

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 480

By COMMITTEE ON REVENUE

June 17

1 On page 1 of the printed A-engrossed bill, line 2, after “314.415” insert “, 314.840”.

2 In line 3, delete “appropriating money;”.

3 Delete lines 5 through 14 and delete pages 2 through 19 and insert:

“VOLUNTARY COMPLIANCE INITIATIVE

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7 “SECTION 1. Sections 2 to 15 of this 2005 Act are added to and made a part of ORS
8 chapter 314.

9 “SECTION 2. As used in sections 2 to 12 of this 2005 Act:

10 “(1) ‘Listed transaction’ means any of the following transactions:

11 “(a) A listed transaction under section 6707A of the Internal Revenue Code.

12 “(b) A transaction involving a real estate investment trust that claims a deduction for
13 consent dividends, the owners of which do not report income with respect to the consent
14 dividends, and:

15 “(A) That does business in Oregon, is organized in Oregon or has income from Oregon
16 sources; or

17 “(B) That is owned by an Oregon income or corporate excise taxpayer.

18 “(c) A transaction in which a corporation forms a controlled regulated investment com-
19 pany under the Investment Company Act of 1940, and all of the following apply:

20 “(A) The corporation transfers income-producing assets to the regulated investment
21 company;

22 “(B) The regulated investment company claims a dividend-paid deduction under section
23 561 of the Internal Revenue Code;

24 “(C) The corporation claims a dividend-received deduction with respect to the assets
25 transferred under subparagraph (A) of this paragraph; and

26 “(D) The regulated investment company does business in Oregon, is organized in Oregon
27 or has income from Oregon sources or an owner of the regulated investment company is an
28 Oregon income or corporate excise taxpayer.

29 “(d) A transaction that is substantially similar to a transaction described in paragraphs
30 (a) to (c) of this subsection.

31 “(2) ‘Reportable transaction’ means a transaction:

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

34 “(b) That is a listed transaction.

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

1 “(a) Any person who engages in a listed transaction as a buyer or transferor shall report
2 the transaction to the department.

3 “(b) Any person who, as the result of a listed transaction, acquires an interest in prop-
4 erty, a present or future right to income, a present or future right to claim a loss, deduction,
5 credit, exemption or other tax benefit or a present or future right to an adjustment to basis
6 shall report the transaction to the department.

7 “(c) Any person who is associated with a listed transaction in an association that the
8 department has by rule identified as an association that requires reporting shall report the
9 transaction to the department.

10 “(2) A listed transaction shall be reported to the department in the time, form and
11 manner prescribed by the department by rule. Rules adopted by the department under this
12 section may not apply to a listed transaction occurring in a tax year beginning before Janu-
13 ary 1, 2005.

14 “SECTION 4. A person who is a material advisor to a reportable transaction under sec-
15 tion 6111 of the Internal Revenue Code shall send a copy of the return required to be filed
16 with the Internal Revenue Service to the Department of Revenue within 20 days following
17 the date the return is required to be filed with the Internal Revenue Service, if the report-
18 able transaction reported on the return occurs in a tax year that begins on or after January
19 1, 2005, and satisfies any of the following conditions:

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

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

23 “SECTION 5. A person who engages in a listed transaction in this state as a seller or
24 other transferor and who is required to register with the taxing authority of another state
25 or with the federal Internal Revenue Service shall register with the Department of Revenue
26 within 60 days after the later of:

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

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

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

30 “SECTION 6. (1) In addition to and not in lieu of any other penalty, a penalty may be
31 imposed in an amount equal to 20 percent of that portion of an underpayment of tax that is
32 attributable to the use of a reportable transaction.

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

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

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

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

38 “(d) There is substantial authority for the tax treatment of the item that caused the
39 underpayment; and

40 “(e) The taxpayer reasonably believed that the tax treatment of the item that caused the
41 underpayment was more likely than not the proper treatment.

