

## SENATE AMENDMENTS TO SENATE BILL 480

By COMMITTEE ON REVENUE

March 21

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating new provisions;  
2 amending ORS 305.145, 314.410, 314.415 and 316.189; appropriating money;”.

3 Delete lines 4 through 30 and delete pages 2 and 3 and insert:  
4

### “VOLUNTARY COMPLIANCE INITIATIVE

5  
6  
7 “SECTION 1. Sections 2 to 4 and 6 to 16 of this 2005 Act are added to and made a part  
8 of ORS chapter 314.

9 “SECTION 2. As used in sections 2 to 4 and 6 to 13 of this 2005 Act:

10 “(1) ‘Abusive tax avoidance transaction’ means:

11 “(a) A listed transaction;

12 “(b) A tax shelter; or

13 “(c) Any other plan or arrangement devised for the principal purpose of avoiding any tax  
14 imposed on or measured by income.

15 “(2) ‘Listed transaction’ means a transaction:

16 “(a) That is a listed transaction under section 6707A of the Internal Revenue Code;

17 “(b) That has been specifically identified as a listed transaction by the Department of  
18 Revenue by rule because the transaction has a potential for tax avoidance; or

19 “(c) That is substantially similar to a transaction described in paragraph (a) or (b) of this  
20 subsection.

21 “(3) ‘Reportable transaction’ means a transaction:

22 “(a) That is a reportable transaction under section 6707A of the Internal Revenue Code;

23 “(b) That has been specifically identified by the department as a transaction for which  
24 information is required to be included with a return or statement because, as determined  
25 by the department by rule, the transaction is of a type that the department determines by  
26 rule as having a potential for tax avoidance or evasion;

27 “(c) That is substantially similar to a transaction described in paragraph (a) or (b) of this  
28 subsection; or

29 “(d) That is a listed transaction.

30 “(4) ‘Tax shelter’ has the meaning given that term in section 6662 of the Internal Re-  
31 venue Code.

32 “SECTION 3. (1) If required by rules adopted by the Department of Revenue:

33 “(a) Any person who engages in a reportable transaction as a buyer or transferor shall  
34 report the transaction to the department.

35 “(b) Any person who, as the result of a reportable transaction, acquires an interest in

1 property, a present or future right to income, a present or future right to claim a loss, de-  
2 duction, credit, exemption or other tax benefit or a present or future right to an adjustment  
3 to basis shall report the transaction to the department.

4 “(c) Any person who is associated with a reportable transaction in an association that  
5 the department has by rule identified as an association that requires reporting shall report  
6 the transaction to the department.

7 “(2) A reportable transaction shall be reported to the department in the time, form and  
8 manner prescribed by the department by rule. Rules adopted by the department under this  
9 section may not apply to a reportable transaction occurring in a tax year beginning before  
10 January 1, 2005.

11 “SECTION 4. A person who is a material advisor to a reportable transaction under sec-  
12 tion 6111 of the Internal Revenue Code shall send a copy of the return required to be filed  
13 with the Internal Revenue Service to the Department of Revenue within 20 days following  
14 the date the return is required to be filed with the Internal Revenue Service, if the report-  
15 able transaction reported on the return satisfies any of the following conditions:

16 “(1) The transaction occurs in this state; or

17 “(2) At least one party to the transaction is an Oregon personal income taxpayer or an  
18 Oregon corporate excise or income taxpayer.

19 “SECTION 5. Notwithstanding the date on which copies of returns are required to be filed  
20 with the Department of Revenue under section 4 of this 2005 Act, a person who is required  
21 to file a copy of a return with the department under section 4 of this 2005 Act for a tax year  
22 that begins prior to January 1, 2005, shall file the copy with the department on or before  
23 January 1, 2006.

24 “SECTION 6. A person who engages in a listed transaction in this state as a seller or  
25 other transferor and who is required to register with the taxing authority of another state  
26 or with the federal Internal Revenue Service shall register with the Department of Revenue  
27 within 60 days after the later of:

28 “(1) The effective date of this 2005 Act;

29 “(2) The date a person acts as a seller or transferor in a listed transaction; or

30 “(3) The date the transaction becomes a listed transaction.

31 “SECTION 7. (1) In addition to and not in lieu of any other penalty, a penalty may be  
32 imposed in an amount equal to 20 percent of that portion of an underpayment of tax that is  
33 attributable to the use of a reportable transaction.

34 “(2) A penalty may not be imposed under this section with respect to any underpayment  
35 of tax if:

36 “(a) The underpayment is not attributable to a listed transaction;

37 “(b) There was a reasonable cause for the underpayment;

38 “(c) The taxpayer acted in good faith with respect to the underpayment;

39 “(d) The relevant facts affecting the tax treatment of the item that caused the under-  
40 payment are adequately disclosed in accordance with section 3 of this 2005 Act;

41 “(e) There is substantial authority for the tax treatment of the item that caused the  
42 underpayment; and

43 “(f) The taxpayer reasonably believed that the tax treatment of the item that caused the  
44 underpayment was more likely than not the proper treatment.

45 “(3)(a) For purposes of subsection (2)(f) of this section, a taxpayer shall be treated as

1 having a reasonable belief if:

2 “(A) The treatment was based on facts and law that existed at the time the return re-  
3 porting the item was filed; and

4 “(B) The belief relates solely to the taxpayer’s chances of success on the merits of the  
5 treatment and does not take into account the possibility that the return will not be audited,  
6 that issues over the treatment will not be raised on audit or that these issues will be re-  
7 solved through compromise or settlement if raised.

8 “(b) Reliance on the advice of a tax advisor does not constitute grounds for reasonable  
9 belief if the tax advisor:

10 “(A) Is a material advisor under section 4 of this 2005 Act with respect to the trans-  
11 action;

12 “(B) Is compensated by a person who is a material advisor under section 4 of this 2005  
13 Act with respect to the transaction;

14 “(C) Participates in the organization, management, promotion or sale of a listed trans-  
15 action;

16 “(D) Is related, under section 267(b) of the Internal Revenue Code, to a person who par-  
17 ticipates in the organization, management, promotion or sale of a listed transaction;

18 “(E) Has a contingent fee arrangement with respect to a listed transaction that is con-  
19 tingent on all or part of the intended tax benefits from the transaction being sustained; or

20 “(F) Under rules adopted by the Department of Revenue, has a continuing financial in-  
21 terest with respect to a listed transaction.

22 “(4) Penalties imposed under this section shall be added to the tax liability of the tax-  
23 payer.

