

OR Pass-Through Entity (PTE) Reduced Rates

House Interim Committee on Revenue – 12/10/2024

Legislative Revenue Office



Overview of Presentation

- Review of the reduced rate policy
- Revenue impact of policy, individuals using PTE reduced rates
- Business entities and the PTE reduced rates



PTE Reduced Rate Policy





Business Entity Types

Concept: Business income (or loss) is passed through from the business entity to the taxpayer

Business income – business expenses = amount passed through

Types of 'Pass-Through' Entities

- S-Corporation
- Partnership
- Sole proprietorship
- Limited Liability Company (LLC)

Data Source: Department of Revenue, Research Section





OR PTE Reduced Rates Policy Description & Requirements

- Policy objective: provide a more favorable rate structure for business income earned by taxpayers who actively manage their own businesses ORS 316.043 & 316.044 – HB 3601 (2013 S.S.), HB 4301 (2018 S.S.), SB 139 (2021)
- Policy is not intended to benefit passive investment or rental income
- Qualifying requirement for individual owners
 - Taxpayer must “materially participate” in the business
 - “Taxpayer shall be treated as materially participating in an activity only if the taxpayer is involved in the operations of the activity on a basis which is: regular, continuous, and substantial. (IRC 469)





Entity Qualification Requirements

- Sole proprietors

- Employ at least 1 full-time, non-owner employee (1,200 aggregate hours, 30 hours per week)
- Policy unchanged by SB 139 (2021)

- S-Corps & Partnerships

- Business entity’s ordinary business income (aka profit) ≤ \$5 million
- Employ at least 1 full-time non-owner
- Meet at least one requirement in table

Ordinary Bus. Inc. (OBI)	Employees (in OR)	OBI Reinvestment
\$0 – \$250K	1	N/A
\$250 – \$500K	1 per owner	Distribute less than 25% of OBI over last 3 years (i.e. reinvest 75% of profit)
\$500 – \$1M	2 per owner	
\$1M – \$2.5M	4 per owner	
\$2.5M – \$5M	10 per owner	





2022 Tax Rates & Brackets

Joint Income Tax Rates	
Taxable Income	Tax Rate
≤ \$7,500	4.75%
\$7,501 to \$18,900	6.75%
\$18,901 to 250,000	8.75%
Over \$250,000	9.90%

Non-Passive PTE Rates	
Taxable Income	Tax Rate
≤ \$500,000	7.0%
\$500,001 to \$1 million	7.5%
\$1 million to \$2.5 million	8.0%
\$2.5 million to \$5 million	9.0%
Over \$5 million	9.9%





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Pre SB 139 (2021)	
\$250 - 500K	7.2%
\$500 - 1M	7.6%





Gross Tax Calculation: Taxpayer Opt-In

Base approach -- Gross Tax A is calculated under traditional method:

$$(All\ Income - Deductions) \times (Regular\ Rates) = Gross\ Tax\ A$$

Opt-in approach -- Gross Tax B is calculated under the new law:

$$(Non-passive\ Income) \times (New\ Rates) = Gross\ Tax\ B.1$$

$$(All\ Other\ Income - Deductions) \times (Regular\ Rates) = Gross\ Tax\ B.2$$

$$(Gross\ Tax\ B.1) + (Gross\ Tax\ B.2) = Gross\ Tax\ B$$

The taxpayer will choose the lesser of the two gross tax amounts:

