

## HOUSE AMENDMENTS TO HOUSE BILL 2119

By COMMITTEE ON REVENUE

April 15

1 On page 1 of the printed bill, line 2, after “administration;” delete the rest of the line and insert  
2 “creating new provisions; amending ORS 316.162, 316.167, 316.171, 316.172, 316.177, 316.182, 316.189,  
3 316.202, 316.207, 316.212, 447.060, 455.800 and 693.020; and prescribing an effective date.”.

4 Delete lines 4 through 30 and delete page 2 and insert:

5 **“SECTION 1.** ORS 316.162 is amended to read:

6 “316.162. As used in ORS 316.162 to 316.221:

7 “[*(1) ‘Number of withholding exemptions claimed’ means the number of withholding exemptions*  
8 *claimed in a withholding exemption certificate in effect under ORS 316.182, except that if no such cer-*  
9 *tificate is in effect, the number of withholding exemptions claimed is considered to be zero.*]

10 **“(1) ‘Employer’ means:**

11 **“(a) A person who is in relation to another person such that the person may control the**  
12 **work of that other person and direct the manner in which the work is to be done; or**

13 **“(b) An officer or employee of a corporation, or a member or employee of a partnership,**  
14 **who as an officer, employee or member is under a duty to perform the acts required of em-**  
15 **ployers by ORS 316.167, 316.182, 316.197, 316.202 and 316.207.**

16 **“(2) ‘Wages’ means remuneration for services performed by an employee for an employer, in-**  
17 **cluding the cash value of all remuneration paid in any medium other than cash, except that**  
18 **‘wages’ does not include remuneration paid:**

19 **“(a) For active service in the Armed Forces of the United States as to which no withholding is**  
20 **required by the Internal Revenue Code.**

21 **“(b) To an employee of a common carrier to the extent that 49 U.S.C. 14503 and 40116 prohibit**  
22 **the remuneration from withholding for state income taxes.**

23 **“(c) For domestic service in a private home, a local college club or a local chapter of a college**  
24 **fraternity or sorority.**

25 **“(d) For casual labor not in the course of the employer’s trade or business.**

26 **“(e) To an employee whose services to the employer consist solely of labor in connection with**  
27 **the planting, cultivating or harvesting of seasonal agricultural crops if the total amount paid to**  
28 **[such] the employee is less than \$300 annually.**

29 **“(f) To seamen who are exempt from garnishment, attachment or execution under title 46 of the**  
30 **United States Code.**

31 **“(g) To persons temporarily employed as emergency forest fire fighters.**

32 **“(h) To employees’ trusts exempt from tax under provisions of the federal Internal Revenue**  
33 **Code.**

34 **“(i) For services performed by a duly ordained, commissioned or licensed minister of a church**  
35 **in the exercise of the minister’s ministry or by a member of a religious order in the exercise of re-**

1 religious duties required by *[such]* **the** order, which duties are not commercial in nature.

2 “(j) For services provided by an independent contractor, as defined in ORS 670.600.

3 “(k) To or on behalf of an employee, a beneficiary of an employee or an alternate payee under  
4 or to an eligible deferred compensation plan that, at the time of the payment, is a plan described in  
5 section 457(b) of the Internal Revenue Code and that is maintained by an eligible employer described  
6 in section 457(e)(1)(A) of the Internal Revenue Code.

7 “(L) When the remuneration is exempt from taxation under this chapter.

8 “[*(3)* ‘Employer’ means:]

9 “[*(a)* A person who is in such relation to another person that the person may control the work of  
10 that other person and direct the manner in which it is to be done; or]

11 “[*(b)* An officer or employee of a corporation, or a member or employee of a partnership, who as  
12 such officer, employee or member is under a duty to perform the acts required of employers by ORS  
13 316.167, 316.182, 316.197, 316.202 and 316.207.]

