

SB 164-5
(LC 2791)
5/6/21 (CMT/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 164**

1 On page 1 of the printed bill, line 2, after “317A.100” delete the rest of
2 the line and insert “, 317A.116, 317A.146 and 317A.161 and section 78, chapter
3 122, Oregon Laws 2019;”.

4 In line 21, after “Services” insert “and not otherwise excluded pursuant
5 to ORS 317A.100 to 317A.158 or 731.840”.

6 On page 3, line 26, delete “new”.

7 In line 41, delete “Net revenue” and insert “Receipts”.

8 In line 42, delete “revenue is” and insert “receipts are”.

9 On page 4, lines 4 and 5, delete the boldfaced material.

10 On page 8, delete lines 11 through 14 and insert:

11 **“SECTION 3. ORS 317A.146 is amended to read:**

12 “317A.146. (1) For purposes of ORS 317A.100 to 317A.158, ‘successor’
13 means any person to whom another person quitting, selling out, exchanging
14 or disposing of a business sells or otherwise conveys, directly or indirectly,
15 in bulk and not in the ordinary course of business, a major part of the ma-
16 terials, supplies, merchandise, inventory, fixtures or equipment of the person.
17 Any person obligated to fulfill the terms of a contract shall be considered a
18 successor to any contractor defaulting in the performance of any contract
19 as to which the person is a surety or guarantor.

20 “(2) If any person quits business or sells out, exchanges or otherwise
21 disposes of a business or stock of goods, any corporate activity tax imposed

1 under ORS 317A.116 [*shall become immediately due and payable. The person*
2 *shall, within 45 days after the sale, exchange or disposition, make a return and*
3 *pay the tax due*] **is payable on April 15 of the following year.**

4 “(3) Notwithstanding ORS 314.835, the successor is liable for the full
5 amount of the tax and may withhold from the purchase price a sum sufficient
6 to pay any tax due until a receipt or evidence from the Department of Rev-
7 enue showing payment in full of any tax due is presented to the successor.
8 If a receipt or other evidence is not presented to the successor within 45
9 days, the successor may pay the tax and the amount paid shall, to the extent
10 paid, be considered a payment of the purchase price. If the tax paid by the
11 successor is greater than the purchase price, the amount of the difference is
12 a debt due to the successor from the seller or transferor.

13 “(4) A successor is not liable for any tax due from the person from whom
14 the successor has acquired a business or stock of goods if the successor gives
15 written notice to the department of the acquisition and the department does
16 not assess a deficiency against the seller or transferor within 18 months of
17 receipt of the notice of acquisition and mail or deliver a copy of the assess-
18 ment to the successor.

19 “**SECTION 4.** ORS 317A.161, as amended by section 9, chapter 2, Oregon
20 Laws 2020 (first special session), is amended to read:

21 “317A.161. (1) The Department of Revenue may not impose any interest
22 that would otherwise apply to taxes due if the interest is based on under-
23 payment or underreporting that results solely from the operation of ORS
24 317A.100 to 317A.158.

25 “(2) A taxpayer shall pay at least 80 percent of the balance due for any
26 quarter or the department may impose, for any quarter that this threshold
27 is not met, a penalty of five percent of the underpayment amount, except that
28 the department may not impose a penalty under this subsection for any
29 quarter for which the taxpayer has paid an amount at least equal to the
30 taxpayer’s required installment for the corresponding quarter of the preced-

1 ing tax year.

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

6 “**SECTION 5.** ORS 317A.161, as amended by sections 9 and 10, chapter
7 2, Oregon Laws 2020 (first special session), is amended to read:

8 “317A.161. [*(1)*] A taxpayer shall pay at least 90 percent of the balance
9 due for any quarter or the Department of Revenue may impose, for any
10 quarter that this threshold is not met, a penalty of five percent of the
11 underpayment amount, except that the department may not impose a penalty
12 under this subsection for any quarter for which the taxpayer has paid an
13 amount at least equal to the taxpayer’s required installment for the corre-
14 sponding quarter of the preceding tax year.

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

19 “**SECTION 6.** Section 78, chapter 122, Oregon Laws 2019, as amended by
20 section 11, chapter 2, Oregon Laws 2020 (first special session), is amended
21 to read:

22 “**Sec. 78.** (1) The amendments to ORS 317A.161 by section 9, **chapter 2,**
23 **Oregon Laws 2020 (first special session),** [*of this 2020 special session Act*]
24 **and section 4 of this 2021 Act** apply to tax years beginning on or after
25 January 1, 2020, and before January 1, 2022[, *and to returns filed on or before*
26 *April 15, 2022*].

27 “(2) The amendments to ORS 317A.161 by section 10, **chapter 2, Oregon**
28 **Laws 2020 (first special session),** [*of this 2020 special session Act*] **and**
29 **section 5 of this 2021 Act** apply to tax years beginning on or after January
30 1, 2022[, *and to returns filed after April 15, 2022*].

1 **“SECTION 7. The amendments to ORS 317A.100, 317A.116 and**
2 **317A.146 by sections 1 to 3 of this 2021 Act apply to tax years beginning**
3 **on or after January 1, 2022.**

4 **“SECTION 8. This 2021 Act takes effect on the 91st day after the**
5 **date on which the 2021 regular session of the Eighty-first Legislative**
6 **Assembly adjourns sine die.”.**

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