$$Gross\ Tax = Lesser\ of\ "Gross\ Tax\ A"\ or\ "Gross\ Tax\ B"$$



Revenue Impact





Revenue Impact of PTE Reduced Rates

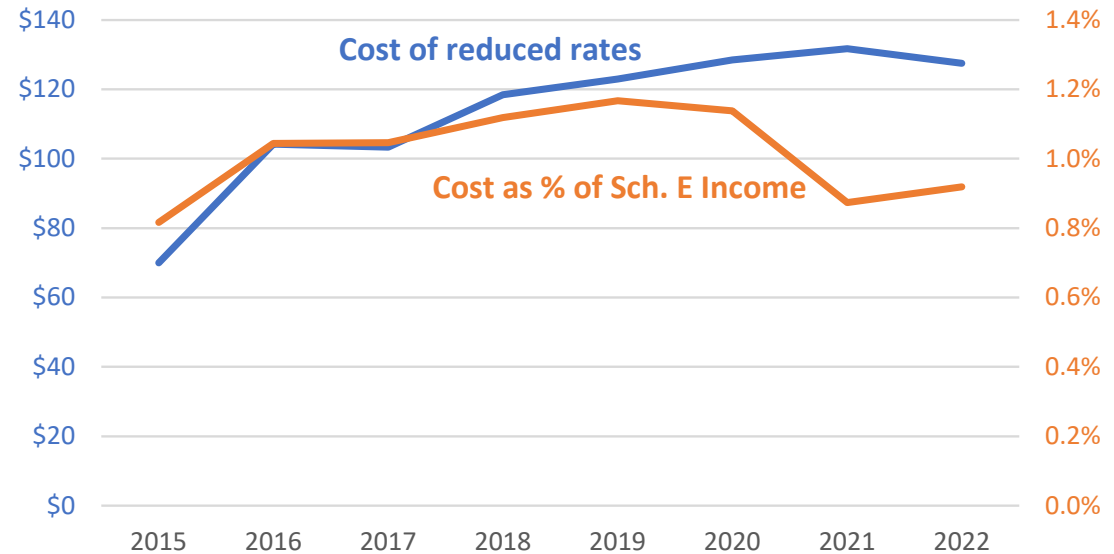
Number of Taxpayers Using Reduced PTE Rates & Tax Change

Tax Year	Full Year		Part Year & Nonresident		Total	
	Taxpayers	Tax Change	Taxpayers	Tax Change	Taxpayers	Tax Change
2015	13,352	-\$66.4	631	-\$3.6	13,983	-\$70.0
2016	22,448	-\$95.3	2,113	-\$8.9	24,561	-\$104.2
2017	21,289	-\$95.9	1,459	-\$7.4	22,748	-\$103.3
2018	25,192	-\$110.7	1,643	-\$7.7	26,835	-\$118.4
2019	25,772	-\$115.1	1,587	-\$7.9	27,359	-\$123.0
2020	23,140	-\$119.0	1,557	-\$9.5	24,697	-\$128.4
2021	23,483	-\$122.1	1,579	-\$9.6	25,062	-\$131.7
2022	23,398	-\$117.9	1,798	-\$9.6	25,196	-\$127.5

Sole proprietors were added beginning with TY 2018.

SB 139 (2021) employment and income policies took effect beginning with TY 2021.

Cost of Reduced Rates (\$M) by Tax Year





Revenue Impact – Tax Year 2022

Number of Claimants & Revenue Impact - TY 2022					
Income	FY Filers	Claimants	Share	Rev Imp.	% Tot.
\$0 - \$50K	901,420	490	0.1%	-\$0.1	0.1%
\$50K-\$70K	243,050	650	0.3%	-\$0.2	0.1%
\$70K-\$100K	248,800	1,430	0.6%	-\$0.6	0.5%
\$100K-\$200K	343,140	6,040	1.8%	-\$5.3	4.5%
\$200K-\$500K	120,920	9,370	7.7%	-\$28.3	24.0%
> \$500K	22,730	5,420	23.8%	-\$83.5	70.8%
Total	1,880,060	23,400	1.2%	-\$117.9	100.0%

FY Filers: 2022 full-year filers

Income: Refers to total income

Source: Department of Revenue - Research, Personal Income Tax Returns





Revenue Impact – Tax Years 2021 & 2022

Tax Year 2021 & 2022 Data, Full-Year Filers

Revenue Impact (\$M)			
Income	TY 2021	TY 2022	Difference
\$0 - \$50K	-\$0.1	-\$0.1	\$0.0
\$50K-\$70K	-\$0.2	-\$0.2	\$0.0
\$70K-\$100K	-\$0.7	-\$0.6	\$0.1
\$100K-\$200K	-\$5.3	-\$5.3	\$0.0
\$200K-\$500K	-\$26.5	-\$28.3	-\$1.8
> \$500K	-\$89.4	-\$83.5	\$6.0
Total	-\$122.2	-\$117.9	\$4.3

