

SENATE AMENDMENTS TO SENATE BILL 158

By COMMITTEE ON FINANCE AND REVENUE

April 10

1 In line 2 of the printed bill, after “sections” insert “3,”.

2 Delete lines 5 through 14 and insert:

3 “**SECTION 1.** Section 3, chapter 589, Oregon Laws 2021, as amended by section 3, chapter 82,
4 Oregon Laws 2022, is amended to read:

5 “**Sec. 3.** (1) A pass-through entity may elect to be liable for and pay a pass-through business
6 alternative income tax if all members of the pass-through entity are:

7 “(a) Individuals subject to the personal income tax imposed under ORS chapter 316; [or]

8 “(b) Entities that are pass-through entities owned entirely by individuals subject to the personal
9 income tax imposed under ORS chapter 316[.]; **or**

10 “(c) **Trusts.**

11 “(2) The election to pay the pass-through business alternative income tax is available if consent
12 is given by all members of the electing pass-through entity who are members at the time the election
13 is filed or is made by any officer, manager or member of the electing pass-through entity who is
14 authorized, under law or the entity’s organizational documents, to make the election and who re-
15 presents to having such authorization under penalties of perjury. The election shall be made annu-
16 ally on or before the due date, including extensions, of the pass-through entity’s return, in the form
17 and manner prescribed by the Department of Revenue. The election may not be made retroactively.
18 The members of a pass-through entity may revoke an election under this section for a tax year only
19 on or before the due date of the pass-through entity’s return for that tax year, and only if the re-
20 vocation is agreed to by all members who are members at the time of the revocation.

21 “(3)(a) In determining the sum of distributive proceeds and computing the tax under this
22 section[, *a member of*]:

23 “(A) A pass-through entity shall add back any amount of Oregon tax [*imposed under this chapter*
24 *and*] deducted by the pass-through entity at the entity level for federal income tax purposes under
25 section 164 of the Internal Revenue Code.

26 “(B) **A member of a pass-through entity shall add back any amount of Oregon tax im-**
27 **posed on the member in relation to membership in the pass-through entity and deducted by**
28 **the member of the pass-through entity for federal income tax purposes under section 164 of**
29 **the Internal Revenue Code.**

30 “(b) Any amount that is added back under this subsection and that meets the conditions for the
31 use of elective rates under ORS 316.043 may be treated as qualifying income under ORS 316.043, in
32 a proportion determined by the department by rule.

33 “(4) Each pass-through entity that makes an election for a tax year pursuant to this section shall
34 annually report to each of its members, for the tax year, the member’s share of distributive proceeds
35 and share of tax paid under this section and eligible for the credit allowed under section 8, chapter

1 589, Oregon Laws 2021.

2 “(5) The tax imposed on a pass-through entity pursuant to this section shall be determined with
3 respect to the sum of each member’s share of distributive proceeds attributable to the pass-through
4 entity for the tax year.

5 “(6) The rate of the tax imposed by and computed under this section is:

6 “(a) Nine percent of the first \$250,000, or fraction thereof, of the sum of distributive proceeds;
7 and

8 “(b) Nine and nine-tenths percent of any amount of distributive proceeds in excess of \$250,000.

9 “(7) The amount of pass-through business alternative income tax due from a pass-through entity
10 in a tax year shall be exclusive of any amount of tax due and paid by the pass-through entity under
11 this chapter, except as otherwise provided in sections 2 to 6, chapter 589, Oregon Laws 2021.

12 “(8) Pass-through entities that have made an election under this section shall file an entity tax
13 return. The return shall be accompanied by payment and shall be due on the date applicable to re-
14 turns due under ORS chapter 316, as provided in ORS 314.385.

15 “(9) **If a pass-through entity has made an overpayment of tax under this section, the**
16 **pass-through entity may elect to have that overpayment credited against an installment of**
17 **estimated tax for the subsequent tax year. The department shall administer this subsection**
18 **in a manner consistent with the treatment of overpayment of income tax under ORS 316.583.**

19 “**SECTION 2.** Section 10, chapter 589, Oregon Laws 2021, is amended to read:

20 “**Sec. 10.** (1) Sections 3 and 8, **chapter 589, Oregon Laws 2021**, [of this 2021 Act] apply to tax
21 years beginning on or after January 1, 2022, and before January 1, [2024] **2026**.

22 “(2) **The amendments to section 3, chapter 589, Oregon Laws 2021, by section 1 of this**
23 **2023 Act apply to tax years beginning on or after January 1, 2023, and before January 1, 2026.**

24 “**SECTION 3.** Section 12, chapter 589, Oregon Laws 2021, is amended to read:

25 “**Sec. 12.** The repeal of sections 3 and 8, **chapter 589, Oregon Laws 2021**, [of this 2021 Act]
26 by section 11, **chapter 589, Oregon Laws 2021**, [of this 2021 Act] applies to any tax year that begins
27 on or after January 1, 2022, and before January 1, [2024] **2026**, and to which section 164(b)(6) of the
28 Internal Revenue Code is not applicable.

29 “**SECTION 4. This 2023 Act takes effect on the 91st day after the date on which the 2023**
30 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**”