42 “(3)(a) For purposes of subsection (2)(e) of this section, a taxpayer shall be treated as
43 having a reasonable belief if:

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

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

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

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

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

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

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

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

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

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

21 **“SECTION 7. (1) In addition to and not in lieu of any other penalty, an accuracy-related**
22 **penalty may be imposed in an amount equal to 20 percent of that portion of an underpayment**
23 **of tax due under ORS chapter 316, 317 or 318 that is attributable to:**

24 **“(a) Negligence or disregard of tax law;**

25 **“(b) A substantial understatement of tax;**

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

28 **“(d) A substantial overstatement of pension liabilities.**

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

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

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

37 **“SECTION 8. (1) If a taxpayer has a listed transaction understatement for a tax year,**
38 **there shall be added to the tax liability of the taxpayer for the tax year a penalty equal to**
39 **40 percent of the amount of the understatement.**

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

42 **“(3) As used in this section, ‘listed transaction understatement’ means the sum of:**

43 **“(a) The amount determined by multiplying the highest rate of tax imposed on the tax-**
44 **payer under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or**
45 **318, by any net increase in taxable income that results from a difference between the proper**

1 tax treatment of a listed transaction and the treatment of the transaction on the return of
2 the taxpayer; and

3 “(b) The amount of any decrease in the aggregate amount of credits determined for
4 purposes of ORS chapter 316 or, if the taxpayer is a corporation, for purposes of ORS chapter
5 317 or 318, that results from the taxpayer’s treatment of a listed transaction and the proper
6 tax treatment of that transaction.

7 “(4) The Department of Revenue may by rule further define ‘listed transaction under-
8 statement’ consistent with section 2 of this 2005 Act and subsection (3) of this section.

9 “SECTION 8a. (1) Notwithstanding section 7 or 8 of this 2005 Act, the Department of
10 Revenue may elect to impose penalties under section 7 of this 2005 Act or under section 8
11 of this 2005 Act with respect to the same taxpayer and the same tax year, but may not im-
12 pose penalties under both sections 7 and 8 of this 2005 Act on the same taxpayer for the same
13 tax year.

14 “(2) Notwithstanding sections 6, 7 or 8 of this 2005 Act or ORS 314.402, the total amount
15 of penalties imposed under sections 6, 7 and 8 of this 2005 Act and ORS 314.402 may not ex-
16 ceed 60 percent of the amount of any underpayment of tax due.

17 “SECTION 9. (1)(a) A person is liable for a penalty determined under this subsection if
18 the person fails to furnish a copy of a return that is required to be furnished to the De-
19 partment of Revenue under section 4 of this 2005 Act on or before the date on which the copy
20 is required to be furnished.

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

23 “(A) \$10,000; or

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

26 “(2)(a) A person is liable for a penalty determined under this subsection if the person fails
27 to comply with the registration requirements under section 5 of this 2005 Act by the date
28 on which registration is required.

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

31 “(A) \$10,000; or

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

34 “(3) The penalties imposed under subsection (1) or (2) of this section do not apply until
35 the 60th day following the date the department issues a notice under section 10 of this 2005
36 Act demanding compliance with section 4 or 5 of this 2005 Act.

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

39 “SECTION 10. (1) If the Department of Revenue believes that a person is required to file
40 a copy of a federal return under section 4 of this 2005 Act and has failed to do so by the date
41 required under section 4 of this 2005 Act, the department shall send a written notice to the
42 person demanding compliance with section 4 of this 2005 Act.

43 “(2) If the department believes that a person is required to register under section 5 of
44 this 2005 Act and the person has failed to register by the date prescribed in section 5 of this
45 2005 Act, the department shall send a written notice to the person demanding compliance

1 with section 5 of this 2005 Act.

2 “(3) A person receiving a notice under this section may appeal to the Oregon Tax Court.
3 Notwithstanding ORS 305.565, an appeal does not stay the collection of a penalty imposed
4 under section 9 of this 2005 Act.

5 “SECTION 11. (1) A penalty shall be imposed on a person who promotes a tax shelter if:

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

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

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

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

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

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

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

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

18 “SECTION 12. Moneys collected under section 9 or 11 of this 2005 Act shall be considered
19 net revenue from the tax imposed under ORS chapter 316 for purposes of ORS 316.502.

20 “SECTION 13. (1) The Department of Revenue shall develop and administer a voluntary
21 compliance initiative to be conducted during the period beginning on the later of the effective
22 date of this 2005 Act or November 1, 2005, and ending 90 days thereafter.