24 “SECTION 8. (1) In addition to and not in lieu of any other penalty, an accuracy-related  
25 penalty may be imposed in an amount equal to 20 percent of that portion of an underpayment  
26 of tax due under ORS chapter 316, 317 or 318 that is attributable to:

27 “(a) Negligence or disregard of tax law;

28 “(b) A substantial understatement of tax;

29 “(c) A substantial valuation misstatement that affects the amount of tax due under ORS  
30 chapter 316, 317 or 318; or

31 “(d) A substantial overstatement of pension liabilities.

32 “(2) The penalty imposed under this section shall be determined in accordance with  
33 sections 6662 and 6664 of the Internal Revenue Code.

34 “(3) If there is an underpayment of tax that is attributable to a gross valuation mis-  
35 statement, as that term is defined under section 6662 of the Internal Revenue Code, the  
36 penalty under this section shall be equal to 40 percent of that portion of the underpayment  
37 to which the gross valuation misstatement is attributable.

38 “(4) Penalties imposed under this section shall be added to the tax liability of the tax-  
39 payer.

40 “SECTION 9. (1) If a taxpayer has a noneconomic substance transaction understatement  
41 for a tax year, there shall be added to the tax liability of the taxpayer for the tax year a  
42 penalty equal to:

43 “(a) Forty percent of the amount of the understatement; or

44 “(b) Twenty percent of the amount of the understatement if:

45 “(A) All relevant facts affecting or related to the tax treatment of the noneconomic

1 substance transaction are fully and adequately disclosed on the return of the taxpayer or on  
2 a statement attached to the return of the taxpayer prior to the date of any notice of the  
3 imposition of a penalty under this section; and

4 “(B) The noneconomic substance transaction is not a listed transaction.

5 “(2) The penalty imposed under this section is in addition to and not in lieu of any other  
6 penalty.

7 “(3) As used in this section:

8 “(a) ‘Noneconomic substance transaction’ means:

9 “(A) A transaction that lacks a valid nontax business purpose;

10 “(B) A loss, deduction, subtraction, credit or addition to income that lacks economic  
11 substance; or

12 “(C) A transaction or other arrangement that uses an entity or an interest in an entity  
13 that lacks economic substance.

14 “(b) ‘Noneconomic substance transaction understatement’ means the sum of:

15 “(A) The amount determined by multiplying the highest rate of tax imposed on the tax-  
16 payer under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or  
17 318, by any net increase in taxable income that results from a difference between the proper  
18 tax treatment of a noneconomic substance transaction and the treatment of the transaction  
19 on the return of the taxpayer; and

20 “(B) The amount of any decrease in the aggregate amount of credits determined for  
21 purposes of ORS chapter 316 or, if the taxpayer is a corporation, for purposes of ORS chapter  
22 317 or 318, that results from the taxpayer’s treatment of a noneconomic substance trans-  
23 action and the proper tax treatment of that transaction.

24 “(4) The Department of Revenue may by rule further define ‘noneconomic substance  
25 transaction’ and ‘noneconomic substance transaction understatement’ consistently with  
26 subsection (3) of this section.

27 “SECTION 10. (1)(a) A person is liable for a penalty determined under this subsection if  
28 the person fails to furnish a copy of a return that is required to be furnished to the De-  
29 partment of Revenue under section 4 of this 2005 Act on or before the date on which the copy  
30 is required to be furnished.

31 “(b) The amount of the penalty shall be determined by the department. The penalty may  
32 not exceed the greater of:

33 “(A) \$10,000; or

34 “(B) Twenty-five percent of the gross income that the person derived from the reportable  
35 transactions reflected on returns required to be furnished under section 4 of this 2005 Act.

36 “(2)(a) A person is liable for a penalty determined under this subsection if the person fails  
37 to comply with the registration requirements under section 6 of this 2005 Act by the date  
38 on which registration is required.

39 “(b) The amount of the penalty shall be determined by the department. The penalty may  
40 not exceed the greater of:

41 “(A) \$10,000; or

42 “(B) Twenty-five percent of the gross income that the person derived from the listed  
43 transactions.

44 “(3) The penalties imposed under subsection (1) or (2) of this section do not apply until  
45 the 60th day following the date the department issues a notice under section 11 of this 2005

1 Act demanding compliance with section 4 or 6 of this 2005 Act.

2 “(4) A penalty imposed under this section is in addition to and not in lieu of any other  
3 penalty.

4 “SECTION 11. (1) If the Department of Revenue believes that a person is required to file  
5 a copy of a federal return under section 4 of this 2005 Act and has failed to do so by the date  
6 required under section 4 of this 2005 Act, the department shall send a written notice to the  
7 person demanding compliance with section 4 of this 2005 Act.

8 “(2) If the department believes that a person is required to register under section 6 of  
9 this 2005 Act and the person has failed to register by the date prescribed in section 6 of this  
10 2005 Act, the department shall send a written notice to the person demanding compliance  
11 with section 6 of this 2005 Act.

12 “(3) A person receiving a notice under this section may appeal to the Oregon Tax Court.  
13 Notwithstanding ORS 305.565, an appeal does not stay the collection of a penalty imposed  
14 under section 10 of this 2005 Act.

15 “SECTION 12. (1) A penalty shall be imposed on a person who promotes a tax shelter if:

16 “(a) The person is or would be subject to a penalty for promoting an abusive tax shelter  
17 under section 6700 of the Internal Revenue Code; and

18 “(b) The tax shelter satisfies any of the following conditions:

19 “(A) The tax shelter is organized in this state.

20 “(B) The tax shelter is doing business in this state.

21 “(C) The tax shelter derives income from sources in this state.

22 “(D) At least one investor in the tax shelter is an Oregon personal income taxpayer or  
23 an Oregon corporate excise or income taxpayer.

24 “(2) The amount of the penalty shall equal 100 percent of the amount of gross income  
25 derived by the person in promoting the tax shelter.

26 “(3) A penalty imposed under this section shall be in addition to and not in lieu of any  
27 other penalty.

28 “SECTION 13. Moneys collected under section 10 or 12 of this 2005 Act shall be considered  
29 net revenue from the tax imposed under ORS chapter 316 for purposes of ORS 316.502.

30 “SECTION 14. (1) The Department of Revenue shall develop and administer a voluntary  
31 compliance initiative to be conducted during the period beginning on the later of the effective  
32 date of this 2005 Act or November 1, 2005, and ending January 31, 2006.

33 “(2) The voluntary compliance initiative shall apply to tax liabilities attributable to abu-  
34 sive tax avoidance transactions for tax years beginning prior to January 1, 2005.

35 “(3) The department shall publicize the voluntary compliance initiative so as to maximize  
36 public awareness of and participation in the initiative.

37 “(4) The department may prescribe forms, issue instructions, conduct public meetings  
38 and undertake any other action necessary to maximize public participation in and compliance  
39 with the initiative and the collection of tax liabilities to which the initiative applies.