14 “**SECTION 2.** ORS 316.167 is amended to read:

15 “316.167. (1) Every employer at the time of the payment of wages to any employee shall deduct  
16 and retain from *[such]* **the** wages an amount determined~~[, at the employer’s election, either (a) by a~~  
17 ~~‘percentage method’ withholding table or (b) by ‘wage bracket’ withholding tables, prepared and fur-~~  
18 ~~nished under the rules and regulations of the]~~ **by the** Department of Revenue **under ORS 316.172.**  
19 However, in the case of wages paid to an employee whose services to the employer consist solely  
20 of labor in connection with the planting, cultivating or harvesting of seasonal agricultural crops, the  
21 employer may elect to withhold two percent of the total wages paid without regard to any **ex-**  
22 **emption from** withholding *[exemptions]* **requirements.**

23 “[*(2)* Except in the case of an agricultural employee, the amount withheld shall be computed on the  
24 basis of the total amount of the wages and the number of withholding exemptions claimed by the em-  
25 ployee, without deduction for any amount withheld.]

26 “[*(3)*] **(2)** If a lender, surety or other person who supplies funds to or for the account of an em-  
27 ployer for the purpose of paying wages of the employees of *[such]* **the** employer has actual notice  
28 or knowledge that *[such]* **the** employer does not intend to or will not be able to make timely pay-  
29 ment or deposit of the tax required to be deducted and withheld, *[such]* **the** lender, surety or other  
30 person shall be liable to the State of Oregon in a sum equal to the taxes together with interest  
31 which are not timely paid over to the department. *[Such]* **This** liability shall be limited to the prin-  
32 cipal amount supplied by *[such]* **the** lender, surety or other person, and any amounts so paid to the  
33 department shall be credited against the liability of the employer.

34 “[*(4)*] **(3)** With the approval of the Oregon Department of Administrative Services, the depart-  
35 ment may enter into contracts with banking institutions including but not limited to Federal Reserve  
36 Banks, incorporated banks, trust companies, domestic building and loan associations, savings and  
37 loan associations or credit unions authorizing them to receive as financial agents of the department  
38 any tax required to be withheld and paid to the department.

39 “**SECTION 3.** ORS 316.171 is amended to read:

40 “316.171. Except as provided in this section and ORS 314.840, 316.168, 316.197, 316.202 and  
41 657.571, the statutes and regulations applicable to each agency, requiring a report and imposing a  
42 tax, shall govern *[the audit and examination of reports and returns, determination of deficiencies, as-*  
43 *sessments, claims for refund, penalties, interest, administrative and judicial appeals and the procedures*  
44 *relating thereto]* **as to the audit and examination of returns, periods of limitation, determi-**  
45 **nations of and notices of deficiencies, assessments, collections, liens, delinquencies, claims**

1 for refund and refunds, conferences, judicial appeals, stays of collection pending appeal,  
2 confidentiality of returns and the related penalties, and the related procedures.

3 **“SECTION 4.** ORS 316.172 is amended to read:

4 **“316.172.** (1) The Department of Revenue shall *[prepare a table for use with the percentage method*  
5 *that provides for the deduction and withholding of a tax equal to a specific percent (to be determined*  
6 *by the department) of the amount by which the wages for a given payroll period (daily, weekly, bi-*  
7 *weekly, semimonthly, monthly, quarterly, semiannually or annually, as the case may be) exceed the*  
8 *number of withholding exemptions claimed, multiplied by the amount of one such exemption for each*  
9 *payroll period (such amount being determined by the department for each such period). The determi-*  
10 *nations of the department shall result, so far as is practicable, in withholding from the employee a sum*  
11 *substantially equivalent to the amount of the tax that the employee will be required to pay under this*  
12 *chapter upon such wages.]* **specify and disseminate information providing for the deduction and**  
13 **withholding of tax in an amount substantially equivalent to the amount of the tax that each**  
14 **employee will be required to pay under this chapter upon wages or other income. The amount**  
15 **shall be determined based upon wages for a given daily, weekly, biweekly, semimonthly,**  
16 **monthly or other payroll period.** To accomplish this purpose, the department may make special  
17 provision for employees who are in the state for limited periods of time.

18 *“(2) The department shall prepare tables for use in computing withholding of tax by wage brack-*  
19 *ets. The wage brackets shall be graduated so that the amount withheld is, as far as practicable, sub-*  
20 *stantially equivalent to the amount of the tax that the employee will be required to pay under this*  
21 *chapter upon such wages.]*

22 **“(2) The department shall determine the amount, form and manner of withholding of tax**  
23 **by employers on behalf of employees for purposes of ORS 316.162 to 316.221.**

24 **“SECTION 5.** ORS 316.177 is amended to read:

25 **“316.177.** *[(1) If an employee does not claim a different number of withholding exemptions for state*  
26 *withholding purposes, the employee shall be entitled to the same number of withholding exemptions as*  
27 *the number of withholding exemptions to which the employee is entitled for federal income tax with-*  
28 *holding purposes. If an employee does not claim a different number of withholding exemptions for state*  
29 *withholding purposes, the employer may rely upon the number of federal withholding exemptions*  
30 *claimed by the employee, or authorized or specified under the Internal Revenue Code. If the employee*  
31 *does claim a different number of withholding exemptions for state withholding purposes, the employer*  
32 *shall rely on the number specified on that claim.]*

33 *“(2) If any employee makes a statement for federal income tax withholding purposes which claims*  
34 *more than 10 withholding exemptions, or claims exemption from withholding and the employee’s income*  
35 *is expected to exceed \$200 per week for both federal and state purposes, or claims exemption from*  
36 *withholding for state purposes but not for federal purposes, and as of the time the statement was made*  
37 *there was no reasonable basis for the statement, the Department of Revenue shall assess and collect*  
38 *from the employee a penalty of \$500.]*

39 **“(1) If an employee provides the employer with a withholding statement or exemption**  
40 **certificate under ORS 316.182, the employer may rely upon the instruction provided by the**  
41 **employee. If the employee instructs the employer to withhold an amount of tax**  
42 **from the employee’s pay or claim exemption from withholding, and as of the time the in-**  
43 **struction was made there was no reasonable basis for the instruction, the Department of**  
44 **Revenue shall assess and collect from the employee a penalty of \$500.**

45 *“(3) (2) The penalty imposed under this section is in addition to any other penalty imposed by*

1 law. Any employee against whom a penalty is assessed under this section may appeal to the tax  
2 court as provided in ORS 305.404 to 305.560. If the penalty is not paid within 10 days after the order  
3 of the tax court becomes final, the department may record the order and collect the amount assessed  
4 without interest in the same manner as income tax deficiencies are recorded and collected under  
5 ORS 314.430.

6 “[~~(4)~~] **(3)** The department may waive all or any part of the penalty imposed under subsection  
7 [~~(2)~~] **(1)** of this section if the income tax liability of the employee for the taxable year is equal to  
8 or less than the sum of:

9 “(a) The credits against taxes allowed for purposes of this chapter; and

10 “(b) The payments of estimated tax which are considered payments on account of the tax li-  
11 ability of the employee under ORS 316.579 and 316.583.

12 “**SECTION 6.** ORS 316.182 is amended to read:

13 “316.182. *[(1) Subject to subsection (2) or (3) of this section and if the employee does not claim a*  
14 *different number of withholding exemptions for purposes of this chapter, an employer shall use the ex-*  
15 *emption certificate filed by the employee with the employer under the income tax withholding provisions*  
16 *of the Internal Revenue Code for determining the number of withholding exemptions to be used in*  
17 *computing the tax to be withheld under ORS 316.167 and 316.172. If a new exemption certificate is not*  
18 *filed as provided under section 1581 of the Tax Reform Act of 1986 (P.L. 99-514) for federal purposes,*  
19 *the employer shall use the same number of withholding exemptions as used for purposes of the Internal*  
20 *Revenue Code for determining the amount of tax to be withheld under ORS 316.167 and 316.172.]*

21 “[~~(2)~~] **(1)** The Department of Revenue may require **a withholding statement or** an exemption  
22 certificate to be filed on a form prescribed by the department *[in any circumstance where the de-*  
23 *partment finds that an exemption certificate filed for purposes of the Internal Revenue Code does not*  
24 *properly reflect the number of withholding exemptions allowable under this chapter]* **for purposes of**  
25 **an employee instructing the employee’s employer of the proper amount of tax to withhold**  
26 **from the employee’s pay, or of the employee’s exemption from withholding requirements.**

27 “[~~(3) No~~] **(2) A withholding statement or** exemption certificate need **not** be procured from an  
28 employee whose wages consist of wages as defined in ORS 316.162 (2)(e).

29 “**(3) If a statement or certificate is not provided to the employer as required under sub-**  
30 **section (1) of this section, the employer shall withhold tax from the wages paid to the em-**  
31 **ployee at the rate of eight percent of the wages.**

32 “**SECTION 7.** ORS 316.189, as amended by section 17, chapter 93, Oregon Laws 2018, is  
33 amended to read:

34 “316.189. (1) As used in this section:

35 “(a) ‘Commercial annuity’ means an annuity, endowment or life insurance contract issued by an  
36 insurance company authorized to transact insurance in the State of Oregon.

