

Enrolled
House Bill 2073

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue for Representative Nancy Nathanson)

CHAPTER

AN ACT

Relating to the correction of erroneous material in Oregon tax law; creating new provisions; amending ORS 311.165, 314.772, 316.502, 317.010, 317.655, 319.420, 320.013 and 320.100; repealing ORS 309.310, 315.174, 316.852, 317.122, 317.152, 317.153, 317.154, 317.488 and 319.430; and prescribing an effective date.

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

SECTION 1. ORS 309.310 is repealed.

NOTE: Repeals obsolete statute.

SECTION 2. ORS 311.165 is amended to read:

311.165. (1) **The assessor shall proceed to levy and the tax collector to collect the taxes described in this subsection in the manner set forth in subsections (2) to (5) of this section if, in the opinion of the assessor:**

(a) It appears probable that real property improvements, whether assessed as improvements only or as real property improvements assessed together with land have been or will be severed from the land upon which they are situated and have been or will be removed from [*such*] **the** land;

(b) It appears that the amount of taxes [*which*] **that** have been levied against the property in the current and prior years or [*which*] **that** are anticipated to be levied for the current assessment year will not be adequately secured by the value of the property remaining in the tax account; and

(c) It appears that unless prompt action is taken the taxes will not be collected[, *then the assessor shall proceed to levy and the tax collector to collect the taxes in the manner set forth in subsection (2) of this section*].

(2)(a) If the amount of the taxes for the current year attributable to the property improvements is not able to be determined, the assessor shall estimate the taxes due for the current year.

(b) The assessor shall make demand upon the owner of the improvements as shown by the most recent assessment roll, for payment of the unpaid taxes attributable to the improvements for the current and all prior years.

(3)(a) Any payments shall be paid immediately upon demand of the assessor either to the assessor for remittance to the tax collector or directly to the tax collector of the county pursuant to ORS 311.370.

(b) If the taxes are not paid immediately upon demand, the assessor shall certify the assessment and tax levies so made by the assessor to the tax collector.

(4)(a) For the purposes of collection of the assessments, the owner shall be considered a taxpayer owning personal property against which ad valorem taxes have been assessed.

(b) Review may be had as provided in ORS 311.467.

(5) All taxes collected by the tax collector, or taxes collected by the assessor and remitted to the tax collector shall be credited to the real property account containing the improvements [which] that were the basis of the tax.

NOTE: Improves syntax in (1) and (5) and updates sequence.

SECTION 3. ORS 314.772 is amended to read:

314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on income of the shareholder of an S corporation, there shall be taken into account the shareholder's pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), recapture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, "business tax credit" means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.124 (small forest option), ORS 315.133 (agricultural overtime pay), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.283 (affordable housing sales), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS 315.518 (semiconductors), ORS 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone facilities)[,] **and** ORS 317.147 (loans for agriculture workforce housing)[,] *ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified research expenses)*] and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions).

NOTE: Deletes references to repealed statutes. See section 4.

SECTION 4. **ORS 315.174, 316.852, 317.122, 317.152, 317.153, 317.154 and 317.488 are repealed.**

NOTE: Repeals obsolete tax expenditure provisions.

SECTION 5. ORS 316.502, as amended by section 65a, chapter 70, Oregon Laws 2024, is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.133, [315.174,] 315.262, 315.264, 315.266, 315.273, 315.519 and 316.090 and section 3, chapter 589, Oregon Laws 2021.

NOTE: Deletes reference to repealed statute. See section 4.

SECTION 6. ORS 317.010, as amended by section 24, chapter 75, Oregon Laws 2024, is amended to read:

317.010. As used in this chapter, unless the context requires otherwise:

(1) "Centrally assessed corporation" means every corporation the property of which is assessed by the Department of Revenue under ORS 308.505 to 308.674.

(2) "Department" means the Department of Revenue.

(3)(a) "Consolidated federal return" means the return permitted or required to be filed by a group of affiliated corporations under section 1501 of the Internal Revenue Code.

(b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

(4) "Doing business" means any transaction or transactions in the course of its activities conducted within the state by a national banking association, or any other corporation; provided, however, that a foreign corporation whose activities in this state are confined to purchases of personal property, and the storage thereof incident to shipment outside the state, shall not be deemed to be doing business unless such foreign corporation is an affiliate of another foreign or domestic corporation which is doing business in Oregon. Whether or not corporations are affiliated shall be determined as provided in section 1504 of the Internal Revenue Code.

(5) "Excise tax" means a tax measured by or according to net income imposed upon national banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing and business corporations for the privilege of carrying on or doing business in this state.

(6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS 723.001 or a federal credit union.

(7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise, refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(a) On December 31, 2023; or

(b) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

(8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and ORS 317.650 to 317.665.

(9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers in subsection (11) of this section and ORS 317.650 to 317.665.

(10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a corporation for which no federal taxable income or loss is determined, as would be determined, under chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States relating to the determination of taxable income or loss of corporate taxpayers, with the additions, subtractions, adjustments and other modifications as are specifically prescribed by this chapter except that in determining taxable income or loss for any year, no deduction under ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of income from transactions or activities carried on both within and without the state) applies, to derive taxable income or loss, the following shall occur:

(a) From the amount otherwise determined under this subsection, subtract nonapportionable income, or add nonapportionable loss, whichever is applicable.

(b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon apportionment percentage defined under ORS 314.280, 314.650 or 314.667, whichever is applicable. The resulting product shall be Oregon apportioned income or loss.

(c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this subsection, add nonapportionable income allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract nonapportionable loss allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645. The resulting figure is “taxable income or loss” for those corporations carrying on taxable transactions or activities both within and without Oregon.

