

DRAFT

SUMMARY

Digest: The Act makes payments received for health care services not taxed by the corporate activity tax. (Flesch Readability Score: 63.6).

Exempts from commercial activity subject to corporate activity tax reimbursements for certain health care services, including care provided to medical assistance recipients and to Medicare recipients. Exempts receipts from medications administered or dispensed in a clinical setting other than a hospital. Applies to tax years beginning on or after January 1, 2026, and before January 1, 2032.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to exemption of health care receipts from corporate activity tax; creating new provisions; amending ORS 317A.100; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 317A.100, as amended by section 26, chapter 75, Oregon Laws 2024, is amended to read:

317A.100. As used in ORS 317A.100 to 317A.158:

(1)(a) “Commercial activity” means:

(A) The total amount realized by a person, arising from transactions and activity in the regular course of the person’s trade or business, without deduction for expenses incurred by the trade or business;

(B) If received by a financial institution:

(i) If the reporting person for a financial institution is a holding company, all items of income reported on the FR Y-9 filed by the holding company;

(ii) If the reporting person for a financial institution is a bank organiza-

tion, all items of income reported on the call report filed by the bank organization; and

(iii) If the reporting person for a financial institution is a nonbank financial organization, all items of income reported in accordance with generally accepted accounting principles; and

(C)(i) If received by an insurer, as reported on the statement of premiums accompanying the annual statement required under ORS 731.574 to be filed with the Director of the Department of Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and health insurance premiums and gross direct property and casualty insurance premiums; and

(ii) The gross amount of surplus lines premiums received on Oregon home state risks as shown in the report required by ORS 735.465.

(b) "Commercial activity" does not include:

(A) Interest income except:

(i) Interest on credit sales; or

(ii) Interest income, including service charges, received by financial institutions;

(B) Receipts from the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

(C) If received by an insurer, federally reinsured premiums or income from transactions between a reciprocal insurer and its attorney in fact operating under ORS 731.142;

(D) Receipts from hedging transactions, to the extent that the transactions are entered into primarily to protect a financial position, including transactions intended to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or investments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity price fluctuations;

(E) Proceeds received attributable to the repayment, maturity or redemp-

tion of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument;

(F) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(G) Contributions received by a trust, plan or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter (D) of the Internal Revenue Code applies;

(H) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, a former employee or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code or any similar employee reimbursement;

(I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or calls, or from the sale of the taxpayer's treasury stock;

(J) Proceeds received on the account of payments from insurance policies, including crop insurance policies, owned by the taxpayer, except those proceeds received for the loss of commercial activity;

(K) Gifts or charitable contributions received, membership dues received by trade, professional, homeowners' or condominium associations, payments received for educational courses, meetings or meals, or similar payments to a trade, professional or other similar association, and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(L) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be treated as commercial activity;

(M) Property, money and other amounts received or acquired by an agent

1 on behalf of another in excess of the agent's commission, fee or other
2 remuneration;

3 (N) Tax refunds from any tax program, other tax benefit recoveries and
4 reimbursements for the tax imposed under ORS 317A.100 to 317A.158 made
5 by entities that are part of the same unitary group as provided under ORS
6 317A.106, and reimbursements made by entities that are not members of a
7 unitary group that are required to be made for economic parity among mul-
8 tiple owners of an entity whose tax obligation under ORS 317A.100 to
9 317A.158 is required to be reported and paid entirely by one owner, as pro-
10 vided in ORS 317A.106;

11 (O) Pension reversions;

12 (P) Contributions to capital;

13 (Q) Receipts from the sale, transfer, exchange or other disposition of mo-
14 tor vehicle fuel or any other product used for the propulsion of motor vehi-
15 cles;

16 (R) In the case of receipts from the sale of cigarettes or tobacco products
17 by a wholesale dealer, retail dealer, distributor, manufacturer or seller, an
18 amount equal to the federal and state excise taxes paid by any person on or
19 for such cigarettes or tobacco products under subtitle E of the Internal
20 Revenue Code or ORS chapter 323;

