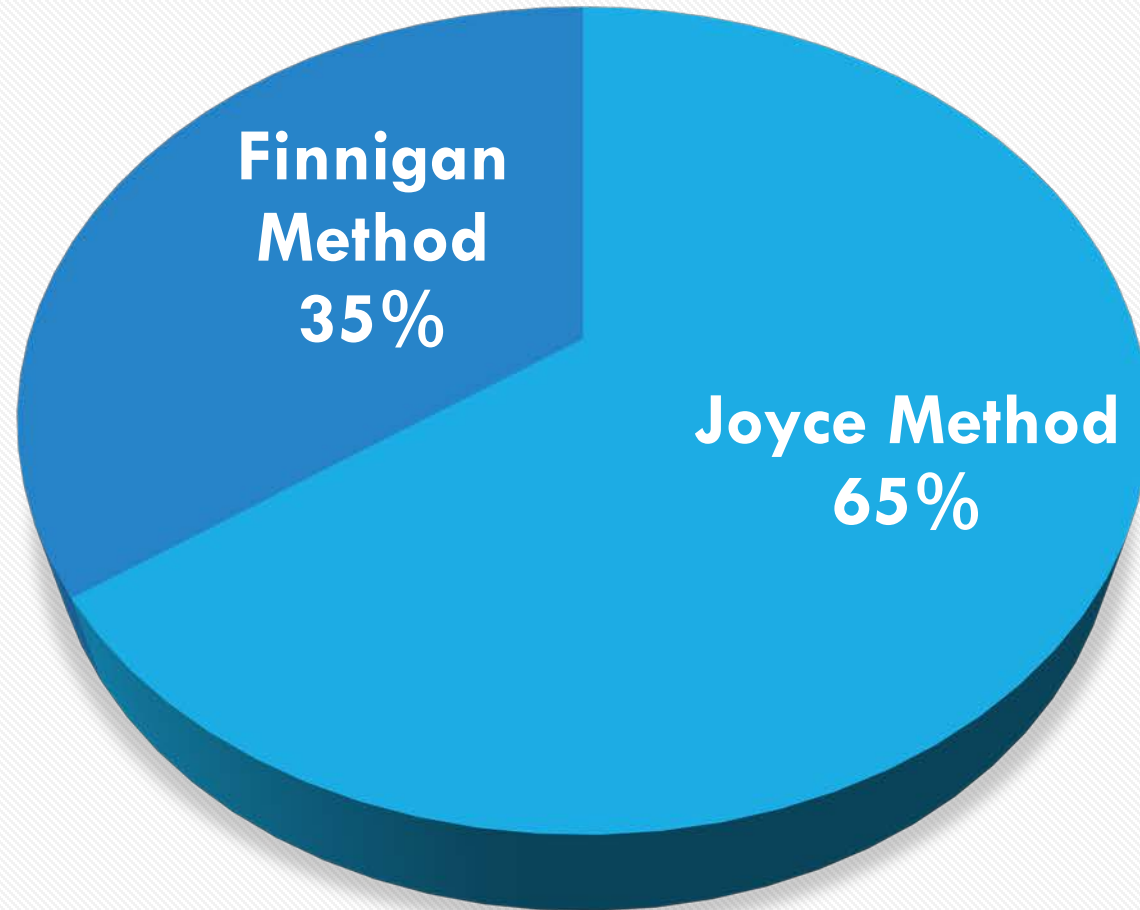
**Water's Edge States Include:** Alaska, Arizona, Colorado, Hawaii, Illinois, Kansas, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Mexico, New York, **Oregon**, Texas, Utah, Vermont, West Virginia, Wisconsin, DC