23 “(2) The voluntary compliance initiative shall apply to tax liabilities attributable to listed
24 transactions for tax years beginning on or after January 1, 1999, and prior to January 1, 2005.

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

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

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

33 “(6) Notwithstanding section 20 (2) of this 2005 Act, the provisions of sections 20 to 23
34 of this 2005 Act apply to any taxpayer that participates in the voluntary compliance initiative
35 during the period described in section 14 (1) of this 2005 Act.

36 “SECTION 14. (1) The voluntary compliance initiative described in section 13 of this 2005
37 Act applies to any taxpayer that, during the period beginning on the later of the effective
38 date of this 2005 Act or November 1, 2005, and ending 90 days thereafter:

39 “(a) Files an amended return for each tax year for which the taxpayer has previously
40 filed a return that reflected the use of a listed transaction to underreport the tax liability
41 of the taxpayer for the tax year;

42 “(b) For each return described in paragraph (a) of this subsection, reports all income
43 from all sources, without regard to the listed transaction;

44 “(c) Identifies on each return described in paragraph (a) of this subsection, or as other-
45 wise prescribed by the Department of Revenue, that the return is being filed under the vol-

1 **untary compliance initiative; and**

2 **“(d) Except as authorized under section 13 (5) of this 2005 Act, pays in full all taxes and**
3 **interest due.**

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

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

6 **“(b) A taxpayer may file a subsequent amended return seeking a refund of tax and may**
7 **otherwise appeal the amount of tax or interest due with respect to any item reported on the**
8 **amended return.**

9 **“(3)(a) After the conclusion of the period described in subsection (1) of this section, the**
10 **department may issue a notice of deficiency and impose any penalty, interest or other**
11 **sanction with respect to the difference between the amount shown on a return filed under**
12 **subsection (1) of this section and the correct amount of tax.**

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

15 **“(c) If no written objection or request is received by the department, or as otherwise**
16 **authorized by ORS 305.265, the department shall assess the deficiency as prescribed in ORS**
17 **305.265 and the taxpayer may appeal the assessment as prescribed in ORS 305.265.**

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

22 **“SECTION 15. The definitions in section 2 of this 2005 Act apply to sections 13 and 14 of**
23 **this 2005 Act.**

24 **“SECTION 16. Sections 13, 14, 15 and 17a of this 2005 Act are repealed on January 2, 2012.**

25 **“SECTION 17. ORS 314.410 is amended to read:**

26 **“314.410. (1) At any time within three years after the return was filed, the Department of Re-**
27 **venue may give notice of deficiency as prescribed in ORS 305.265.**

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

31 **“(3) If the department finds that a return reports or reflects the use of a listed trans-**
32 **action or a reportable transaction, as defined in section 2 of this 2005 Act, notice of a defi-**
33 **ciency may be given at any time within six years after the return was filed.**

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

37 **“(b)(A) If the Commissioner of Internal Revenue or other authorized officer of the federal gov-**
38 **ernment or an authorized officer of another state’s taxing authority makes a change or correction**
39 **as described in ORS 314.380 (2)(a)(A) and, as a result of the change or correction, an assessment of**
40 **tax or issuance of a refund is permitted under any provision of the Internal Revenue Code or ap-**
41 **licable law of the other state, or pursuant to an agreement between the taxpayer and the federal**
42 **or other state taxing authority that extends the period in which an assessment of federal or other**
43 **state tax may be made, then notice of a deficiency under any Oregon law imposing tax upon or**
44 **measured by income for the corresponding tax year may be mailed within two years after the de-**
45 **partment is notified by the taxpayer or the commissioner or other tax official of the correction, or**

1 within the applicable [*three-year or five-year*] period prescribed in subsections (1) [*and (2)*] **to (3)** of
2 this section, whichever period expires later.

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

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

12 “[~~(4)~~ **(5)** The tax deficiency must be assessed and notice of tax assessment mailed to the tax-
13 payer or authorized representative, who is authorized in writing, within one year from the date of
14 the notice of deficiency unless an extension of time is agreed upon as prescribed in subsection [~~(6)~~
15 **(7)** of this section.