21 (S) In the case of receipts from the sale of malt beverages or wine, as
22 defined in ORS 471.001, cider, as defined in ORS 471.023 or distilled liquor,
23 as defined in ORS 471.001, by a person holding a license issued under ORS
24 chapter 471, an amount equal to the federal and state excise taxes paid by
25 any person on or for such malt beverages, wine or distilled liquor under
26 subtitle E of the Internal Revenue Code or ORS chapter 471 or 473, and any
27 amount paid to the Oregon Liquor and Cannabis Commission for sales of
28 distilled spirits by an agent appointed under ORS 471.750;

29 (T) In the case of receipts from the sale of marijuana items, as defined in
30 ORS 475C.009, by a person holding a license issued under ORS 475C.005 to
31 475C.525, an amount equal to the federal and state excise taxes paid by any

person on or for such marijuana items under subtitle E of the Internal Revenue Code or ORS 475C.670 to 475C.734 and any local retail taxes authorized under ORS 475C.453;

(U) Local taxes collected by a restaurant or other food establishment on sales of meals, prepared food or beverages;

(V) Tips or gratuities collected by a restaurant or other food establishment and passed on to employees;

(W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360, to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle or is an exchange of new vehicles between franchised motor vehicle dealerships;

(X) Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 or a person described in ORS 320.400 (8)(a)(B) at the sale or other transfer of a motor vehicle, as defined in ORS 801.360, that are owed to a third party by the purchaser of the motor vehicle and passed to the third party by the dealer;

(Y) Receipts from a financial institution for services provided to the financial institution in connection with the issuance, processing, servicing and management of loans or credit accounts, if the financial institution and the recipient of the receipts have at least 50 percent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or collected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to be used as purse money;

(AA) Receipts of residential care facilities as defined in ORS 443.400 or

1 in-home care agencies as defined in ORS 443.305, to the extent that the re-
2 cepts are derived from or received as compensation for providing services
3 to a medical assistance or Medicare recipient;

4 (BB) Dividends received;

5 (CC) Distributive income received from a pass-through entity;

6 (DD) Receipts from sales to a wholesaler in this state, if the seller re-
7 ceives certification at the time of sale from the wholesaler that the whole-
8 saler will sell the purchased property outside this state;

9 (EE) Receipts from the wholesale or retail sale of groceries, including
10 receipts of a person that owns groceries at the time of sale and compensation
11 of any consignee engaged in effecting the sale of groceries on behalf the
12 owner of the groceries, but only to the extent that the compensation relates
13 to grocery sales;

14 (FF) Receipts from transactions among members of a unitary group;

15 (GG) Moneys, including public purpose charge moneys collected under
16 ORS 757.612 and moneys collected to plan for and pursue cost-effective en-
17 ergy efficiency resources under ORS 757.054, that are collected from cus-
18 tomers, passed to a utility and approved by the Public Utility Commission
19 and that support energy conservation, renewable resource acquisition and
20 low-income assistance programs;

21 (HH) Moneys collected by a utility from customers for the payment of
22 loans through on-bill financing;

23 (II) Surcharges collected under ORS 757.736;

24 (JJ) Moneys passed to a utility by the Bonneville Power Administration
25 for the purpose of effectuating the Regional Power Act Exchange credits or
26 pursuant to any settlement associated with the exchange credit;

27 (KK) Moneys collected or recovered, by entities listed in ORS 756.310,
28 cable operators as defined in 47 U.S.C. 522(5), telecommunications carriers
29 as defined in 47 U.S.C. 153(51) and providers of information services as de-
30 fined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-way
31 fees, franchise fees, privilege taxes, federal taxes and local taxes;

1 (LL) Charges paid to the Residential Service Protection Fund required
2 by chapter 290, Oregon Laws 1987;

3 (MM) Universal service surcharge moneys collected or recovered and paid
4 into the universal service fund established in ORS 759.425;

5 (NN) Moneys collected for public purpose funding as described in ORS
6 759.430;

7 (OO) Moneys collected or recovered and paid into the federal universal
8 service fund as determined by the Federal Communications Commission;