40 “(5) Notwithstanding any other provision of law, the department may enter into closing  
41 agreements or installment payment agreements to facilitate the collection of tax liabilities  
42 to which the initiative applies.

43 “SECTION 15. (1) The voluntary compliance initiative described in section 14 of this 2005  
44 Act applies to any taxpayer that, during the period beginning on the later of the effective  
45 date of this 2005 Act or November 1, 2005, and ending January 31, 2006:

1       “(a) Files an amended return for each tax year for which the taxpayer has previously  
2 filed a return that reflected the use of an abusive tax avoidance transaction or a reportable  
3 transaction to underreport the tax liability of the taxpayer for the tax year;

4       “(b) For each return described in paragraph (a) of this subsection, reports all income  
5 from all sources, without regard to the abusive tax avoidance transaction or reportable  
6 transaction;

7       “(c) Identifies on each return described in paragraph (a) of this subsection, or as other-  
8 wise prescribed by the Department of Revenue, that the return is being filed under the vol-  
9 untary compliance initiative; and

10       “(d) Except as authorized under section 14 (5) of this 2005 Act, pays in full all taxes and  
11 interest due.

12       “(2) With respect to each return filed in compliance with subsection (1) of this section:

13       “(a) All penalties that would otherwise be imposed shall be waived; and

14       “(b) A taxpayer may not file a subsequent amended return seeking a refund of tax and  
15 may not otherwise appeal the amount of tax or interest due with respect to any item re-  
16 ported on the amended return.

17       “(3)(a) After January 31, 2006, the department may issue a notice of deficiency and im-  
18 pose any penalty, interest or other sanction with respect to the difference between the  
19 amount shown on a return filed under subsection (1) of this section and the correct amount  
20 of tax.

21       “(b) A taxpayer may make written objections to the deficiency or request a conference  
22 as prescribed in ORS 305.265.

23       “(c) If no written objection or request is received by the department, or as otherwise  
24 authorized by ORS 305.265, the department shall assess the deficiency as prescribed in ORS  
25 305.265 and the taxpayer may appeal the assessment as prescribed in ORS 305.265.

26       “(4) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the  
27 voluntary compliance initiative if, prior to November 1, 2005, the department has issued a  
28 notice of deficiency to the taxpayer or has assessed a tax with respect to any tax year for  
29 which the taxpayer could otherwise file an amended return under this section.

30       “SECTION 16. The definitions in section 2 of this 2005 Act apply to sections 14 and 15 of  
31 this 2005 Act.

32       “SECTION 17. Sections 14, 15 and 16 of this 2005 Act are repealed on January 2, 2010.

33       “SECTION 18. ORS 314.410 is amended to read:

34       “314.410. (1) At any time within three years after the return was filed, the Department of Re-  
35 venue may give notice of deficiency as prescribed in ORS 305.265.

36       “(2) If the department finds that gross income equal to 25 percent or more of the gross income  
37 reported has been omitted from the taxpayer’s return, notice of the deficiency may be given at any  
38 time within five years after the return was filed.

39       “(3) If the department finds that a return reports or reflects the use of an abusive tax  
40 avoidance transaction or a reportable transaction, as defined in section 2 of this 2005 Act,  
41 notice of a deficiency may be given at any time within 10 years after the return was filed.

42       “[(3)(a)] (4)(a) The limitations to the giving of notice of a deficiency provided in this section  
43 [shall] do not apply to a deficiency resulting from false or fraudulent returns, or in cases where no  
44 return has been filed.

45       “(b)(A) If the Commissioner of Internal Revenue or other authorized officer of the federal gov-

1 ernment or an authorized officer of another state's taxing authority makes a change or correction  
2 as described in ORS 314.380 (2)(a)(A) and, as a result of the change or correction, an assessment of  
3 tax or issuance of a refund is permitted under any provision of the Internal Revenue Code or ap-  
4 plicable law of the other state, or pursuant to an agreement between the taxpayer and the federal  
5 or other state taxing authority that extends the period in which an assessment of federal or other  
6 state tax may be made, then notice of a deficiency under any Oregon law imposing tax upon or  
7 measured by income for the corresponding tax year may be mailed within two years after the de-  
8 partment is notified by the taxpayer or the commissioner or other tax official of the correction, or  
9 within the applicable [*three-year or five-year*] period prescribed in subsections (1) [*and (2)*] **to (3)** of  
10 this section, whichever period expires later.

11 “(B) A notice of deficiency mailed pursuant to this paragraph may assert any adjustment nec-  
12 essary to arrive at the correct amount of Oregon taxable income and Oregon tax liability for the  
13 tax year for which the federal or other state change or correction is made.

14 “(c) If the taxpayer files an original or amended federal or other state return as described in  
15 ORS 314.380 (2)(a)(B), the department may reduce any claim for refund as a result of a change in  
16 Oregon tax liability related to the original or amended federal or other state return, but may not  
17 give notice of a deficiency for an adjustment to Oregon tax liability following the expiration of the  
18 applicable period prescribed in subsections (1) [*and (2)*] **to (3)** of this section and paragraph (a) of  
19 this subsection.

20 “[~~(4)~~] **(5)** The tax deficiency must be assessed and notice of tax assessment mailed to the tax-  
21 payer or authorized representative, who is authorized in writing, within one year from the date of  
22 the notice of deficiency unless an extension of time is agreed upon as prescribed in subsection [~~(6)~~]  
23 **(7)** of this section.

24 “[~~(5)~~] **(6)** Notwithstanding other provisions of this section, the period for the assessment of any  
25 deficiency attributable to any part of the gain realized upon the sale or exchange of the taxpayer's  
26 principal residence, as provided in section 1034 of the Internal Revenue Code (as in effect prior to  
27 the repeal of section 1034 of the Internal Revenue Code by the Taxpayer Relief Act of 1997 (P.L.  
28 105-34)), does not expire prior to the expiration of three years from the date the department is no-  
29 tified by the taxpayer of:

30 “(a) The cost of purchasing the new residence which the taxpayer claims results in  
31 nonrecognition of any part of such gain;

32 “(b) The taxpayer's intention not to purchase a new residence; or

33 “(c) A failure to purchase a new residence within the period prescribed in section 1034 of the  
34 Internal Revenue Code (as in effect prior to the repeal of section 1034 of the Internal Revenue Code  
35 by the Taxpayer Relief Act of 1997 (P.L. 105-34)).