16 “[~~(5)~~ **(6)** Notwithstanding other provisions of this section, the period for the assessment of any
17 deficiency attributable to any part of the gain realized upon the sale or exchange of the taxpayer’s
18 principal residence, as provided in section 1034 of the Internal Revenue Code (as in effect prior to
19 the repeal of section 1034 of the Internal Revenue Code by the Taxpayer Relief Act of 1997 (P.L.
20 105-34)), does not expire prior to the expiration of three years from the date the department is no-
21 tified by the taxpayer of:

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

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

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

28 “[~~(6)~~ **(7)** If, prior to the expiration of any period of time prescribed in this section for giving
29 of notice of deficiency or of assessment, the department and the taxpayer consent in writing to the
30 notice of deficiency being mailed or deficiency being assessed after the expiration of such prescribed
31 period, notice of such deficiency may be mailed or the deficiency assessed at any time prior to the
32 expiration of the period agreed upon. The period so agreed upon may be extended by subsequent
33 agreements in writing made before the expiration of the period agreed upon.

34 “[~~(7)~~ **(8)** In the case of a deficiency attributable to the application to the taxpayer of a net op-
35 erating loss carryback, notice of such deficiency may be mailed at any time before the expiration
36 of the period within which notice of a deficiency for the taxable year of the net operating loss which
37 results in such carryback may be mailed.

38 “[~~(8)~~ **(9)** Notwithstanding the other provisions of this section, if any taxpayer agreed with the
39 United States Commissioner of Internal Revenue or the taxing authority of another state for an
40 extension, or renewals thereof, of the period for giving notices of deficiencies and assessing defi-
41 ciencies in income tax for any year, the period for mailing notices of deficiencies of tax for such
42 years and the period for filing a claim for refund under ORS 314.380 (2)(b) shall expire on the later
43 of:

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

45 or

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

2 “[9] (10) For purposes of this section, ORS 314.415 and any other provision of law establishing
3 the time for which a refund may be claimed or notice of deficiency may be given with respect to a
4 tax imposed on or measured by net income, ‘return’ means the return required to be filed by the
5 taxpayer and does not include a return of any person from whom the taxpayer has received an item
6 of income, gain, loss, deduction or credit.

7 “**SECTION 17a. Notwithstanding ORS 314.410 (3), if the Department of Revenue finds that**
8 **a return reports or reflects the use of a listed transaction or a reportable transaction, both**
9 **as defined in section 2 of this 2005 Act, notice of a deficiency may be given at any time before**
10 **the expiration of the later of the following periods:**

11 “(1) Six years after the return was filed; or

12 “(2) Two years after the conclusion of the period described in section 14 (1) of this 2005
13 Act.

14 “**SECTION 18.** ORS 314.415 is amended to read:

15 “314.415. (1)(a) If the Department of Revenue determines pursuant to ORS 305.270 that the
16 amount of the tax due is less than the amount theretofore paid, the excess shall be refunded by the
17 department with interest at the rate established under ORS 305.220, for each month or fraction of
18 a month during a period beginning 45 days after the due date of the return or the date the tax was
19 paid, whichever is the later, to the time the refund is made.

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

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

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

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

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

1 the balance shall be refunded.

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

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

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

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

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

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

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

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

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

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

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

25 **“SECTION 19. Sections 2 to 15 of this 2005 Act apply to tax years beginning on or after**
26 **January 1, 1999.**

27
28 **“GENERAL TAX AMNESTY PROGRAM**

29
30 **“SECTION 20. (1) The Department of Revenue shall develop and administer a tax amnesty**
31 **program for personal income taxpayers.**

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

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

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

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

43 **“SECTION 21. (1) A personal income taxpayer who meets all of the following require-**
44 **ments during the period beginning July 1, 2006, and ending September 30, 2006, may partic-**
45 **ipate in the tax amnesty program:**

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

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

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

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

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

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

16 “(2) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the
17 tax amnesty program for any tax year for which the taxpayer is eligible to participate in the
18 voluntary compliance initiative described in section 13 of this 2005 Act. The department shall
19 give notice to any taxpayer seeking amnesty under this section who the department deter-
20 mines is eligible to participate in the voluntary compliance initiative that the application for
21 amnesty is being denied. At the discretion of the department and notwithstanding the dead-
22 line for filing an amended return or paying amounts due under section 14 of this 2005 Act,
23 a taxpayer receiving a notice under this subsection has an additional 60 days after the date
24 of the notice in which to comply with section 14 of this 2005 Act.