37 “(b) ‘Department’ means the Oregon Department of Revenue.

38 “(c) ‘Designated distribution’ means any distribution or payment from or under an employer de-  
39 ferred compensation plan, an individual retirement plan or a commercial annuity. ‘Designated dis-  
40 tribution’ does not include any amount treated as wages as defined in ORS 316.162, the portion of  
41 any distribution or payment that is not includable in the gross income of the recipient or any dis-  
42 tribution or payment made under section 404(k)(2) of the Internal Revenue Code.

43 “(d) ‘Employer deferred compensation plan’ means any pension, annuity, profit-sharing or stock  
44 bonus plan or other plan deferring the receipt of compensation.

45 “(e) ‘Individual retirement plan’ means an individual retirement account described in section

1 408(a) of the Internal Revenue Code or an individual retirement annuity described in section 408(b)  
2 of the Internal Revenue Code.

3 “(f) ‘Nonperiodic distribution’ means any designated distribution which is not a periodic pay-  
4 ment.

5 “(g) ‘Payer’ means any payer of a designated distribution doing business in or making payments  
6 or distributions from sources in this state.

7 “(h) ‘Periodic payment’ means a designated distribution which is an annuity or similar periodic  
8 payment.

9 “(i) ‘Plan administrator’ means a plan administrator as described in section 414(g) of the Internal  
10 Revenue Code, who is the administrator of a plan created by an Oregon employer.

11 “(j) ‘Qualified total distribution’ means any designated distribution made under a retirement,  
12 annuity or deferred compensation plan described in section 401(a), 403(a) or 457(b) of the Internal  
13 Revenue Code, that consists of the balance to the credit of the employee, exclusive of accumulated  
14 deductible employee contributions, made within one tax year of the recipient.

15 “(2)(a) The payer of any periodic payment shall withhold from [*such*] **the** payment the amount  
16 which would be required to be withheld from [*such*] **the** payment under ORS 316.167 if the payment  
17 were wages paid by an employer to an employee. The time and manner of payment of withheld  
18 amounts to the department shall be the same as that required under ORS 316.197 for withholding  
19 of income taxes from wages.

20 “(b) The payer of any nonperiodic distribution shall withhold from [*such*] **the** distribution an  
21 amount determined [*under tables prescribed*] by the department.

22 “(c) The maximum amount to be withheld under this section on any designated distribution shall  
23 not exceed 10 percent of the amount of money and the fair market value of other property received  
24 in the distribution. If the distribution is not subject to withholding for federal income tax purposes  
25 under section 3405 of the Internal Revenue Code, it shall not be subject to withholding under this  
26 section.

27 “(3)(a) Except as provided in paragraph (b) of this subsection, the payer of a designated dis-  
28 tribution shall withhold and be liable for payment of amounts required to be withheld under this  
29 section.

30 “(b) In the case of any plan described in section 401(a), 403(a) or 457(b) of the Internal Revenue  
31 Code, or section 301(d) of the Tax Reduction Act of 1975, the plan administrator shall withhold and  
32 be liable for payment of amounts required to be withheld under this section, unless the plan ad-  
33 ministrator has directed the payer to withhold the tax and has provided the payer with the infor-  
34 mation required by rule of the department.

35 “(4)(a) An individual may elect to have no withholding by a payer under subsection (2) of this  
36 section. If an individual has elected to have no federal withholding from payments or distributions  
37 described in this section the individual shall be deemed to have elected no withholding for state  
38 purposes, unless the individual notifies the payer otherwise.

39 “(b) An election made under this subsection shall be effective as provided under rules  
40 promulgated by the department. The rules required under this paragraph shall provide the manner  
41 in which an election may be revoked and when [*such*] **the** revocation shall be effective.

42 “(5) The payer of any periodic payment or nonperiodic distribution shall give notice to the payee  
43 of the right to make an election to have no state withholding from the payment or distribution. The  
44 department shall provide by rule for the time and manner of giving the notice required under this  
45 subsection.

1 “(6) Any rules permitted or required to be promulgated by the department under this section  
2 shall, insofar as is practicable, be consistent with corresponding provisions of section 3405 of the  
3 Internal Revenue Code and regulations promulgated thereunder.