(11) As used in ORS [317.122 and] 317.650 to 317.665, “insurer” means any domestic, foreign or alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange. However, “insurer” does not include title insurers or health care service contractors operating pursuant to ORS 750.005 to 750.095.

NOTE: Deletes reference to repealed statute. See section 4.

SECTION 7. ORS 317.655 is amended to read:

317.655. (1) For purposes of the tax imposed under ORS 317.070, the Oregon taxable income of an insurer shall be the insurer’s “net gain from operations” or “net income” determined in the manner prescribed by the Department of Consumer and Business Services on its Annual Statement Form for the taxable year, as adjusted pursuant to ORS 317.010 (11)[, 317.122] and 317.650 to 317.665.

(2) The Oregon taxable income of an insurer shall be computed by adding or subtracting, to the insurer’s net gain from operations as determined under subsection (1) of this section, such of the following items as apply to the insurer:

(a) Add the amount of federal and state income taxes deducted by the insurer in computing its net gain from operations.

(b) Add penalty interest received by the insurer arising out of prepayment of loans made by the insurer.

(c) Add realized gains and losses on sales or exchanges by the insurer of property.

(d) Subtract, if the insurer so elects, additional or accelerated depreciation on real and personal property that is in excess of the depreciation deducted by the method used in computing the insurer’s net gain from operations.

(e) Subtract that amortized portion of the contribution for past service credits made to qualified plans and exempt trusts for employees allowed as a deduction.

(f) Add or subtract, as appropriate, increases or decreases in mandatory reserves that the insurer is required to maintain by law or by rules or directives of the Director of the Department of Consumer and Business Services or the insurance director or commissioner of the state of domicile of the foreign or alien insurer, other than increases or decreases that (A) are deducted in arriving at the insurer’s net gain from operations, or (B) result from net gains or losses, realized or unrealized, in the value of the insurer’s property and investments.

(g) Add or subtract, as appropriate, increases or decreases in reserves for policies and obligations outstanding before the beginning of the taxable year resulting from changes in the bases and methods of computing such reserves that are justified by accounting and actuarial practices applicable to or accepted by the insurance industry, commonly known as “reserve strengthening” or “reserve weakening.”

(3) Income, expenses, gains, losses, exclusions, deductions, assets, reserves, liabilities and other items properly attributable to one or more separate accounts authorized under ORS 733.220 shall not be taken into account in determining taxable income of an insurer under ORS 317.010 (11)[, 317.122] and 317.650 to 317.665 until such amounts or items are returned to and reflected on the general accounts of such insurer so as to be available generally to or for the benefit of contract and policyholders of the insurer.

NOTE: Deletes references to repealed statute. See section 4.

SECTION 8. ORS 319.420 is amended to read:

319.420. ORS 319.010 to [319.410] **319.420** do not affect or repeal any of the provisions of ORS 319.510 to 319.880.

NOTE: Amends series reference.

SECTION 9. ORS 319.430 is repealed.

NOTE: Repeals obsolete statute.

SECTION 10. The repeal of ORS 319.430 by section 9 of this 2025 Act does not affect any rights or obligations arising under the provisions of the statutes repealed by section 38, chapter 413, Oregon Laws 1945, or any duties or obligations contracted or arising under such statutes, prior to June 16, 1945.

NOTE: Clarifies effects of repealing ORS 319.430. See section 9.

SECTION 11. ORS 320.013 is amended to read:

320.013. (1) In addition to the excise tax imposed by ORS 320.011, an excise tax is imposed upon every person for the privilege of operating an amusement device within this state. The tax shall be \$10 for each amusement device operated during the tax year.

(2) All moneys received from the tax imposed under subsection (1) of this section, not including penalties, shall be paid by the Department of Revenue into the State Treasury quarterly and are continuously appropriated **to the Higher Education Coordinating Commission** to pay the expenses of the state and local programs of the Oregon Youth Corps established under ORS 418.650 to 418.663.

NOTE: Clarifies to whom amusement device excise tax moneys are continuously appropriated.

SECTION 12. ORS 320.100 is amended to read:

320.100. (1) All moneys received from the taxes imposed under ORS 320.011 and 320.012, including penalties, shall be paid by the Department of Revenue in the following manner:

(a) Seventy-five percent (75%) of the moneys shall be credited, appropriated or remitted as follows:

(A) Forty-three and two-tenths percent (43.2%) thereof shall be credited to the General Fund to be available for payment of general governmental expenses.

(B) Nine and seven-tenths percent (9.7%) is continuously appropriated **to the Higher Education Coordinating Commission** to pay the expenses of state and local programs of the Oregon Youth Corps established under ORS 418.650 to 418.663.

(C) Forty-seven and one-tenth percent (47.1%) thereof shall be remitted to the county treasurers of the several counties of the state. Each county shall receive such share of the moneys as its population, determined by Portland State University, bears to the total population of the counties of the state, as determined by the census last preceding such apportionment.

(b) Twenty-five percent (25%) of the moneys shall be continuously appropriated **to the Higher Education Coordinating Commission** to pay the expenses of the state and local programs of the Oregon Youth Corps established under ORS 418.650 to 418.663.

(2) All revenues received under this section by the treasurers of the several counties shall be placed in the general fund of each county to be expended by the county courts or the board of county commissioners of the several counties for general governmental expenses.

NOTE: Clarifies to whom amusement device excise tax moneys are continuously appropriated.

SECTION 13. ORS 320.355, 320.357 and 320.360 are added to and made a part of ORS 320.345 to 320.365.

NOTE: Adds statutes to the appropriate statutory series.

SECTION 14. 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.

Passed by House April 7, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate April 30, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M,....., 2025

Approved:

.....M,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2025

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Tobias Read, Secretary of State