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

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

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

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

42 “(b) The department shall enter into an installment payment agreement with a taxpayer
43 who has applied under paragraph (a) of this subsection and shall establish a payment sched-
44 ular if the department concludes that the agreement will facilitate the efficient collection of
45 the outstanding tax liability.

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

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

6 “SECTION 22. (1) The Department of Revenue shall waive all applicable penalties that
7 would otherwise apply to the taxes being reported and paid under section 21 of this 2005 Act
8 for any taxpayer who fully complies with the tax amnesty program described in section 21
9 of this 2005 Act, including criminal penalties that would otherwise apply under ORS 314.075
10 and 314.991 (1).

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

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

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

22 “(2) If, following the closure of the amnesty period specified in section 21 of this 2005 Act,
23 the Department of Revenue issues a notice of deficiency with respect to an unreported or
24 underreported tax liability, as shown on an original or amended tax return filed in conjunc-
25 tion with an amnesty application filed under section 21 of this 2005 Act, an amount equal to
26 25 percent of the total amount of unpaid tax that is otherwise due shall be added to the
27 amount of outstanding tax liability.

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

30 “SECTION 24. Sections 20 to 23 of this 2005 Act are repealed on January 2, 2010.

31 “SECTION 25. Sections 20 to 23 of this 2005 Act are added to and made a part of ORS
32 chapter 314.

33 “NOTE: Sections 26 and 27 were deleted by amendment. Subsequent sections were not renun-
34 bered.

35
36 **“WAIVER OF PENALTIES**

37
38 “SECTION 28. ORS 305.145 is amended to read:

39 “305.145. (1) The Department of Revenue or a county tax collector shall waive interest on an
40 assessment if the taxpayer has failed to make a timely payment or has received an incorrect refund
41 because:

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

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

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

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

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

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

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

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

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

19
20 **“WITHHOLDING**

21
22 **“SECTION 29.** ORS 316.189 is amended to read:

23 “316.189. (1) As used in this section:

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

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

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

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

34 “(e) ‘Individual retirement plan’ means an individual retirement account described in section
35 408(a) of the Internal Revenue Code or an individual retirement annuity described in section 408(b)
36 of the Internal Revenue Code.

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

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

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

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

45 “(j) ‘Qualified total distribution’ means any designated distribution made under a retirement,

1 annuity or deferred compensation plan described in section 401(a), 403(a) or 457(b) of the Internal
2 Revenue Code, that consists of the balance to the credit of the employee, exclusive of accumulated
3 deductible employee contributions, made within one tax year of the recipient.

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

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

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

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

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

24 “(4)(a) An individual may elect to have no withholding by a payer under subsection (2) of this
25 section. If an individual has elected to have no federal withholding from payments or distributions
26 described in this section the individual shall be deemed to have elected no withholding for state
27 purposes, unless the individual notifies the payer otherwise.

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

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

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

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

42 “(7) Any designated distribution shall be treated as if it were wages paid by an employer to an
43 employee within the meaning of ORS 316.162 to 316.219 for all other purposes of ORS 316.162 to
44 316.219. In the case of any designated distribution not subject to withholding by reason of an
45 election under subsection (4) of this section, the amount withheld shall be treated as zero.

1 “**SECTION 30.** The amendments to ORS 316.189 by section 29 of this 2005 Act apply to
2 distributions made on or after January 1, 2006.

3
4 “**DISCLOSURE OF TAX INFORMATION**”

5
6 “**SECTION 31.** ORS 314.840 is amended to read:

7 “314.840. (1) The Department of Revenue may:

8 “(a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS
9 305.230 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer,
10 representative or designee, with a copy of the taxpayer’s income tax return filed with the depart-
11 ment for any year, or with a copy of any report filed by the taxpayer in connection with the return,
12 or with any other information the department considers necessary.