36 “[~~(6)~~] **(7)** If, prior to the expiration of any period of time prescribed in this section for giving  
37 of notice of deficiency or of assessment, the department and the taxpayer consent in writing to the  
38 notice of deficiency being mailed or deficiency being assessed after the expiration of such prescribed  
39 period, notice of such deficiency may be mailed or the deficiency assessed at any time prior to the  
40 expiration of the period agreed upon. The period so agreed upon may be extended by subsequent  
41 agreements in writing made before the expiration of the period agreed upon.

42 “[~~(7)~~] **(8)** In the case of a deficiency attributable to the application to the taxpayer of a net op-  
43 erating loss carryback, notice of such deficiency may be mailed at any time before the expiration  
44 of the period within which notice of a deficiency for the taxable year of the net operating loss which  
45 results in such carryback may be mailed.

1        “[8] (9) Notwithstanding the other provisions of this section, if any taxpayer agreed with the  
2 United States Commissioner of Internal Revenue or the taxing authority of another state for an  
3 extension, or renewals thereof, of the period for giving notices of deficiencies and assessing defi-  
4 ciencies in income tax for any year, the period for mailing notices of deficiencies of tax for such  
5 years and the period for filing a claim for refund under ORS 314.380 (2)(b) shall expire on the later  
6 of:

7        “(a) The expiration of an applicable period described in subsections (1) to [(7)] (8) of this section;  
8 or

9        “(b) Six months after the date of the expiration of the agreed period for assessing a deficiency.

10       “[9] (10) For purposes of this section, ORS 314.415 and any other provision of law establishing  
11 the time for which a refund may be claimed or notice of deficiency may be given with respect to a  
12 tax imposed on or measured by net income, ‘return’ means the return required to be filed by the  
13 taxpayer and does not include a return of any person from whom the taxpayer has received an item  
14 of income, gain, loss, deduction or credit.

15        “**SECTION 19.** ORS 314.415 is amended to read:

16        “314.415. (1)(a) If the Department of Revenue determines pursuant to ORS 305.270 that the  
17 amount of the tax due is less than the amount theretofore paid, the excess shall be refunded by the  
18 department with interest at the rate established under ORS 305.220, for each month or fraction of  
19 a month during a period beginning 45 days after the due date of the return or the date the tax was  
20 paid, whichever is the later, to the time the refund is made.

21        “(b)(A) No refund shall be allowed or made after three years from the time the return was filed,  
22 or two years from the time the tax or a portion thereof was paid, whichever period expires the later,  
23 unless before the expiration of such period a claim for refund is filed by the taxpayer in compliance  
24 with ORS 305.270, nor shall a refund claimed on an original return be allowed or made in any case  
25 unless the return is filed within three years of the due date, excluding extensions, of the return in  
26 respect of which the tax might have been credited. If a refund is disallowed for the tax year during  
27 which excess tax was paid for any reason set forth in this paragraph, the excess shall not be allowed  
28 as a credit against any tax occurring on a return filed for a subsequent year. If the tax owed after  
29 offsets for all amounts owed the state, or a county pursuant to a judgment obtained under ORS  
30 169.151, is less than \$1, no refund shall be made.

31        “(B) If a taxpayer would qualify under section 6511(h) of the Internal Revenue Code for a sus-  
32 pension of the running of the periods specified for filing a claim for refund of federal income tax,  
33 the period specified in subparagraph (A) of this paragraph shall also be suspended.

34        “(c) No interest on a refund to an employee of a tax withheld by an employer shall be paid for  
35 any period prior to the time the employee filed a personal income tax return for the tax year in-  
36 volved, nor for any period prior to the day which is 45 days after the date when the employee’s  
37 annual return for that year was filed or was due, whichever is the later.

38        “(d) No interest on a refund of estimated tax paid under ORS 314.505 to 314.525 or 316.557 to  
39 316.589 shall be paid for any period prior to the time the taxpayer filed a tax return for the tax year  
40 involved, nor for any period prior to the day which is 45 days after the date when the tax return  
41 for that year was filed or was due, whichever is later.

42        “(e) The amount of the refund, exclusive of interest thereon, shall not exceed the portion of the  
43 tax paid during such period preceding the filing of the claim or, if no claim is filed, then during the  
44 period preceding the allowance of the refund during which a claim might have been filed. Where  
45 there has been an overpayment of any tax imposed, the amount of the overpayment and interest



1 thereon shall be credited against any tax, penalty or interest then due from the taxpayer, and only  
2 the balance shall be refunded.

3 “(f) Except as provided in ORS 305.265 (12), if, pursuant to a notice of deficiency or assessment,  
4 the taxpayer pays the amount specified in the notice, or any part thereof, and if, upon appeal, the  
5 Oregon Tax Court or the Oregon Supreme Court orders that all or any part of the deficiency amount  
6 specified in the notice and paid by the taxpayer be refunded, the amount so ordered to be refunded  
7 shall bear interest at the rate established for refunds in ORS 305.220. Interest shall be computed  
8 from the date of payment to the department. Nothing in this paragraph shall require that interest  
9 be paid upon any amount for any period for which interest upon the same amount for the same pe-  
10 riod is required to be paid under ORS 305.419.

11 “(2) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270 or subsection (1)  
12 of this section, if, prior to the expiration of the period prescribed in subsection (1)(b) of this section,  
13 the department and the taxpayer consent in writing to the refund of tax after the expiration of the  
14 period prescribed, the refund shall be made at any time prior to the expiration of the period agreed  
15 upon and no refund shall be made or allowed after the expiration of the period agreed upon unless  
16 a claim for refund is filed by the taxpayer before the expiration of the period agreed upon in com-  
17 pliance with the manner prescribed by the department. The period so agreed upon may be extended  
18 by subsequent agreements in writing made before the expiration of the period previously agreed  
19 upon. The department shall have the power to consent to such refund only where the taxpayer has  
20 consented to assessment of additional tax, if such be determined upon audit, after the expiration of  
21 the applicable [*three-year or five-year*] period prescribed in ORS 314.410 (1) [*and (2)*] **to (3)**.

22 “(3) If the claim for credit or refund relates to an overpayment on account of the deductibility  
23 by the taxpayer, or by a partnership, of the worthlessness of a share of stock in a corporation, of  
24 the right to subscribe for or to receive a share of stock in a corporation, or of a debt, in lieu of the  
25 three-year period of limitation prescribed in subsection (1) of this section, the period shall be seven  
26 years from the date prescribed by law for the filing of the return for the year with respect to which  
27 the claim is made; provided, that if the claim is made in reliance upon this subsection after the ex-  
28 piration of the three-year period prescribed in subsection (1)(b) of this section, no interest shall be  
29 allowed with respect to any credit or refund determined to be due upon such claim for the period  
30 beginning at the close of the three-year period prescribed in subsection (1) of this section and ending  
31 at the expiration of six months after the date on which the claim is filed.