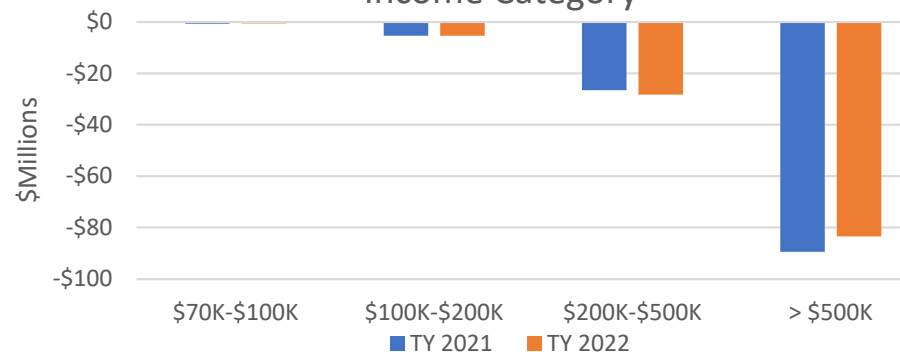
Means (\$) **-\$5,205** **-\$5,039**

Income: Refers to total income | 2022 Full year filers

Number of Claimants			
Income	TY 2021	TY 2022	% Ch.
\$0 - \$50K	590	490	-17%
\$50K-\$70K	700	650	-7%
\$70K-\$100K	1,500	1,430	-5%
\$100K-\$200K	5,960	6,040	1%
\$200K-\$500K	8,880	9,370	6%
> \$500K	5,850	5,420	-7%
Total	23,480	23,400	0%

