

SB 158-2
(LC 2452)
3/6/23 (CMT/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 158**

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

2 After line 4, 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.

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

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

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

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

10 “(B) **A member of a pass-through entity shall add back any amount**
11 **of Oregon tax imposed on the member in relation to membership in**
12 **the pass-through entity and deducted by the member of the pass-**
13 **through entity for federal income tax purposes under section 164 of the**
14 **Internal Revenue Code.**

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

19 “(4) Each pass-through entity that makes an election for a tax year pur-
20 suant to this section shall annually report to each of its members, for the
21 tax year, the member's share of distributive proceeds and share of tax paid
22 under this section and eligible for the credit allowed under section 8, chapter
23 589, Oregon Laws 2021.

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

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

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

30 “(b) Nine and nine-tenths percent of any amount of distributive proceeds

1 in excess of \$250,000.

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

6 “(8) Pass-through entities that have made an election under this section
7 shall file an entity tax return. The return shall be accompanied by payment
8 and shall be due on the date applicable to returns due under ORS chapter
9 316, as provided in ORS 314.385.”.

10 In line 5, delete “1” and insert “2”.

11 In line 8, delete “2” and insert “3”.

12 In line 13, delete “3” and insert “4”.

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