32 “(4)(a) If the claim for credit or refund relates to an overpayment attributable to a net operating  
33 loss carryback or a net capital loss carryback, in lieu of the three-year period of limitation pre-  
34 scribed in subsection (1) of this section, the period shall be that period which ends three years after  
35 the time prescribed by law for filing the return (including extensions thereof) for the taxable year  
36 of the net operating loss or net capital loss which results in such carryback. In the case of such a  
37 claim, the amount of the credit or refund may exceed the portion of the tax paid within the period  
38 provided in subsection (1)(a) or (b) of this section or subsection (2) of this section, whichever is ap-  
39 plicable, to the extent of the amount of the overpayment attributable to such carryback. If the al-  
40 lowance of a credit or refund of an overpayment of tax attributable to a net operating loss  
41 carryback or a net capital loss carryback is otherwise prevented by the operation of any law or rule  
42 of law other than ORS 305.150, relating to closing agreements, such credit or refund may be allowed  
43 or made, if claim therefor is filed within the period provided in this subsection. To the extent that  
44 the carryback was not an issue in any proceeding in which the determination of a court, including  
45 the Oregon Tax Court, has become final, the claimed credit or refund applicable to that carryback

1 may be allowed or made under this subsection.

2 “(b) For purposes of subsection (1) of this section, if any overpayment of tax results from a  
3 carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have  
4 been made prior to the later of:

5 “(A) The due date of the return for the taxable year in which such net operating loss or net  
6 capital loss arises;

7 “(B) The date the return for the year in which the net operating or net capital loss arises is  
8 filed; or

9 “(C) The date of filing of the return for the year to which the net operating loss or net capital  
10 loss is carried back.

11 “(5) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270, or other pro-  
12 visions of this section, if the taxpayer has agreed with the United States Commissioner of Internal  
13 Revenue for an extension, or renewals thereof, of the period for proposing and assessing deficiencies  
14 in federal income tax for any year, the period within which a claim for credit or refund may be filed  
15 or credit or refund allowed or made if no claim is filed shall be the period provided within sub-  
16 sections (1) to (4) of this section or six months after the date of the expiration of the agreed period  
17 for assessing deficiency in federal income tax, whichever period expires the later.

18 “(6) The department may make separate refunds of withheld taxes upon request by a husband  
19 or wife who has filed a joint return, the refund payable to each spouse being proportioned to the  
20 gross earnings of each shown by the information returns filed by the employer or otherwise shown  
21 to the satisfaction of the department.

22 “(7) If a taxpayer entitled to a refund under subsection (1) of this section dies, the department  
23 may issue a draft for payment of such refund under the terms and conditions set out in ORS 293.490  
24 to 293.500 exercising the same powers and subject to the same restrictions pursuant to which the  
25 State Treasurer is authorized to pay the amounts of warrants, checks or orders under those statutes.

26 **“SECTION 20. Sections 2 to 4 and 6 to 16 of this 2005 Act apply to tax years beginning  
27 on or after January 1, 1995.**

28  
29 **“GENERAL TAX AMNESTY PROGRAM**

30  
31 **“SECTION 21. (1) The Department of Revenue shall develop and administer a tax amnesty  
32 program for personal income taxpayers.**

33 **“(2) The tax amnesty program shall be conducted during the period beginning July 1,  
34 2006, and ending September 30, 2006.**

35 **“(3) The tax amnesty program applies to tax years for which the department could issue  
36 a notice of deficiency under ORS 314.410, as amended and in effect on the day before the ef-  
37 fective date of this 2005 Act.**

38 **“(4) The department shall publicize the tax amnesty program so as to maximize public  
39 awareness of and participation in the program.**

40 **“(5) The department may prescribe forms, issue instructions, conduct public meetings  
41 and undertake any other action necessary to maximize public participation in and compliance  
42 with the tax amnesty program and the collection of tax liabilities to which the program ap-  
43 plies.**

44 **“SECTION 22. (1) A personal income taxpayer who meets all of the following require-  
45 ments during the period beginning July 1, 2006, and ending September 30, 2006, may partic-**

1 **ipate in the tax amnesty program:**

2 **“(a) The taxpayer was required to file a tax return under ORS chapter 314 or 316 or pay**  
3 **a tax imposed under ORS chapter 316 for a tax year that begins on or after January 1, 2002,**  
4 **and before January 1, 2005;**

5 **“(b) The taxpayer files a completed amnesty application with the Department of Revenue,**  
6 **signed under penalty of perjury, to participate in the tax amnesty program; and**

7 **“(c) Within 60 days after the conclusion of the tax amnesty program, the taxpayer does**  
8 **all of the following:**

9 **“(A) Files a completed tax return for all tax years described in paragraph (a) of this**  
10 **subsection for which the taxpayer had not previously filed a completed tax return;**

11 **“(B) Files a completed amended tax return for all tax years described in paragraph (a)**  
12 **of this subsection for which the taxpayer underreported or underpaid the tax liability of the**  
13 **taxpayer; and**

14 **“(C) Pays in full the taxes and interest due for all tax years described in paragraph (a)**  
15 **of this subsection or applies for an installment payment agreement under subsection (6) of**  
16 **this section that applies to the taxes and interest due for all tax years described in paragraph**  
17 **(a) of this subsection for which taxes remain unpaid.**

18 **“(2) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the**  
19 **tax amnesty program for any tax year for which the taxpayer is eligible to participate in the**  
20 **voluntary compliance initiative described in section 14 of this 2005 Act. The department shall**  
21 **give notice to any taxpayer seeking amnesty under this section who the department deter-**  
22 **mines is eligible to participate in the voluntary compliance initiative that the application for**  
23 **amnesty is being denied. At the discretion of the department and notwithstanding the dead-**  
24 **line for filing an amended return or paying amounts due under section 15 of this 2005 Act,**  
25 **a taxpayer receiving a notice under this subsection has an additional 60 days after the date**  
26 **of the notice in which to comply with section 15 of this 2005 Act.**

27 **“(3) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the**  
28 **tax amnesty program if, prior to July 1, 2006, the department has issued a notice of defi-**  
29 **ciency to the taxpayer or has assessed a tax for a tax year for which the taxpayer could**  
30 **otherwise apply for amnesty under this section.**

31 **“(4) In addition to the other requirements in subsection (1) of this section, a taxpayer**  
32 **who has filed a petition for bankruptcy protection under Title 11 of the United States Code**  
33 **may participate in the tax amnesty program if the taxpayer submits an order from a United**  
34 **States Bankruptcy Court allowing the taxpayer to participate in the tax amnesty program.**

35 **“(5) A taxpayer who participates in the tax amnesty program described in this section**  
36 **may not request a refund with respect to any tax paid under the tax amnesty program and**  
37 **waives any right to appeal any tax reported on a tax return filed or paid under subsection**  
38 **(1) of this section or pursuant to an installment payment agreement entered into under**  
39 **subsection (6) of this section.**

40 **“(6)(a) A taxpayer may apply for an installment payment agreement for the payment of**  
41 **taxes reported and due under subsection (1) of this section. The application shall be made**  
42 **on a form prescribed by the department and shall be due at the time the taxpayer applies for**  
43 **amnesty under subsection (1) of this section.**

44 **“(b) The department shall enter into an installment payment agreement with a taxpayer**  
45 **who has applied under paragraph (a) of this subsection and shall establish a payment sched-**

1     ule if the department concludes that the agreement will facilitate the efficient collection of  
2     the outstanding tax liability.