Source: DOR - Research, Personal Income Tax Returns

Estimated Revenue Impact (Full Year Filers) by Income Category



Claimants (Full Year Filers) by Income Category



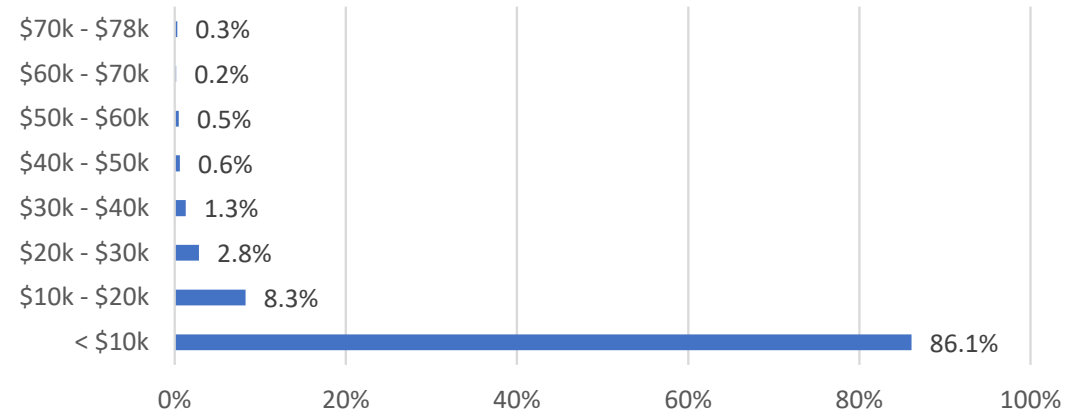


Tax Reduction Distribution

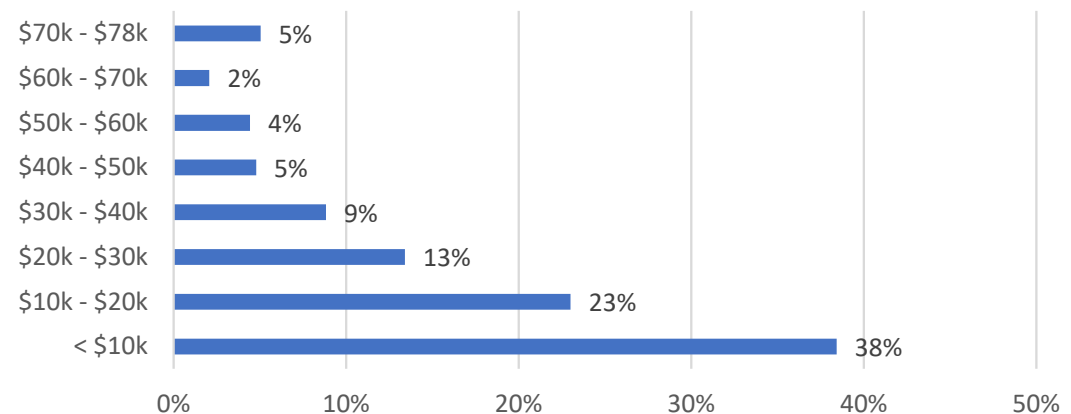
Tax Year 2022 Tax Reduction Distribution

Tax Cut	Returns		Tax Cut	
	Number	Share	\$ Million	Share
< \$5k	17,165	73.2%	\$24.6	20.8%
\$5k - \$10k	3,015	12.9%	\$20.8	17.6%
\$10k - \$15k	1,225	5.2%	\$15.1	12.8%
\$15k - \$20k	715	3.1%	\$12.0	10.2%
\$20k - \$25k	390	1.7%	\$8.6	7.3%
\$25k - \$30k	270	1.2%	\$7.2	6.1%
\$30k - \$35k	190	0.8%	\$6.3	5.3%
\$35k - \$40k	110	0.5%	\$4.2	3.5%
\$40k - \$45k	85	0.4%	\$3.2	2.7%
\$45k - \$50k	55	0.2%	\$2.5	2.1%
\$50k - \$55k	50	0.2%	\$2.2	1.8%
\$55k - \$60k	60	0.3%	\$3.1	2.6%
\$60k - \$66k	20	0.1%	\$1.3	1.1%
\$66k - \$70k	20	0.1%	\$1.2	1.0%
\$70k - \$78k	70	0.3%	\$5.9	5.0%
Total	23,440	100.0%	\$117.9	100.0%

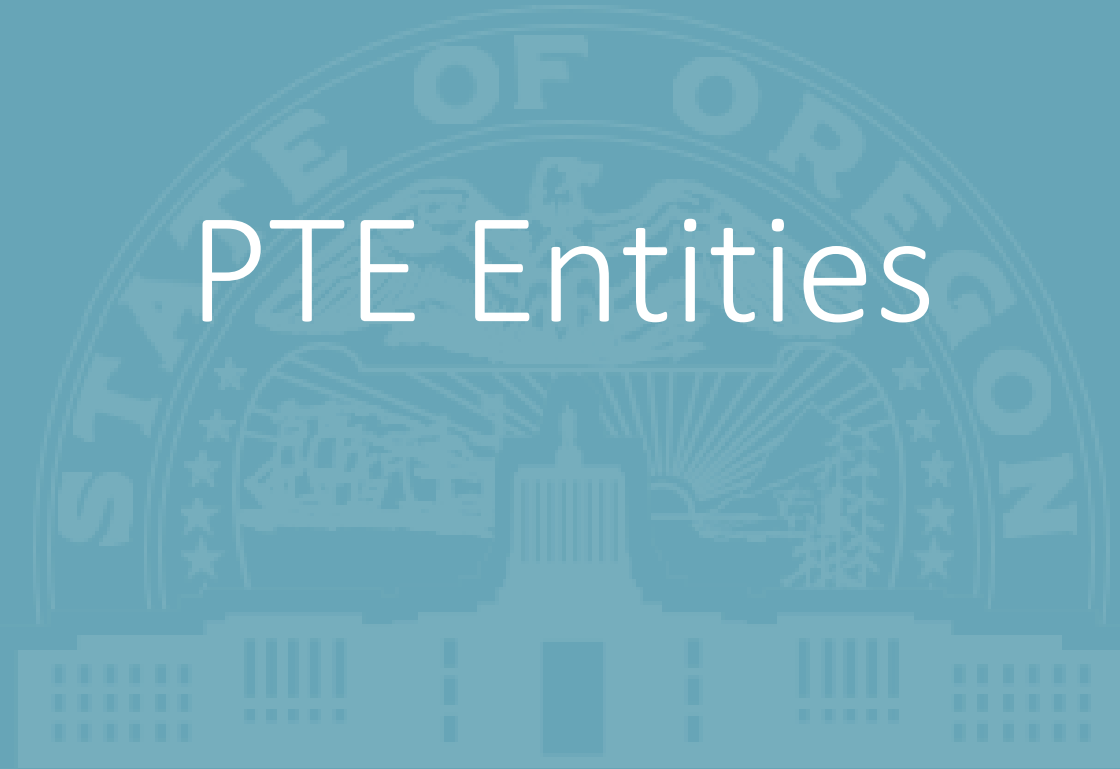
Share of Claimants by Tax Cut Amount
TY 2022