**Worldwide States Include:** California, Idaho, Montana, North Dakota, Ohio, Tennessee

**Note:** Many of the worldwide states allow corporations to elect to file as Water's Edge.

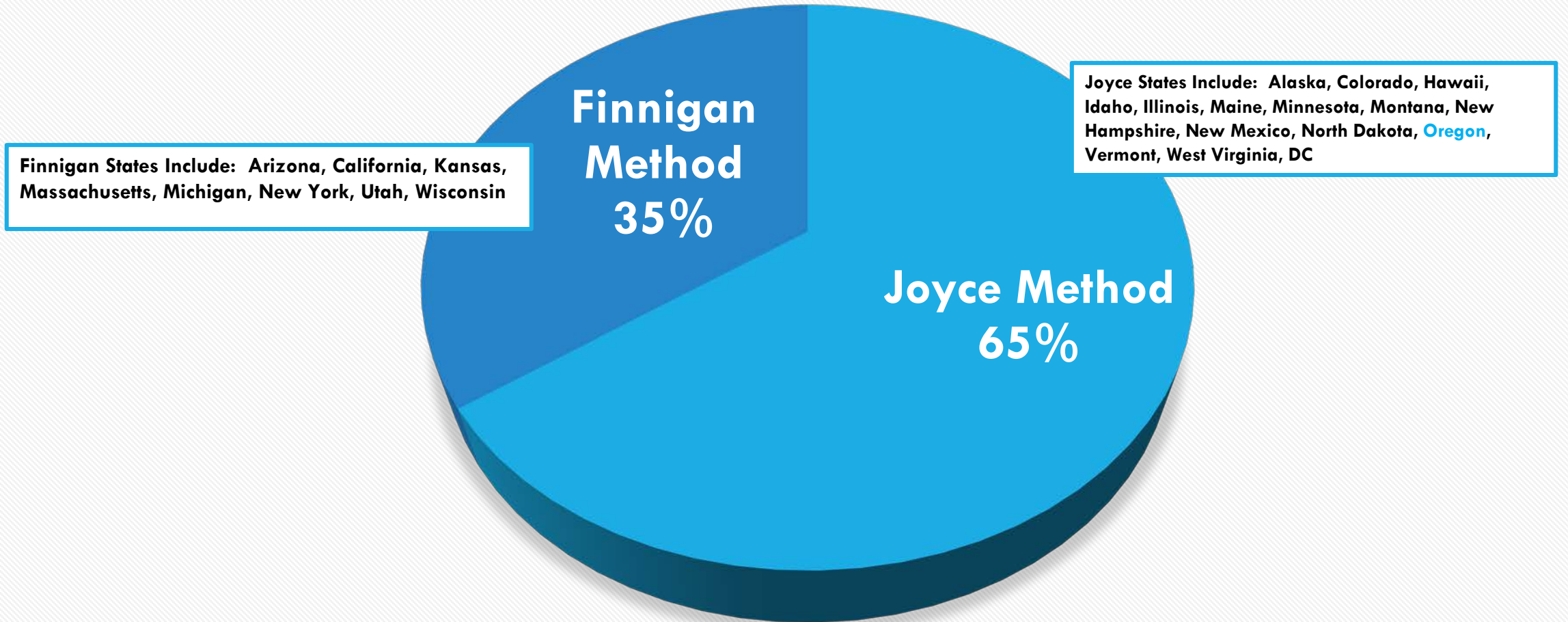
# States by Apportionment Method, 2018

Note: Only states allowing combined reporting use these methods.



# States by Apportionment Method, 2018

Note: Only states allowing combined reporting use these methods.





