

HB 3427-A39  
(LC 4380)  
5/6/19 (CMT/ps)

Requested by Senator BOQUIST

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3427**

1 On page 34 of the printed A-engrossed bill, delete lines 27 through 45 and  
2 delete pages 35 through 38.

3 On page 39, delete lines 1 through 32 and insert:

4 **“SECTION 58. Definitions. As used in sections 58 to 76 of this 2019**  
5 **Act:**

6 **“(1) ‘Commercial activity’ means the total amount realized by a**  
7 **person, arising from transactions and activity in the regular course**  
8 **of the person’s trade or business, without deduction for expenses in-**  
9 **curred by the trade or business.**

10 **“(2)(a) ‘Commercial activity of a financial institution’ includes all**  
11 **items of income without deduction for expenses.**

12 **“(b) If the reporting person for a financial institution is a holding**  
13 **company, ‘commercial activity of a financial institution’ includes all**  
14 **items of income reported on the FR Y-9 filed by the holding company.**

15 **“(c) If the reporting person for a financial institution is a bank or-**  
16 **ganization, ‘commercial activity of a financial institution’ includes all**  
17 **items of income reported on the call report filed by the bank organ-**  
18 **ization.**

19 **“(d) If the reporting person for a financial institution is a nonbank**  
20 **financial organization, ‘commercial activity of a financial institution’**  
21 **includes all items of income reported in accordance with generally**

1 **accepted accounting principles.**

2 **“(3) ‘Commercial activity of an insurer’ includes all items of income**  
3 **without deduction for expenses and all items of income reported on the**  
4 **statement of income accompanying the annual statement required**  
5 **under ORS 731.574 to be filed with the Director of the Department of**  
6 **Consumer and Business Services.**

7 **“(4) ‘Cost inputs’ means the cost of goods sold as calculated under**  
8 **section 471 of the Internal Revenue Code.**

9 **“(5) ‘Doing business’ means engaging in any activity, whether legal**  
10 **or illegal, that is conducted for, or results in, the receipt of commer-**  
11 **cial activity at any time during a calendar year.**

12 **“(6) ‘Excluded person’ means any of the following:**

13 **“(a) Organizations described in sections 501(c) and 501(j) of the**  
14 **Internal Revenue Code, unless the exemption is denied under section**  
15 **501(h), (i) or (m) or under section 502, 503 or 505 of the Internal Reve-**  
16 **nue Code.**

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

20 **“(c) Organizations described in section 501(e) of the Internal Reve-**  
21 **nue Code.**

22 **“(d) Organizations described in section 501(f) of the Internal Reve-**  
23 **nue Code.**

24 **“(e) Charitable risk pools described in section 501(n) of the Internal**  
25 **Revenue Code.**

26 **“(f) Organizations described in section 521 of the Internal Revenue**  
27 **Code.**

28 **“(g) Qualified state tuition programs described in section 529 of the**  
29 **Internal Revenue Code.**

30 **“(h) Foreign or alien insurance companies, but only with respect**

1 to the underwriting profit derived from writing wet marine and  
2 transportation insurance subject to tax under ORS 731.824 and 731.828.

3 “(i) Governmental entities.

4 “(j) Any person with commercial activity that does not exceed \$1  
5 million for the calendar year, other than a person that is part of a  
6 unitary group as provided in section 60 of this 2019 Act with commer-  
7 cial activity in excess of \$1 million.

8 “(k) Hospitals subject to assessment under section 2, chapter 736,  
9 Oregon Laws 2003, long term care facilities subject to assessment un-  
10 der section 16, chapter 736, Oregon Laws 2003, or any entity subject to  
11 assessment under section 3, 5 or 9, chapter 538, Oregon Laws 2017.

12 “(7) ‘Financial institution’ has the meaning given that term in ORS  
13 314.610, except that ‘financial institution’ does not include a credit  
14 union.

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

18 “(b) In the case of a holding company required to file both consol-  
19 idated and parent-only financial statements, ‘FR Y-9’ means the con-  
20 solidated financial statements that the holding company is required  
21 to file.

22 “(9) ‘Governmental entity’ means:

23 “(a) The United States and any of its unincorporated agencies and  
24 instrumentalities.

25 “(b) Any incorporated agency or instrumentality of the United  
26 States wholly owned by the United States or by a corporation wholly  
27 owned by the United States.

28 “(c) The State of Oregon and any of its unincorporated agencies and  
29 instrumentalities.

30 “(d) Any county, city, district or other political subdivision of the

1 **state.**

2 **“(e) Any public corporation.**

3 **“(f) A federally recognized Indian tribe.**

4 **“(10) ‘Groceries’ means food as defined in 7 U.S.C. 2012(k).**

5 **“(11) ‘Insurer’ has the meaning given that term in ORS 317.010.**

6 **“(12) ‘Internal Revenue Code,’ except where the Legislative Assem-**  
7 **bly has provided otherwise, refers to the laws of the United States or**  
8 **to the Internal Revenue Code as they are amended and in effect on**  
9 **December 31, 2018.**

10 **“(13) ‘Labor costs’ means total compensation of all employees, not**  
11 **to include compensation paid to any single employee in excess of**  
12 **\$500,000.**

13 **“(14) ‘Person’ includes individuals, combinations of individuals of**  
14 **any form, receivers, assignees, trustees in bankruptcy, firms, compa-**  
15 **nies, joint-stock companies, business trusts, estates, partnerships,**  
16 **limited liability partnerships, limited liability companies, associations,**  
17 **joint ventures, clubs, societies, entities organized as for-profit corpo-**  
18 **rations under ORS chapter 60, C corporations, S corporations, qualified**  
19 **subchapter S subsidiaries, qualified subchapter S trusts, trusts, enti-**  
20 **ties that are disregarded for federal income tax purposes and any other**  
21 **entities.**

22 **“(15) ‘Taxable commercial activity’ means commercial activity**  
23 **sourced to this state under section 66 of this 2019 Act, less any sub-**  
24 **traction pursuant to section 64 of this 2019 Act.**

25 **“(16)(a) ‘Taxpayer’ means any person or unitary group required to**  
26 **register, file or pay tax under sections 58 to 76 of this 2019 Act.**

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

28 **“(17)(a) ‘Unitary business’ means a business enterprise in which**  
29 **there exists directly or indirectly between the members or parts of the**  
30 **enterprise a sharing or exchange of value as demonstrated by:**

1       **“(A) Centralized management or a common executive force;**  
2       **“(B) Centralized administrative services or functions resulting in**  
3       **economies of scale; or**  
4       **“(C) Flow of goods, capital resources or services demonstrating**  
5       **functional integration.**  
6       **“(b) ‘Unitary business’ may include a business enterprise the ac-**  
7       **tivities of which:**  
8       **“(A) Are in the same general line of business, such as manufac-**  
9       **turing, wholesaling or retailing; or**  
10       **“(B) Constitute steps in a vertically integrated process, such as the**  
11       **steps involved in the production of natural resources, which might**  
12       **include exploration, mining, refining and marketing.**  
13       **“(18) ‘Unitary group’ means a group of persons with more than 50**  
14       **percent common ownership, either direct or indirect, that is engaged**  
15       **in business activities that constitute a unitary business.”.**

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