Share of Revenue Impact by Tax Cut Amount
TY 2022



PTE Entities



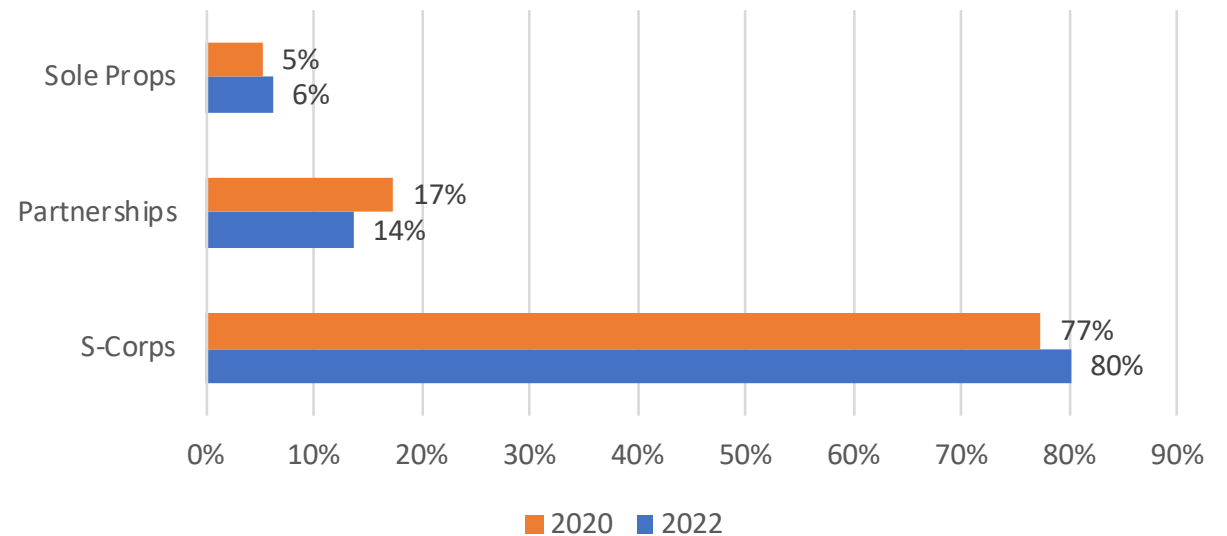


Entity Type

- Slight reduction in proportion of partnerships following SB 139 changes beginning in TY 2021

Tax Year 2022 PTE Entities	
Type	Number
S-Corps.	15,840
Partnerships	2,820
Sole Props.	1,810
Total	20,470