# HISTORICAL CORPORATE TAX RATES

Where we are today

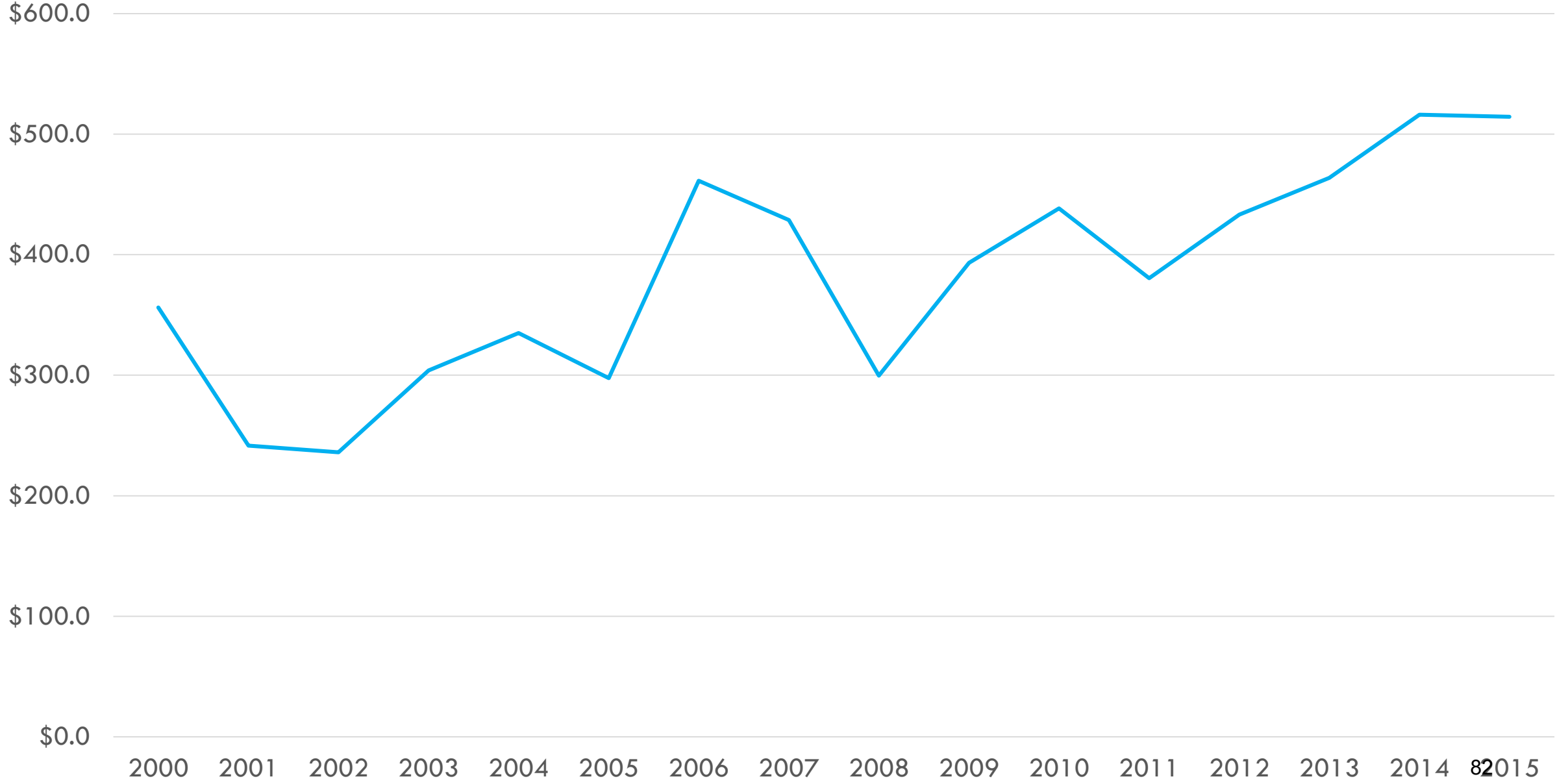


**Exhibit 1.3—Corporate Tax Rates, 1929 to Present**

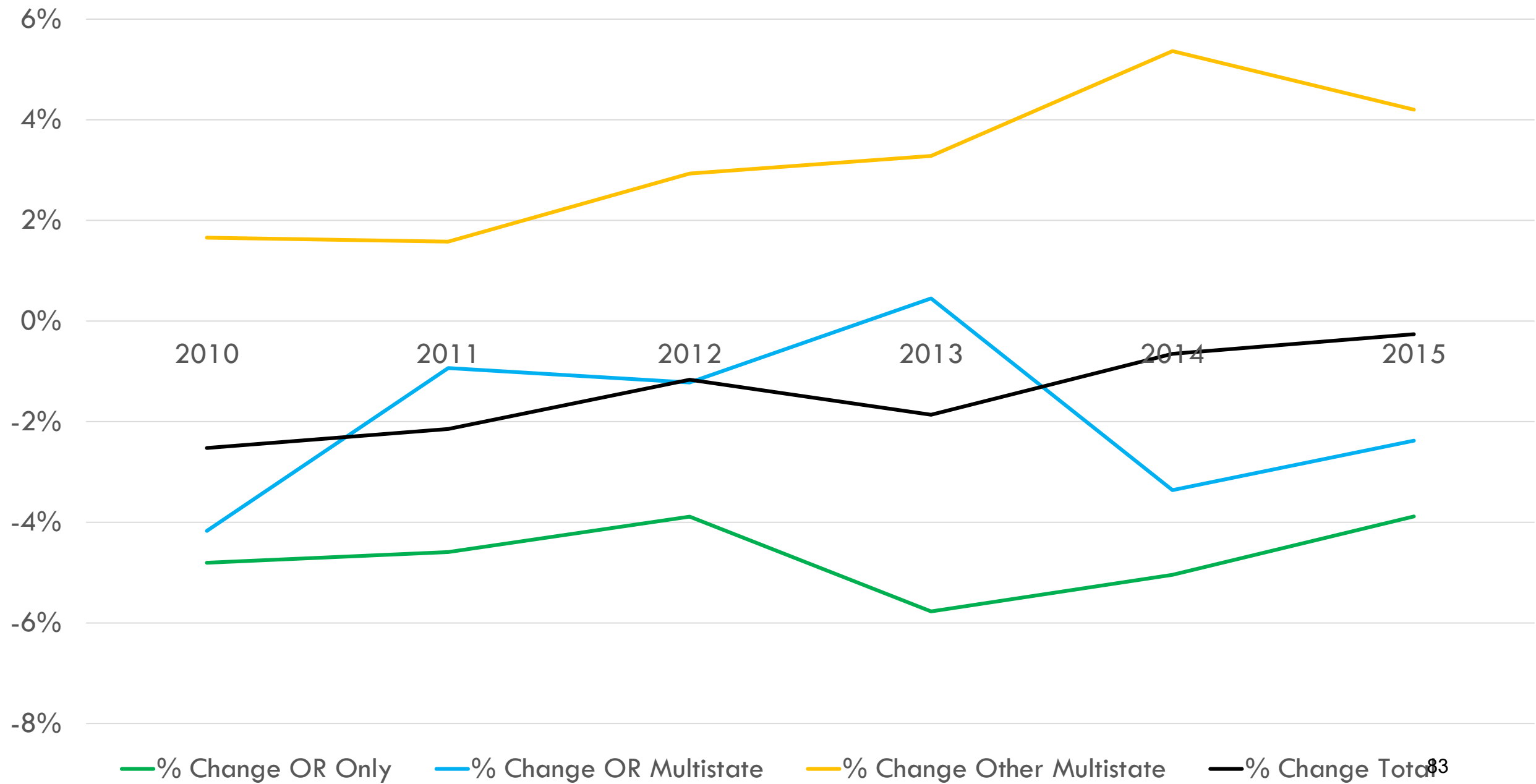
Tax Year	Tax Rate	Type of Corporation
1929	5.0%	All Corporations
1932	8.0%	All Corporations
1955	4.0%	All Corporations
1957	6.0%	Regular Corporations
	7.0%	Public Utilities
	9.0%	Financial Corporations
1959	6.0%	Regular Corporations
	6.0%	Public Utilities
	9.0%	Financial Corporations
1963	6.0%	Regular Corporations
	6.0%	Public Utilities
	8.0%	Financial Corporations
1976	6.5%	Regular Corporations
	6.0%	Public Utilities
	6.5%	Financial Corporations
1977	7.0%	All Corporations
1978	7.5%	All Corporations
1987	6.6%	All Corporations
2009	6.6%	All Corporations, taxable income <= \$250,000
	7.9%	All Corporations, taxable income > \$250,000
2011	6.6%	All Corporations, taxable income <= \$250,000
	7.6%	All Corporations, taxable income > \$250,000
2013	6.6%	All Corporations, taxable income <= \$1 M
	7.6%	All Corporations, taxable income > \$1 M