4 “(7) Any designated distribution shall be treated as if it were wages paid by an employer to an  
5 employee within the meaning of ORS 316.162 to 316.221 for all other purposes of ORS 316.162 to  
6 316.221. In the case of any designated distribution not subject to withholding by reason of an  
7 election under subsection (4) of this section, the amount withheld shall be treated as zero.

8 “**SECTION 8.** ORS 316.202 is amended to read:

9 “316.202. (1) With each payment made to the Department of Revenue, every employer shall de-  
10 liver to the department, on a form prescribed by the department showing the total amount of with-  
11 held taxes in accordance with ORS 316.167, 316.172 and 320.550, and supply *[such]* **any** other  
12 information as the department may require. The employer is charged with the duty of advising the  
13 employee of the amount of moneys withheld, in accordance with *[such]* **any** regulations as the de-  
14 partment may prescribe, using printed forms furnished or approved by the department for *[such]* **this**  
15 purpose.

16 “(2) Except as provided in subsection (4) of this section, every employer shall submit a combined  
17 quarterly return to the department on a form provided by it showing the number of payments  
18 made[,] **and** the withheld taxes paid during the quarter [*and an explanation of federal withholding*  
19 *taxes as computed by the employer*]. The report shall be filed with the department on or before the  
20 last day of the month following the end of the quarter.

21 “(3) The employer shall make an annual return to the department on forms provided or approved  
22 by it, summarizing the total compensation paid and the taxes withheld for all employees during the  
23 calendar year and shall file the same with the department on or before the due date of the corre-  
24 sponding federal return for the year for which report is made. Failure to file the annual report  
25 without reasonable excuse on or before the 30th day after notice has been given to the employer  
26 of failure subjects the employer to a penalty of \$100. The department may by rule require additional  
27 information the department finds necessary to substantiate the annual return, including but not  
28 limited to copies of federal form W-2 for individual employees, and may prescribe circumstances  
29 under which the filing requirement imposed by this subsection is waived.

30 “(4) Notwithstanding the provisions of subsection (2) of this section, employers of agricultural  
31 employees may submit returns annually showing the number of payments made and the withheld  
32 taxes paid. However, such employers shall make and file a combined quarterly tax report with re-  
33 spect to other tax programs, as required by ORS 316.168.

34 “(5) In addition to any other penalty required by law:

35 “(a) A person who fails to substantiate a report required under subsection (3) of this section,  
36 or who files incomplete or incorrect substantiation, shall be subject to a penalty of \$50 per federal  
37 form W-2 after the date on which the substantiation is due, up to a maximum penalty of \$2,500.

38 “(b) A person who knowingly fails to substantiate a report required under subsection (3) of this  
39 section, or who knowingly files incomplete or incorrect substantiation, shall be subject to a penalty  
40 of \$250 per federal form W-2 after the date on which the substantiation is due, up to a maximum  
41 penalty of \$25,000.

42 “**SECTION 9.** ORS 316.207 is amended to read:

43 “316.207. (1) Every employer who deducts and retains any amount under ORS 316.162 to 316.221  
44 and 320.550 shall hold the same in trust for the State of Oregon and for the payment thereof to the  
45 Department of Revenue in the manner and at the time provided in ORS 316.162 to 316.221.

1           “(2) At any time the employer fails to remit any amount withheld, the department may enforce  
2 collection by the issuance of a distraint warrant for the collection of the delinquent amount and all  
3 penalties, interest and collection charges accrued thereon. [Such] **The** warrant shall be issued, re-  
4 corded and proceeded upon in the same manner and shall have the same force and effect as is pre-  
5 scribed with respect to warrants for the collection of delinquent income taxes.

6           “(3)(a) In the case of an employer that is assessed pursuant to the provisions of ORS 305.265 (12)  
7 and 314.407 (1), the department may issue a notice of liability to any officer, employee or member  
8 described in ORS 316.162 [(3)(b)] **(1)(b)** of [such] **the** employer within three years from the time of  
9 assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee  
10 or member, [such] **the** officer, employee or member shall pay the assessment, plus penalties and in-  
11 terest, or advise the department in writing of objections to the liability and, if desired, request a  
12 conference. Any conference shall be governed by the provisions of ORS 305.265 pertaining to a  
13 conference requested from a notice of deficiency.