9 (PP) In the case of a seller or provider of telecommunications services,
10 the amount of tax imposed under ORS 403.200 for access to the emergency
11 communications system that is collected from subscribers or consumers;

12 (QQ) In the case of a transient lodging tax collector, the amount of tax
13 imposed under ORS 320.305 and of any local transient lodging tax imposed
14 upon the occupancy of transit lodging;

15 (RR) In the case of a seller of bicycles, the amount of tax imposed under
16 ORS 320.415 upon retail sales of bicycles;

17 (SS) In the case of a qualified heavy equipment provider, the amount of
18 tax imposed under ORS 307.872 upon the rental price of heavy equipment;

19 (TT) Farmer sales to an agricultural cooperative in this state that is a
20 cooperative organization described in section 1381 of the Internal Revenue
21 Code;

22 (UU) Revenue received by a business entity that is mandated by contract
23 or subcontract to be distributed to another person or entity if the revenue
24 constitutes sales commissions that are paid to a person who is not an em-
25 ployee of the business entity, including, without limitation, a split-fee real
26 estate commission;

27 (VV) Receipts from the sale of fluid milk by dairy farmers that are not
28 members of an agricultural cooperative; *[and]*

29 **(WW) Amounts received as reimbursement paid:**

30 **(i) For the cost of health care provided to medical assistance re-**
31 **cipients under ORS chapter 414;**

1 (ii) By the Centers for Medicare and Medicaid Services or by a
2 Medicare Advantage plan for the cost of health care provided to Med-
3 icare recipients; or

4 (iii) By the Public Employees' Benefit Board, the Oregon Educators
5 Benefit Board, the Children's Health Insurance Program or the United
6 States Department of Defense, under a TRICARE contract for the cost
7 of health care provided;

8 (XX) Receipts from the administration or dispensation of
9 medications in a clinical setting other than a hospital; and

10 [(WW)(i)] (YY)(i) Cost paid by a dealer for items of precious metal.

11 (ii) As used in this subparagraph, "item of precious metal" means an item
12 of gold, silver, platinum, rhodium or palladium that has been put through a
13 process of smelting or refining and that is in a state or condition that its
14 value depends on its contents and not its form.

15 (2) "Cost inputs" means:

16 (a) The cost of goods sold as calculated in arriving at federal taxable in-
17 come under the Internal Revenue Code; or

18 (b) In the case of a taxpayer that is engaged in a farming operation, as
19 defined in ORS 317A.102, and that does not report cost of goods sold for
20 federal tax purposes, the taxpayer's operating expenses excluding labor costs.

21 (3) "Doing business" means engaging in any activity, whether legal or il-
22 legal, that is conducted for, or results in, the receipt of commercial activity
23 at any time during a calendar year.

24 (4) "Excluded person" means any of the following:

25 (a) Organizations described in sections 501(c) and 501(j) of the Internal
26 Revenue Code, unless the exemption is denied under section 501(h), (i) or (m)
27 or under section 502, 503 or 505 of the Internal Revenue Code.

28 (b) Organizations described in section 501(d) of the Internal Revenue
29 Code, unless the exemption is denied under section 502 or 503 of the Internal
30 Revenue Code.

31 (c) Organizations described in section 501(e) of the Internal Revenue

Code.

(d) Organizations described in section 501(f) of the Internal Revenue Code.

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

(f) Organizations described in section 521 of the Internal Revenue Code.

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

(h) Foreign or alien insurance companies, but only with respect to the underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828 or if an insurance company is subject to the retaliatory tax under ORS 731.854 and 731.859.

(i) Governmental entities.

(j) Any person with commercial activity that does not exceed \$750,000 for the tax year, other than a person that is part of a unitary group as provided in ORS 317A.106 with commercial activity in excess of \$750,000.

(k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to assessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or 5, chapter 538, Oregon Laws 2017.

(L) Manufactured dwelling park nonprofit cooperatives organized under ORS chapter 62.

(5) “Financial institution” has the meaning given that term in ORS 314.610, except that “financial institution” does not include a credit union.

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

(b) In the case of a holding company required to file both consolidated and parent-only financial statements, “FR Y-9” means the consolidated financial statements that the holding company is required to file.