3     “(c) Any amount that remains unpaid under an installment payment agreement shall  
4     bear interest at the rate established under ORS 305.220 for each month, or fraction of a  
5     month, for which the amount remains unpaid.

6     “(d) Under any installment payment agreement entered into under this subsection, all  
7     outstanding taxes and interest must be paid on or before December 31, 2007.

8     “SECTION 23. (1) The Department of Revenue shall waive all applicable penalties that  
9     would otherwise apply to the taxes being reported and paid under section 22 of this 2005 Act  
10    for any taxpayer that fully complies with the tax amnesty program described in section 22  
11    of this 2005 Act, including criminal penalties that would otherwise apply under ORS 314.075  
12    and 314.991 (1).

13    “(2)(a) If the department has entered into an installment payment agreement with the  
14    taxpayer, the failure of the taxpayer to fully comply with the terms of the installment pay-  
15    ment agreement shall render the waiver of penalties under subsection (1) of this section and  
16    the installment payment agreement void. The total amount of tax, interest and all applicable  
17    penalties shall become immediately due and payable.

18    “(b) This subsection does not apply if the department determines that the failure to fully  
19    comply with the terms of the installment payment agreement is due to reasonable causes.

20    “SECTION 24. (1) For any tax that was due for a tax year for which amnesty could be  
21    sought under section 22 of this 2005 Act and for which the taxpayer failed to file a return  
22    and failed to apply for amnesty, an amount equal to 25 percent of the total amount of unpaid  
23    tax that is otherwise due shall be added to the amount of outstanding tax liability.

24    “(2) If, following the closure of the amnesty period specified in section 22 of this 2005 Act,  
25    the Department of Revenue issues a notice of deficiency with respect to an unreported or  
26    underreported tax liability, as shown on an original or amended tax return filed in conjunc-  
27    tion with an amnesty application filed under section 22 of this 2005 Act, an amount equal to  
28    25 percent of the total amount of unpaid tax that is otherwise due shall be added to the  
29    amount of outstanding tax liability.

30    “(3) The penalties imposed under this section are in addition to and not in lieu of any  
31    other penalty.

32    “SECTION 25. Sections 21 to 24 of this 2005 Act are repealed on January 2, 2010.

33    “SECTION 26. Sections 21 to 24 of this 2005 Act are added to and made a part of ORS  
34    chapter 314.

35  
36                                   “OTHER COMPLIANCE MEASURES

37  
38    “SECTION 27. (1) The Department of Revenue shall develop and maintain a website on  
39    which are listed the names of individuals who, in the opinion of the department, constitute  
40    the 100 most delinquent personal income taxpayers with respect to taxes owed under ORS  
41    chapter 316.

42    “(2) The website shall be made available to the public by January 1, 2007.

43    “(3) A taxpayer who participates in the tax amnesty program under sections 21 to 24 of  
44    this 2005 Act and who completely pays all tax liability owed for tax years for which amnesty  
45    was sought or who remains current with respect to any installment payment agreement en-

1 tered into under section 22 of this 2005 Act may not be listed on the website with respect to  
2 tax years for which an amnesty application was made.

3 “(4) ORS 314.835 and other laws governing the confidentiality of the name of a taxpayer  
4 do not apply to taxpayers described in subsection (1) of this section.

5 “**SECTION 28.** The Department of Revenue shall study the effectiveness of the rewards  
6 program described in ORS 314.855 and shall consider possible alternatives to the rewards  
7 program. The department shall make recommendations on improvements to the rewards  
8 program or alternatives to the rewards program to the interim revenue committees of the  
9 Legislative Assembly on or before November 1, 2006.

10  
11 **“WAIVER OF PENALTIES**

12  
13 “**SECTION 29.** ORS 305.145 is amended to read:

14 “305.145. (1) The Department of Revenue or a county tax collector shall waive interest on an  
15 assessment if the taxpayer has failed to make a timely payment or has received an incorrect refund  
16 because:

17 “(a) An employee of the department or of a county tax collector acting in an official capacity,  
18 who had knowledge of the necessary facts, misled the taxpayer either by some erroneous factual  
19 representation or by a course of dealing or conduct;

20 “(b) The taxpayer relied on the misleading factual representation or conduct; and

21 “(c) The taxpayer failed to make a timely payment or has received an incorrect refund by reason  
22 of the taxpayer’s reliance on the information or course of conduct.

23 “(2) Notwithstanding the provisions of subsection (1) of this section, interest shall not be waived  
24 after the appeal period for a final determination has expired.

25 “(3) The Department of Revenue may, in its discretion, upon good and sufficient cause, according  
26 to and consistent with its rules and regulations, upon making a record of its reason therefor, waive,  
27 reduce or compromise any tax balance of \$50 or less or any part or all of the penalties and interest  
28 provided by the laws of the State of Oregon which are collected by the Department of Revenue.

29 “(4) **The department may establish by rule instances in which the department may, in its  
30 discretion, waive any part or all of the penalties provided by the laws of the State of Oregon  
31 that are collected by the department. Rules adopted under this subsection are limited to the  
32 waiver or reduction of penalties in cases where:**

33 “(a) **Good and sufficient cause exists for the actions of a taxpayer that resulted in the  
34 imposition of a penalty;**

35 “(b) **The actions of a taxpayer that resulted in the imposition of a penalty constitute a  
36 first-time offense on the part of the taxpayer; or**

37 “(c) **The actions of the department enhance long-term effectiveness, efficiency or ad-  
38 ministration of the tax system.**

39  
40 **“WITHHOLDING**

41  
42 “**SECTION 30.** ORS 316.189 is amended to read:

43 “316.189. (1) As used in this section:

44 “(a) ‘Commercial annuity’ means an annuity, endowment or life insurance contract issued by an  
45 insurance company authorized to transact insurance in the State of Oregon.

1           “(b) ‘Department’ means the Oregon Department of Revenue.