14           “(b) After a conference or, if no conference is requested, a determination of the issues consid-  
15 ering the written objections, the department shall mail the officer, employee or member a conference  
16 letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the  
17 conference letter is mailed to the officer, employee or member, [such] **the** officer, employee or  
18 member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the  
19 manner provided for an appeal from a notice of assessment.

20           “(c) If neither payment nor written objection to the notice of liability is received by the de-  
21 partment within 30 days after the notice of liability has been mailed, the notice of liability becomes  
22 final. In [such] **this** event, the officer, employee or member may appeal the notice of liability to the  
23 tax court within 90 days after it became final in the manner provided for an appeal from a notice  
24 of assessment.

25           “(4)(a) In the case of a failure to file a withholding tax report on the due date, governed by the  
26 provisions of ORS 305.265 (10) and 314.400, the department, in addition to the provisions of ORS  
27 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee  
28 or member described in ORS 316.162 [(3)(b)] **(1)(b)** any time within three years after the assessment  
29 of an employer described in ORS 316.162 [(3)(a)] **(1)(a)**. The time of assessment against [such] **the**  
30 officer, employee or member shall be 30 days after the date the notice of determination and assess-  
31 ment is mailed. Within 30 days from the date the notice of determination and assessment is mailed  
32 to the officer, employee or member, [such] **the** officer, employee or member shall pay the assessment,  
33 plus penalties and interest, or advise the department in writing of objections to the assessment, and  
34 if desired, request a conference. Any conference shall be governed by the provisions of ORS 305.265  
35 pertaining to a conference requested from a notice of deficiency.

36           “(b) After a conference or, if no conference is requested, a determination of the issues consid-  
37 ering the written objections, the department shall mail the officer, employee or member a conference  
38 letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days  
39 from the date the conference letter is mailed to the officer, employee or member, [such] **the** officer,  
40 employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner  
41 provided for an appeal from a notice of assessment.

42           “(c) If neither payment nor written objection to the notice of determination and assessment is  
43 received by the department within 30 days after the notice of determination and assessment has  
44 been mailed, the notice of determination and assessment becomes final. In [such] **this** event, the of-  
45 ficer, employee or member may appeal the notice of determination and assessment to the tax court

1 within 90 days after it became final in the manner provided for an appeal from a notice of assess-  
2 ment.

3 “(5)(a) More than one officer or employee of a corporation may be held jointly and severally li-  
4 able for payment of withheld taxes.

5 “(b) Notwithstanding the provisions of ORS 314.835, 314.840 or 314.991, if more than one officer  
6 or employee of a corporation may be held jointly and severally liable for payment of withheld taxes,  
7 the department may require any or all of the officers, members or employees who may be held liable  
8 to appear before the department for a joint determination of liability. The department shall notify  
9 each officer, member or employee of the time and place set for the determination of liability.

10 “(c) Each person notified of a joint determination under this subsection shall appear and present  
11 [such] **any** information as is necessary to establish that person’s liability or nonliability for payment  
12 of withheld taxes to the department. If any person notified fails to appear, the department shall  
13 make its determination on the basis of all the information and evidence presented. The department’s  
14 determination shall be binding on all persons notified and required to appear under this subsection.

15 “(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 305.404 to 305.560 by  
16 any person determined to be liable for unpaid withholding taxes under this subsection, each person  
17 required to appear before the department under this subsection shall be impleaded by the plaintiff.  
18 The department may implead any officer, employee or member who may be held jointly and severally  
19 liable for the payment of withheld taxes. Each person impleaded under this paragraph shall be made  
20 a party to the action before the tax court and shall make available to the tax court [such] **any** in-  
21 formation as was presented before the department, as well as [such] **any** other information as may  
22 be presented to the court.

23 “(B) The court may determine that one or more persons impleaded under this paragraph are li-  
24 able for unpaid withholding taxes without regard to any earlier determination by the department  
25 that an impleaded person was not liable for unpaid withholding taxes.

26 “(C) If any person required to appear before the court under this subsection fails or refuses to  
27 appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court,  
28 the court shall make its determination on the basis of all the evidence introduced. All such evidence  
29 shall constitute a public record and shall be available to the parties and the court notwithstanding  
30 ORS 314.835, 314.840 or 314.991. The determination of the tax court shall be binding on all persons  
31 made parties to the action under this subsection.