Source: Oregon Department of Revenue, Corporate Excise and Income Tax Report (2017)

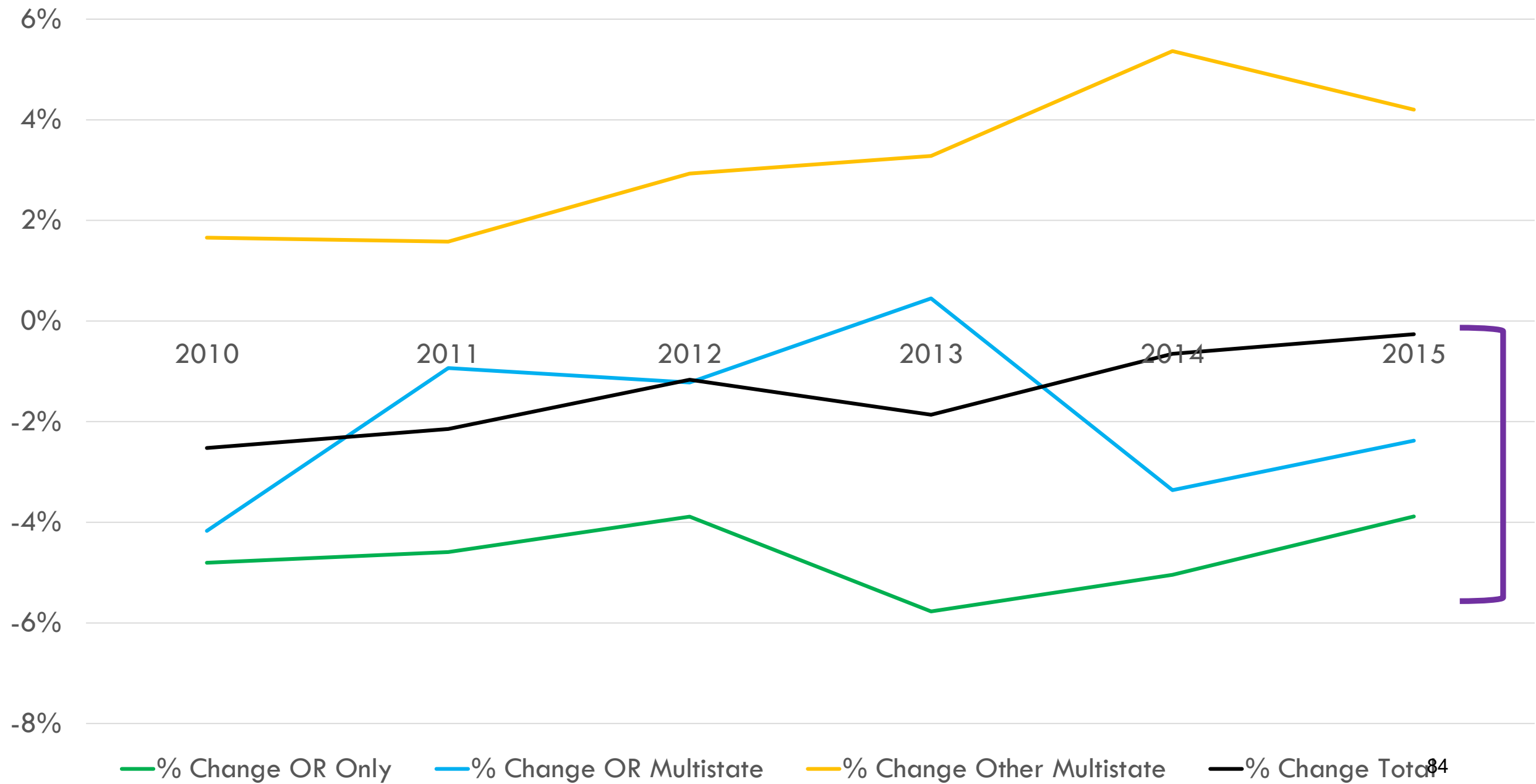
# Total C-Corp Tax Liability (Net Tax) in Millions of US \$