2           “(c) ‘Designated distribution’ means any distribution or payment from or under an employer de-  
3           ferred compensation plan, an individual retirement plan or a commercial annuity. ‘Designated dis-  
4           tribution’ does not include any amount treated as wages as defined in ORS 316.162, the portion of  
5           any distribution or payment that is not includable in the gross income of the recipient or any dis-  
6           tribution or payment made under section 404(k)(2) of the Internal Revenue Code.

7           “(d) ‘Employer deferred compensation plan’ means any pension, annuity, profit-sharing or stock  
8           bonus plan or other plan deferring the receipt of compensation.

9           “(e) ‘Individual retirement plan’ means an individual retirement account described in section  
10           408(a) of the Internal Revenue Code or an individual retirement annuity described in section 408(b)  
11           of the Internal Revenue Code.

12           “(f) ‘Nonperiodic distribution’ means any designated distribution which is not a periodic pay-  
13           ment.

14           “(g) ‘Payer’ means any payer of a designated distribution doing business in or making payments  
15           or distributions from sources in this state.

16           “(h) ‘Periodic payment’ means a designated distribution which is an annuity or similar periodic  
17           payment.

18           “(i) ‘Plan administrator’ means a plan administrator as described in section 414(g) of the Internal  
19           Revenue Code, who is the administrator of a plan created by an Oregon employer.

20           “(j) ‘Qualified total distribution’ means any designated distribution made under a retirement,  
21           annuity or deferred compensation plan described in section 401(a), 403(a) or 457(b) of the Internal  
22           Revenue Code, that consists of the balance to the credit of the employee, exclusive of accumulated  
23           deductible employee contributions, made within one tax year of the recipient.

24           “(2)(a) The payer of any periodic payment shall withhold from [*such*] **the** payment the amount  
25           [*which*] **that** would be required to be withheld from [*such*] **the** payment under ORS 316.167 if the  
26           payment were wages paid by an employer to an employee. The time and manner of payment of  
27           withheld amounts to the department shall be the same as that required under ORS 316.197 for  
28           withholding of income taxes from wages.

29           “(b) The payer of any nonperiodic distribution shall withhold from [*such*] **the** distribution an  
30           amount determined under tables prescribed by the department.

31           “(c) The maximum amount to be withheld under this section on any designated distribution shall  
32           not exceed 10 percent of the amount of money and the fair market value of other property received  
33           in the distribution. If the distribution is not subject to withholding for federal income tax purposes  
34           under section 3405 of the Internal Revenue Code, it shall not be subject to withholding under this  
35           section.

36           “(3)(a) Except as provided in paragraph (b) of this subsection, the payer of a designated dis-  
37           tribution shall withhold and be liable for payment of amounts required to be withheld under this  
38           section.

39           “(b) In the case of any plan described in section 401(a), 403(a) or 457(b) of the Internal Revenue  
40           Code, or section 301(d) of the Tax Reduction Act of 1975, the plan administrator shall withhold and  
41           be liable for payment of amounts required to be withheld under this section, unless the plan ad-  
42           ministrator has directed the payer to withhold the tax and has provided the payer with the infor-  
43           mation required by rule of the department.

44           “(4)(a) An individual may elect to have no withholding by a payer under subsection (2) of this  
45           section. If an individual has elected to have no federal withholding from payments or distributions

1 described in this section the individual shall be deemed to have elected no withholding for state  
2 purposes, unless the individual notifies the payer otherwise.

3 “(b) An election made under this subsection shall be effective as provided under rules  
4 promulgated by the department. The rules required under this paragraph shall provide the manner  
5 in which an election may be revoked and when such revocation shall be effective.

6 “(c) **An election may not be made under this subsection with respect to any distribution  
7 for which federal income taxes are to be withheld or are required to be withheld under sec-  
8 tion 3405 of the Internal Revenue Code.**

9 “(5) The payer of any periodic payment or nonperiodic distribution **for which an election may  
10 be made under subsection (4) of this section** shall give notice to the payee of the right to make  
11 [*an election to have no state withholding from the payment or distribution*] **the election.** The depart-  
12 ment shall provide by rule for the time and manner of giving the notice required under this sub-  
13 section.

14 “(6) Any rules permitted or required to be promulgated by the department under this section  
15 shall, insofar as is practicable, be consistent with corresponding provisions of section 3405 of the  
16 Internal Revenue Code and regulations promulgated thereunder.

17 “(7) Any designated distribution shall be treated as if it were wages paid by an employer to an  
18 employee within the meaning of ORS 316.162 to 316.219 for all other purposes of ORS 316.162 to  
19 316.219. In the case of any designated distribution not subject to withholding by reason of an  
20 election under subsection (4) of this section, the amount withheld shall be treated as zero.

21 “**SECTION 31. The amendments to ORS 316.189 by section 30 of this 2005 Act apply to  
22 distributions made on or after January 1, 2006.**

23 “**SECTION 32. Section 33 of this 2005 Act is added to and made a part of ORS chapter 314.**

24 “**SECTION 33. (1) As used in this section:**

25 “(a) ‘Authorized agent’ means an agent who is responsible for closing and settlement  
26 services in a conveyance of a real property interest.

27 “(b) ‘Closing and settlement services’ means services that are provided for the benefit  
28 of a transferor or a transferee in connection with a conveyance of a real property interest,  
29 or the receipt or disbursement of moneys in connection with a sale, lease, encumbrance,  
30 mortgage or deed of trust in or related to real property.

31 “(c) ‘Conveyance’ means a sale, lease, encumbrance, mortgage or creation of a secured  
32 interest in real property.

33 “(d) ‘Real property interest’ means a United States real property interest, as defined in  
34 section 897(c) of the Internal Revenue Code, that is located in the State of Oregon.

35 “(2) If there is a conveyance of a real property interest, the authorized agent providing  
36 closing and settlement services is required to withhold an amount equal to four percent of  
37 the consideration for the real property interest being conveyed or the net proceeds resulting  
38 from the conveyance, whichever is less, when:

39 “(a) The transferor is an individual who is not a resident of this state at the time of both  
40 the closing date of the conveyance and the date on which proceeds of the conveyance are  
41 disbursed; or

42 “(b) The transferor is a corporation that, immediately after the conveyance of the real  
43 property interest, is not doing business in this state.