32 “(e) Nothing in this section shall be construed to preclude a determination by the department  
33 or the Oregon Tax Court that more than one officer, employee or member are jointly and severally  
34 liable for unpaid withholding taxes.

35 “**SECTION 10.** ORS 316.212 is amended to read:

36 “316.212. The provisions of the income tax laws in ORS chapters 305 and 314 and this chapter,  
37 [relating to penalties, misdemeanors and jeopardy assessments,] **as to the audit and examination**  
38 **of returns, periods of limitation, determinations of and notices of deficiencies, assessments,**  
39 **collections, liens, delinquencies, claims for refund and refunds, conferences, judicial appeals,**  
40 **stays of collection pending appeal, confidentiality of returns and the related penalties, and**  
41 **the related procedures,** apply to employers subject to the provisions of ORS 316.162 to 316.221 and  
42 320.550, and for these purposes any amount deducted or required to be deducted and remitted to the  
43 Department of Revenue under ORS 316.162 to 316.221 and 320.550 is considered the tax of the em-  
44 ployer and with respect to [such] **the** amount the employer is considered as a taxpayer.

45 “**SECTION 11.** ORS 447.060 is amended to read:



1 “447.060. (1) ORS 447.010 to 447.156 do not apply to a person:  
2 “(a) Engaging in plumbing work when not so engaged for hire.  
3 “(b) Using the services of regular employees in performing plumbing work for the benefit of  
4 property owned, leased or operated by the person. For purposes of this paragraph, ‘regular  
5 employee’ means a person who is subject to the provisions of ORS 316.162 to 316.221 and who has  
6 completed a withholding [exemptions] **statement or an exemption** certificate required by ORS  
7 316.162 to 316.221.  
8 “(c) Using the services of an employee or contractor of a utility company, energy service pro-  
9 vider or water supplier to install an approved low-flow showerhead or faucet aerator in existing  
10 plumbing fixtures. The devices installed under this paragraph are exempt from the certification,  
11 permit and inspection requirements of ORS 447.010 to 447.156 and ORS chapter 693.  
12 “(d) Engaging in plumbing work on a recreational vehicle as defined by the State Plumbing  
13 Board by rule.  
14 “(2) A landscape contracting business licensed under ORS 671.560 is not required to be licensed  
15 under ORS 447.010 to 447.156 to install, repair or maintain backflow assemblies for irrigation sys-  
16 tems and ornamental water features if the work is performed by an individual who is licensed as  
17 required by ORS 671.615 and is an owner or employee of the landscape contracting business. The  
18 repair and maintenance of the backflow assembly must be performed by a tester certified under ORS  
19 448.279. The licensing exemption established under this subsection does not exempt the landscape  
20 contracting business from the inspection and permit requirements of ORS 447.010 to 447.156.  
21 “(3) This section applies to any person, including but not limited to, individuals, corporations,  
22 associations, firms, partnerships, joint stock companies, public and municipal corporations, political  
23 subdivisions, this state, the federal government and state or federal agencies.  
24 “**SECTION 12.** ORS 455.800 is amended to read:  
25 “455.800. As used in ORS 455.800 to 455.820:  
26 “(1) ‘Building official’ means a person who is a building official as defined in ORS 455.715 or a  
27 Department of Consumer and Business Services employee charged with enforcement or adminis-  
28 tration of the state building code.  
29 “(2) ‘Building trade committee’ means a group composed of experienced and knowledgeable local  
30 general contractors or other persons having substantial expertise in various aspects of one and two  
31 family dwelling construction under the Low-Rise Residential Dwelling Code.  
32 “(3) ‘General contractor’ has the meaning given that term in ORS 701.005.  
33 “(4) ‘Master builder’ means a person certified under ORS 455.810.  
34 “(5) ‘Qualified construction company’ means a company that has been:  
35 “(a) Continuously licensed by the Construction Contractors Board during the preceding 60  
36 months as a general contractor; or  
37 “(b) Continuously licensed by the Construction Contractors Board during at least the preceding  
38 24 months as a general contractor and by one or more other states during the balance of the pre-  
39 ceding 60 months in an occupation equivalent to that of a general contractor.  
40 “(6) ‘Regular employee’ means a person who:  
41 “(a) Is continuously employed by, and on the regular payroll of, a qualified construction com-  
42 pany;  
43 “(b) Has filed a withholding **statement or an** exemption certificate pursuant to ORS 316.182 for  
44 work performed for the qualified construction company; and  
45 “(c) Is available during working hours to supervise on-site dwelling construction, including but

1 not limited to supervising the installation of:

2 “(A) Drywall;

3 “(B) Electrical systems;

4 “(C) Footings;

5 “(D) Foundations;

6 “(E) Framing;

7 “(F) Insulation;

8 “(G) Mechanical systems;

9 “(H) Plumbing systems; and

10 “(I) Stairs.

