

Requested by Senator MEEK

**PROPOSED AMENDMENTS TO
SENATE BILL 158**

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
4 section 3, chapter 82, Oregon Laws 2022, is amended to read:

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

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

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

12 **“(c) Trusts.**

13 “(2) The election to pay the pass-through business alternative income tax
14 is available if consent is given by all members of the electing pass-through
15 entity who are members at the time the election is filed or is made by any
16 officer, manager or member of the electing pass-through entity who is au-
17 thorized, under law or the entity’s organizational documents, to make the
18 election and who represents to having such authorization under penalties of
19 perjury. The election shall be made annually on or before the due date, in-
20 cluding extensions, of the pass-through entity’s return, in the form and
21 manner prescribed by the Department of Revenue. The election may not be

1 made retroactively. The members of a pass-through entity may revoke an
2 election under this section for a tax year only on or before the due date of
3 the pass-through entity's return for that tax year, and only if the revocation
4 is agreed to by all members who are members at the time of the revocation.

5 “(3)(a) In determining the sum of distributive proceeds and computing the
6 tax under this section, a member of a pass-through entity shall add back any
7 amount of Oregon tax imposed under this chapter and deducted by the pass-
8 through entity at the entity level for federal income tax purposes under
9 section 164 of the Internal Revenue Code.

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

14 “(4) Each pass-through entity that makes an election for a tax year pur-
15 suant to this section shall annually report to each of its members, for the
16 tax year, the member's share of distributive proceeds and share of tax paid
17 under this section and eligible for the credit allowed under section 8, chapter
18 589, Oregon Laws 2021.

19 “(5) The tax imposed on a pass-through entity pursuant to this section
20 shall be determined with respect to the sum of each member's share of dis-
21 tributive proceeds attributable to the pass-through entity for the tax year.

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

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

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

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

1 “(8) Pass-through entities that have made an election under this section
2 shall file an entity tax return. The return shall be accompanied by payment
3 and shall be due on the date applicable to returns due under ORS chapter
4 316, as provided in ORS 314.385.

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

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

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

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

15 **“Sec. 12.** The repeal of sections 3 and 8, **chapter 589, Oregon Laws 2021,**
16 [*of this 2021 Act*] by section 11, **chapter 589, Oregon Laws 2021,** [*of this*
17 *2021 Act*] applies to any tax year that begins on or after January 1, 2022, and
18 before January 1, [2024] **2026,** and to which section 164(b)(6) of the Internal
19 Revenue Code is not applicable.

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

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