44 “(3) Notwithstanding subsection (2) of this section, an authorized agent is not required  
45 to withhold amounts under this section if:

1 “(a) The consideration for the conveyance does not exceed \$100,000;  
2 “(b) The transferee acquires the real property interest through foreclosure; or  
3 “(c) The authorized agent obtains a written affirmation executed by the transferor on a  
4 form prescribed by the Department of Revenue certifying under penalty of perjury that the  
5 transferor:  
6 “(A) If an individual, is a resident of this state;  
7 “(B) If a corporation, has a permanent place of business in this state; or  
8 “(C) Will not owe tax under ORS chapter 316, 317 or 318 for the tax year because the  
9 conveyance is a nontaxable exchange under the Internal Revenue Code.  
10 “(4) For purposes of this section, a corporation is not doing business in this state if:  
11 “(a) The corporation has not been issued a certificate of existence or a certificate of  
12 authorization by the Secretary of State as described in ORS 60.027; and  
13 “(b) The corporation does not maintain a permanent office with a staff of at least one  
14 employee in this state or does not own or lease property in this state other than the property  
15 that is the subject of the conveyance.  
16 “(5) Amounts withheld pursuant to this section are held in trust for the State of Oregon  
17 and shall be paid to the department in the time and manner prescribed by the department  
18 by rule. If an authorized agent fails to remit an amount withheld or required to be withheld  
19 by the agent under this section by the time remittance is required, the department may en-  
20 force collection in the same manner as the department enforces the collection of amounts  
21 withheld by employers under ORS 316.162 to 316.219.  
22 “SECTION 34. Section 33 of this 2005 Act applies to conveyances of real property inter-  
23 ests occurring on or after January 1, 2006.  
24

#### 25 “LOCAL GOVERNMENT INCOME TAXES

26  
27 “SECTION 35. Sections 36 to 40 of this 2005 Act are added to and made a part of ORS  
28 305.620 to 305.640.

29 “SECTION 36. As used in sections 36 to 40 of this 2005 Act:

30 “(1) ‘Local government’ means a city, county or other local district that has the au-  
31 thority to impose an income tax.

32 “(2) ‘Local tax’ means a tax that meets the criteria set forth in section 37 (1) of this 2005  
33 Act.

34 “SECTION 37. (1) In lieu of an agreement entered into under ORS 305.620, a local gov-  
35 ernment that has adopted an ordinance, resolution or other local legislation levying a tax  
36 imposed on income may request collection services to be performed by the Department of  
37 Revenue if:

38 “(a) The rate of tax does not exceed one percent;

39 “(b) The tax is imposed on residents of the territory of the local government imposing  
40 the tax; and

41 “(c) The tax is imposed only on taxable income as determined under ORS chapter 316.

42 “(2) A local government must request collection services under this section at least six  
43 months prior to the beginning of the first calendar year for which the collection services are  
44 sought.

45 “(3) If a local government requests collection services under this section and the tax



1 imposed by the local government is a local tax:

2 “(a) The department shall modify the state personal income tax return forms and in-  
3 structions so that the local tax is reported and collected on the same form, at the same time  
4 and in the same manner as the state personal income tax is reported and collected.

5 “(b) An underpayment of estimated local tax shall be treated as an underpayment of es-  
6 timated tax under ORS 314.505 to 314.525 or 316.557 to 316.589. The department may waive  
7 interest on underpayments of estimated local tax for the first year for which the department  
8 provides collection services to the local government under this section.

9 “(4) For any period for which collection services are being provided by the department  
10 under this section, the local government for which the services are being provided may not  
11 accept payment of the tax from a taxpayer.

12 “(5) The department may provide collection services under this section to more than one  
13 local government that has overlapping territory with another local government for which the  
14 department is required to provide collection services under this section, but may not provide  
15 collection services if the combined tax rate of the local jurisdictions exceeds one percent. A  
16 local government that has obtained collection services from the department under this sec-  
17 tion and is currently receiving collection services from the department under this section  
18 has priority over a local government that is seeking collection services under this section.

19 “SECTION 38. (1) The Department of Revenue shall deposit all collections of local tax  
20 received by the department in the performance of collection services under section 37 of this  
21 2005 Act into the Local Income Tax Collections Fund established under section 40 of this 2005  
22 Act. The department shall record the amount of each collection and the local government  
23 for which the collection is made.

24 “(2) Based on the amounts of local tax actually collected, the department shall develop  
25 a distribution schedule consisting of the ratios of the collections on behalf of each local  
26 government for which collection services are being performed to the total amount of local  
27 tax collections. The department shall periodically adjust the distribution schedule to reflect  
28 changes in collections.

29 “SECTION 39. Unless the context requires otherwise, with respect to a local tax for  
30 which the Department of Revenue is providing collection services under section 37 of this  
31 2005 Act, the provisions of ORS chapters 305, 314 and 316 apply to the determination of defi-  
32 ciencies, assessments, claims for refunds, confidentiality and disclosure of information, pen-  
33 alties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax  
34 Court as if the local tax were a state tax imposed on or measured by income.

35 “SECTION 40. (1) The Local Income Tax Collections Fund is created, separate and dis-  
36 tinct from the General Fund. Interest earned by the Local Income Tax Collections Fund shall  
37 be credited to the Local Income Tax Collections Fund.

38 “(2) A working balance of unreceipted revenue from the tax imposed by this chapter may  
39 be retained for the payment of refunds, but the working balance may not exceed \$1 million.

40 “(3) Except as provided in subsection (2) of this section, the Department of Revenue shall  
41 at least quarterly distribute all revenue in the Local Income Tax Collections Fund as follows:

42 “(a) An amount equal to the costs incurred by the department in providing collection  
43 services under section 37 of this 2005 Act, not to exceed three percent of the total amount  
44 being distributed under this section, shall be distributed to the department for cost re-  
45 imbursement; and



1 employer to an employee. The rules shall identify the types of payments for which with-  
2 holding is required and may set forth any other requirements necessary to facilitate the  
3 withholding and payment of the proper amounts from the payments from which withholding  
4 is being required.

5 “(2) The maximum amount that may be required to be withheld from a payment may not  
6 exceed 10 percent of the amount of the payment.

7 “(3) Amounts withheld pursuant to this section are held in trust for the State of Oregon  
8 and shall be paid to the department in the time and manner prescribed by the department  
9 by rule. If a payer is required to withhold amounts under rules adopted under this section  
10 and fails to remit an amount withheld by the payer under this section by the time remittance  
11 is required, the department may enforce collection in the same manner as the department  
12 enforces the collection of amounts withheld by employers under ORS 316.162 to 316.219.

13  
14 “CAPTIONS

15  
16 “SECTION 47. The unit captions used in this 2005 Act are provided only for the conven-  
17 ience of the reader and do not become part of the statutory law of this state or express any  
18 legislative intent in the enactment of this 2005 Act.

19  
20 “EFFECTIVE DATE

21  
22 “SECTION 48. This 2005 Act takes effect on the 91st day after the date on which the  
23 regular session of the Seventy-third Legislative Assembly adjourns sine die.”.  
24

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