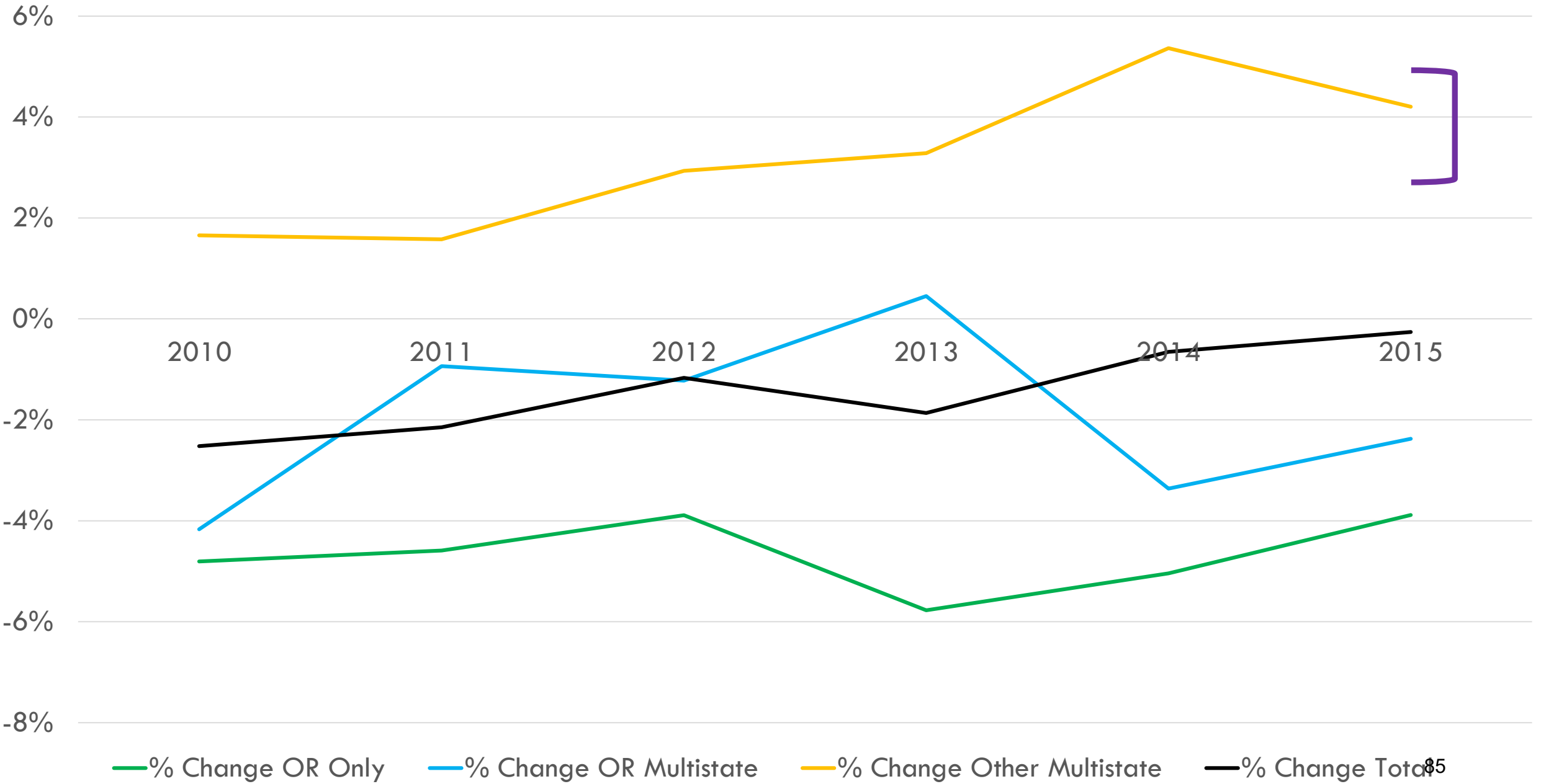
# Percentage Change in C-Corp Filings



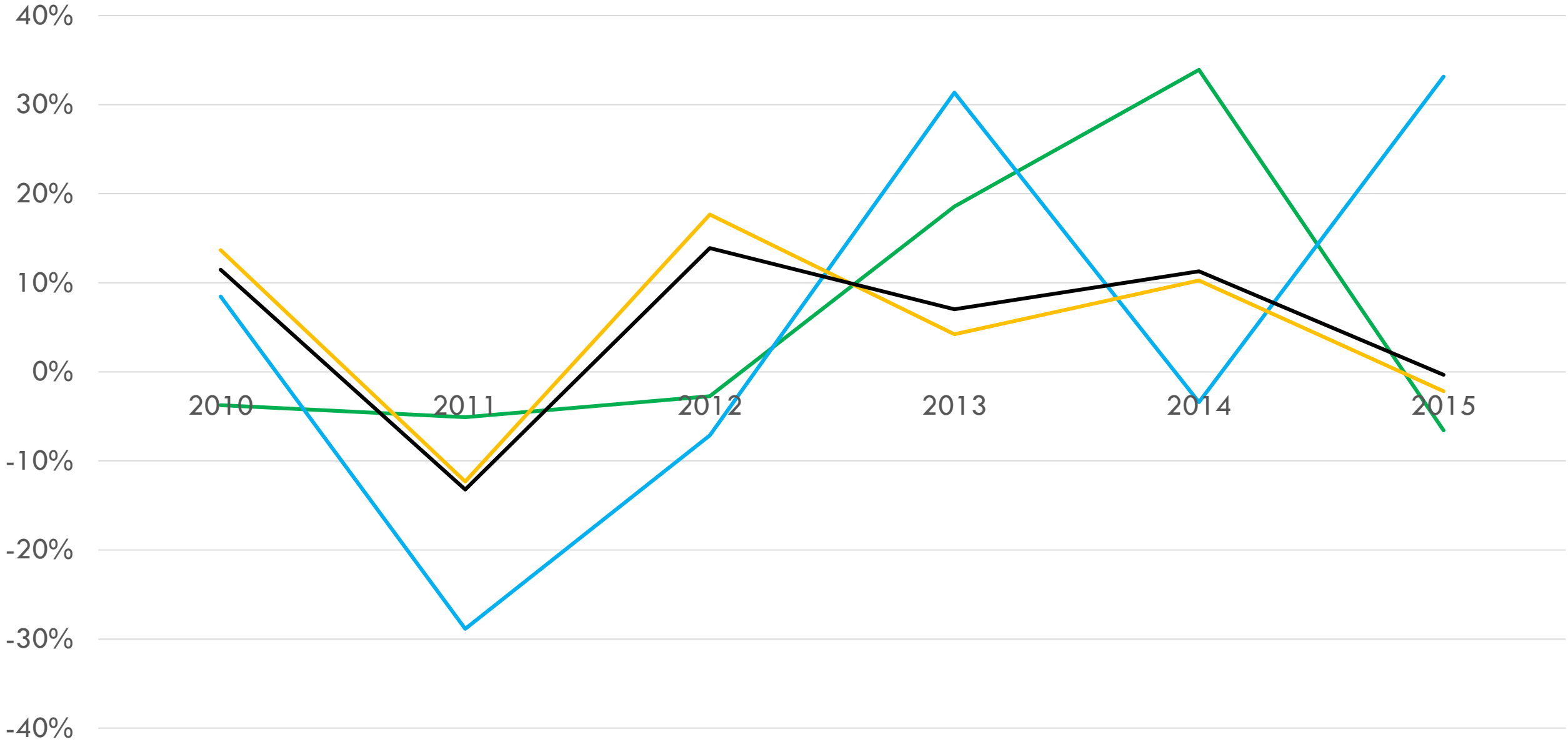
# Percentage Change in C-Corp Filings



# Percentage Change in C-Corp Filings



# Percentage Change in C-Corp. Tax Liability



— % Change Oregon Only    — % Change Oregon Multi-State    — % Change Other Multi-State    — % Change Total