(7) “Governmental entity” means:

(a) The United States and any of its unincorporated agencies and instru-

1 mentalities.

2 (b) Any incorporated agency or instrumentality of the United States
3 wholly owned by the United States or by a corporation wholly owned by the
4 United States.

5 (c) The State of Oregon and any of its unincorporated agencies and in-
6 strumentalities.

7 (d) Any county, city, district or other political subdivision of the state.

8 (e) A special government body as defined in ORS 174.117.

9 (f) A federally recognized Indian tribe.

10 (8) "Groceries" means food as defined in 7 U.S.C. 2012(k), but does not
11 include cannabinoid edibles or marijuana seeds.

12 (9)(a) "Hedging transaction" means a hedging transaction as defined in
13 section 1221 of the Internal Revenue Code or a transaction accorded hedge
14 accounting treatment under Financial Accounting Standards Board State-
15 ment No. 133.

16 (b) "Hedging transaction" does not include a transaction in which an ac-
17 tual transfer of title of real or tangible property to another entity occurs.

18 (10) "Insurer" has the meaning given that term in ORS 317.010.

19 (11) "Internal Revenue Code," except where the Legislative Assembly has
20 provided otherwise, refers to the laws of the United States or to the Internal
21 Revenue Code as they are amended and in effect on December 31, 2023.

22 (12) "Labor costs" means total compensation of all employees, not to in-
23 clude compensation paid to any single employee in excess of \$500,000.

24 (13)(a) "Motor vehicle fuel or any other product used for the propulsion
25 of motor vehicles" means:

26 (A) Motor vehicle fuel as defined in ORS 319.010; and

27 (B) Fuel the use of which in a motor vehicle is subject to taxation under
28 ORS 319.530.

29 (b) "Motor vehicle fuel or any other product used for the propulsion of
30 motor vehicles" does not mean:

31 (A) Electricity; or

(B) Electric batteries or any other mechanical or physical component or accessory of a motor vehicle.

(14) “Person” includes individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes and any other entities.

(15) “Retailer” means a person doing business by selling tangible personal property to a purchaser for a purpose other than:

(a) Resale by the purchaser of the property as tangible personal property in the regular course of business;

(b) Incorporation by the purchaser of the property in the course of regular business as an ingredient or component of real or personal property; or

(c) Consumption by the purchaser of the property in the production for sale of a new article of tangible personal property.

(16) “Taxable commercial activity” means commercial activity sourced to this state under ORS 317A.128, less any subtraction pursuant to ORS 317A.119.

(17)(a) “Taxpayer” means any person or unitary group required to register, file or pay tax under ORS 317A.100 to 317A.158.

(b) “Taxpayer” does not include excluded persons, except to the extent that a tax-exempt entity has unrelated business income as described in the Internal Revenue Code.

(18) “Tax year” means, except as otherwise provided in ORS 317A.103, a taxpayer’s annual accounting period used for federal income tax purposes under section 441 of the Internal Revenue Code.

(19)(a) “Unitary business” means a business enterprise in which there exists directly or indirectly between the members or parts of the enterprise

a sharing or exchange of value as demonstrated by:

(A) Centralized management or a common executive force;

(B) Centralized administrative services or functions resulting in economies of scale; or

(C) Flow of goods, capital resources or services demonstrating functional integration.

(b) “Unitary business” may include a business enterprise the activities of which:

(A) Are in the same general line of business, such as manufacturing, wholesaling or retailing; or

(B) Constitute steps in a vertically integrated process, such as the steps involved in the production of natural resources, which might include exploration, mining, refining and marketing.

(20) “Unitary group” means a group of persons with more than 50 percent common ownership, either direct or indirect, that is engaged in business activities that constitute a unitary business.

(21) “Wholesaler” means a person primarily doing business by merchant distribution of tangible personal property to retailers or to other wholesalers.

SECTION 2. The amendments to ORS 317A.100 by section 1 of this 2025 Act apply to tax years beginning on or after January 1, 2026, and before January 1, 2032.

SECTION 3. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.