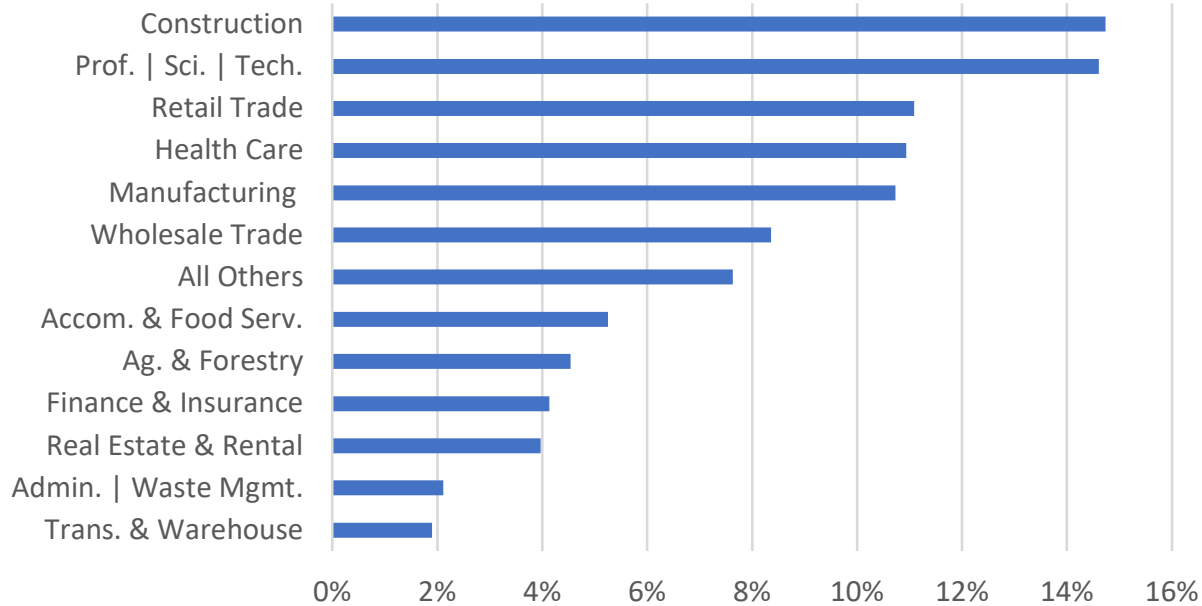
Percent of Total Non-Passive Net Income
TYs 2020 & 2022



