

HB 4009-10
(LC 249)
2/11/20 (CMT/ps)

Requested by HOUSE COMMITTEE ON REVENUE (at the request of Representative Nancy Nathanson)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4009**

1 On page 3 of the printed bill, line 27, after “vehicle” insert “or by the
2 dealer”.

3 On page 7, line 13, before “year” insert “calendar”.

4 Delete line 14 and insert “returns or allowances are made.”.

5 On page 8, delete lines 4 through 14 and insert:

6 “(2) The amount in subsection (1)(a) or (b) of this section may not include:

7 “(a) Expenses from transactions among members of a unitary group, as
8 excluded under ORS 317A.106; or

9 “(b) Cost inputs or labor costs that are attributable to a taxpayer’s re-
10 cepts from an item that is not commercial activity.

11 “(3) Any taxpayer having commercial activity both within and without
12 this state shall apportion the amount of the subtraction in subsection (1) of
13 this section, after providing for any exclusions in subsection (2) of this sec-
14 tion, as follows:

15 “(a) As provided in ORS 314.650 and 314.665;

16 “(b) For taxpayers subject to alternative apportionment under ORS chap-
17 ter 314, the required applicable apportionment method; or

18 “(c) As provided for by the Department of Revenue by rule.

19 “(4) Notwithstanding subsection (3) of this section, a unitary group with
20 members subject to multiple apportionment methods under ORS chapter 314
21 shall apportion the amount of the subtraction in subsection (1) of this sec-

1 tion, after providing for any exclusions, as provided by the department by
2 rule.

3 “(5) Notwithstanding subsection (1) of this section, the subtraction under
4 this section may not exceed 95 percent of the taxpayer’s commercial activity
5 in this state.

6 “(6) A unitary group required to apportion the amount of the subtraction
7 shall include all members of the unitary group for purposes of determining
8 the group’s subtraction amount and apportionment ratio.

9 “(7) A taxpayer or unitary group may elect to use the taxpayer’s or
10 unitary group’s most recent fiscal year information for purposes of deter-
11 mining the subtraction under this section. An election under this section
12 must be made on a timely filed, original return. An election under this sec-
13 tion is binding for and applicable to the tax year in which it is made.”.

14 In line 38, delete “20” and insert “five” and after “amount” insert “, ex-
15 cept that the department may not impose a penalty under this subsection for
16 any quarter for which the taxpayer has paid an amount at least equal to:

17 “(a) The taxpayer’s liability for the corresponding quarter of the preced-
18 ing tax year; or

19 “(b) If the taxpayer had no liability for the preceding tax year because
20 the tax year predated the applicability of the tax or predated the taxpayer
21 being engaged in the taxpayer’s current trade or business, the taxpayer’s
22 estimated liability for the corresponding quarter of the preceding tax year,
23 had the tax been applicable and the taxpayer engaged in the taxpayer’s cur-
24 rent trade or business, based on all information available to the taxpayer.”.

25 Delete lines 42 through 45.

26 On page 9, delete lines 1 through 6 and insert:

27 “**SECTION 6.** ORS 317A.161, as amended by section 5 of this 2020 Act,
28 is amended to read:

29 “317A.161. [(1) *The Department of Revenue may not impose any interest that*
30 *would otherwise apply to taxes due if the interest is based on underpayment*

1 *or underreporting that results solely from the operation of ORS 317A.100 to*
2 *317A.158.]*

3 “[2] (1) A taxpayer shall pay at least [80] **90** percent of the balance due
4 for any quarter or the Department of **Revenue** may impose, for any quarter
5 that this threshold is not met, a penalty of five percent of the underpayment
6 amount, except that the department may not impose a penalty under this
7 subsection for any quarter for which the taxpayer has paid an amount at
8 least equal to:

9 “(a) The taxpayer’s liability for the corresponding quarter of the preced-
10 ing tax year; or

11 “(b) If the taxpayer had no liability for the preceding tax year because
12 the tax year predated the applicability of the tax or predated the taxpayer
13 being engaged in the taxpayer’s current trade or business, the taxpayer’s
14 estimated liability for the corresponding quarter of the preceding tax year,
15 had the tax been applicable and the taxpayer engaged in the taxpayer’s cur-
16 rent trade or business, based on all information available to the taxpayer.

17 “[3] (2) The provisions of ORS 314.400 (1) and (2) apply to a taxpayer
18 that fails to file an annual return as required under ORS 317A.137 or that
19 fails to pay the tax imposed under ORS 317A.100 to 317A.158 by the due date
20 of the annual return.”.

21 In line 12, delete “2021” and insert “2022” in both places.

22 In line 14, delete “2021” and insert “2022” in both places.

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