11 “(7) ‘Whole dwelling remodel’ means a project that includes the installation in an existing  
12 dwelling of all of the following:

13 “(a) Drywall;

14 “(b) Electrical systems;

15 “(c) Footings;

16 “(d) Foundations;

17 “(e) Framing;

18 “(f) Insulation;

19 “(g) Mechanical systems; and

20 “(h) Plumbing systems.

21 “**SECTION 13.** ORS 693.020 is amended to read:

22 “693.020. (1) Except as provided in subsection (2) of this section, this chapter does not apply to:

23 “(a) A person working on a building or premises owned by the person, regardless of whether the  
24 person holds a license under this chapter, if the person complies with all the rules adopted under  
25 this chapter and ORS 447.010 to 447.156 and ORS chapter 455.

26 “(b) A person testing, repairing, servicing, maintaining, installing or replacing new or existing  
27 potable water pump equipment not exceeding seven and one-half horsepower on residential property  
28 and piping between the pumps and storage tanks for the pumps, regardless of whether the person  
29 holds any license under this chapter.

30 “(c) A person installing exterior storm drains that are not connected to a sanitary sewer or  
31 combination sanitary storm sewer.

32 “(d) An employee or contractor of a utility, energy service provider or water supplier who is  
33 installing an approved low-flow showerhead or faucet aerator in existing plumbing fixtures. The de-  
34 vices installed under this paragraph are exempt from the certification, permit and inspection re-  
35 quirements of this chapter and ORS 447.010 to 447.156.

36 “(e) A person who owns, leases or operates residential property and who repairs, or uses regular  
37 employees to repair, existing plumbing on property owned, leased or operated by the person, re-  
38 gardless of whether the person or employee holds a license under this chapter. As used in this  
39 paragraph:

40 “(A) ‘Repair’ means the act of replacing or putting together plumbing parts that restore the  
41 existing plumbing system to a safe and sanitary operating condition.

42 “(B) ‘Regular employee’ means a person who is subject to the provisions of ORS 316.162 to  
43 316.221 and who has completed a withholding [*exemptions*] **statement or an exemption** certificate  
44 required by the provisions of ORS 316.162 to 316.221.

45 “(f) A person installing plumbing in a prefabricated structure, as defined in ORS 455.010, that

1 is designed for residential use and intended for delivery in another state.

2 “(g) A person making plumbing installations, repairs or replacements in a recreational vehicle  
3 as defined by the State Plumbing Board by rule.

4 “(2) Subsection (1)(a) to (d) of this section does not allow a person other than a journeyman  
5 plumber or apprentice plumber to install, remodel or alter plumbing in a commercial or industrial  
6 building being constructed or offered for sale, exchange, rent or lease. As used in this subsection,  
7 ‘install, remodel or alter’ means activities that involve installations or changes to the plumbing in-  
8 side a wall, floor, crawl space or ceiling, or a change in the configuration of a plumbing system.

9 “(3) This section applies to any person, including but not limited to individuals, corporations,  
10 associations, firms, partnerships, joint stock companies, public and municipal corporations, political  
11 subdivisions, this state and any agencies thereof and the federal government and any agencies  
12 thereof.

13 “(4) Except as provided in subsection (1)(d) of this section, nothing in this section exempts a  
14 person from the plumbing inspection requirements of ORS 447.010 to 447.156.

15 “**SECTION 14. The amendments to ORS 316.162, 316.167, 316.171, 316.172, 316.177, 316.182,  
16 316.189, 316.202, 316.207 and 316.212 by sections 1 to 10 of this 2019 Act apply to wages or other  
17 income paid on or after January 1, 2020.**

18 “**SECTION 15. This 2019 Act takes effect on the 91st day after the date on which the 2019  
19 regular session of the Eightieth Legislative Assembly adjourns sine die.”.**

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