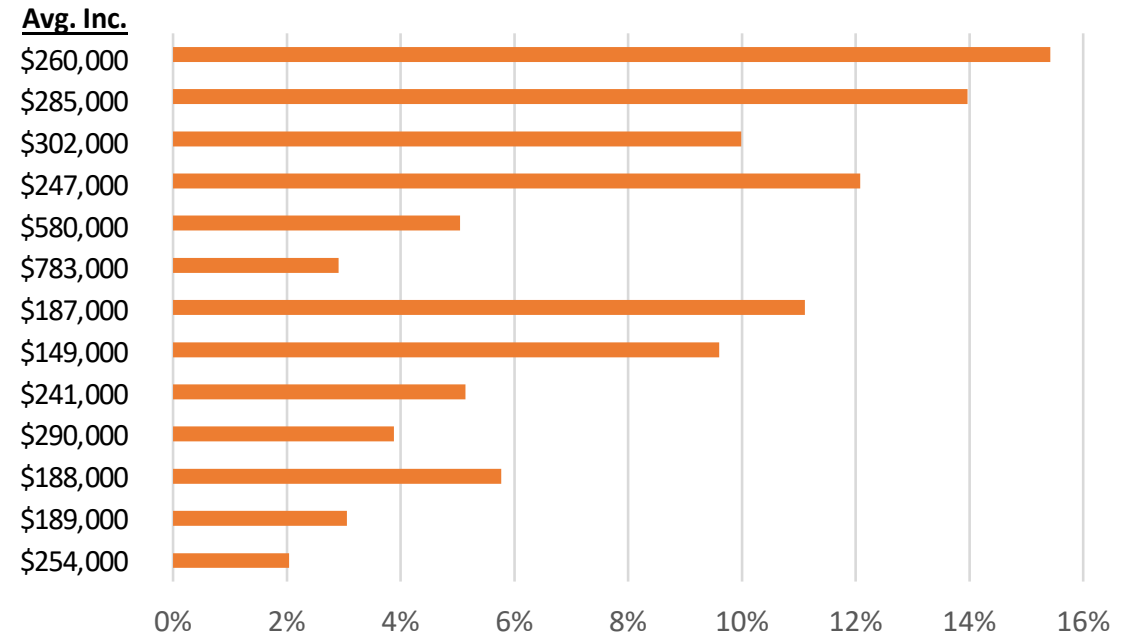


Oregon PTE by Sector – Tax Year 2022

Share of PTE Income by Sector - TY 2022



Share of Businesses by Sector - TY 2022

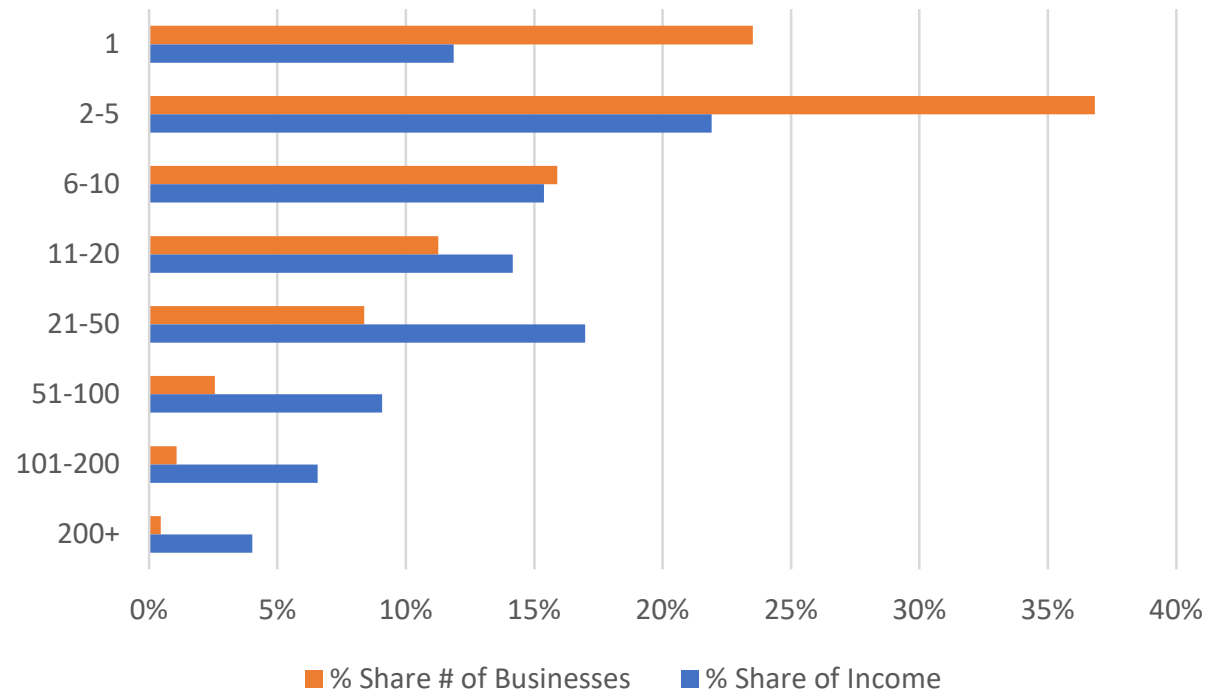




PTEs & Income by Number of Qualifying Employees in Oregon

- About 60% of business have 5 or fewer employees representing about 35% of PTE reduced rate income
- Less than 5% of businesses employ 50+, accounting for 20% of PTE income

Share of PTE by Number of Employees - TY 2022



Legislative Revenue Office

<https://www.oregonlegislature.gov/lro>

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