13 “(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

14 “(c) Publish statistics so classified as to prevent the identification of income or any particulars
15 contained in any report or return.

16 “(d) Disclose a taxpayer’s name, address, telephone number, refund amount, amount due, Social
17 Security number, employer identification number or other taxpayer identification number to the ex-
18 tent necessary in connection with collection activities or the processing and mailing of correspond-
19 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
20 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
21 come.

22 “(2) The department also may disclose and give access to information described in ORS 314.835
23 to:

24 “(a) The Governor of the State of Oregon or the authorized representative of the Governor:

25 “(A) With respect to an individual who is designated as being under consideration for appoint-
26 ment or reappointment to an office or for employment in the office of the Governor. The information
27 disclosed shall be confined to whether the individual:

28 “(i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not
29 more than the three immediately preceding years for which the individual was required to file an
30 Oregon individual income tax return.

31 “(ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
32 otherwise respond to a deficiency notice within 30 days of its mailing.

33 “(iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
34 of the penalty.

35 “(iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
36 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the pur-
37 pose of making the appointment, reappointment or decision to employ or not to employ the individ-
38 ual in the office of the Governor.

39 “(B) For use by an officer or employee of the Oregon Department of Administrative Services
40 duly authorized or employed to prepare revenue estimates, or a person contracting with the Oregon
41 Department of Administrative Services to prepare revenue estimates, in the preparation of revenue
42 estimates required for the Governor’s budget under ORS 291.201 to 291.226, or required for sub-
43 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
44 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
45 The Department of Revenue shall disclose and give access to the information described in ORS

1 314.835 for the purposes of this subparagraph only if:

2 “(i) The request for information is made in writing, specifies the purposes for which the request
3 is made and is signed by an authorized representative of the Oregon Department of Administrative
4 Services. The form for request for information shall be prescribed by the Oregon Department of
5 Administrative Services and approved by the Director of the Department of Revenue.

6 “(ii) The officer, employee or person receiving the information does not remove from the prem-
7 ises of the Department of Revenue any materials that would reveal the identity of a personal or
8 corporate taxpayer.

9 “(b) The Commissioner of Internal Revenue or authorized representative, for tax purposes only.

10 “(c) The proper officer of any state, [or] the District of Columbia **or any local government of**
11 **a state**, or their authorized representatives, for tax purposes only, if [such] **the** state, [or] district
12 **or local government** has a provision of law which meets the requirements of any applicable pro-
13 vision of the Internal Revenue Code as to confidentiality.

14 “(d) The Multistate Tax Commission or its authorized representatives, for tax purposes only.
15 However, the Multistate Tax Commission may make such information available to the Commissioner
16 of Internal Revenue or the proper officer of any state or the District of Columbia, or their author-
17 ized representatives, for tax purposes only, if the state or district has a provision of law which meets
18 the requirements of any applicable provision of the Internal Revenue Code as to confidentiality.

19 “(e) The Attorney General, assistants and employees in the Department of Justice, or other legal
20 representative of the State of Oregon, to the extent the department deems disclosure or access
21 necessary for the performance of the duties of advising or representing the department pursuant to
22 ORS 180.010 to 180.240 and the tax laws of this state.

23 “(f) Employees of the State of Oregon, other than of the Department of Revenue or Department
24 of Justice, to the extent the department deems disclosure or access necessary for such employees
25 to perform their duties under contracts or agreements between the department and any other de-
26 partment, agency or subdivision of the State of Oregon, in the department’s administration of the
27 tax laws.

28 “(g) Other persons, partnerships, corporations and other legal entities, and their employees, to
29 the extent the department deems disclosure or access necessary for the performance of such others’
30 duties under contracts or agreements between the department and such legal entities, in the de-
31 partment’s administration of the tax laws.

32 “(h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
33 173.850. Such officer or representative shall not remove from the premises of the department any
34 materials that would reveal the identity of any taxpayer or any other person.

35 “(i) The Department of Consumer and Business Services, to the extent the department requires
36 such information to determine whether it is appropriate to adjust those workers’ compensation
37 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
38 earned income received by an individual.

39 “(j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
40 or person to whom disclosure or access is given by state law and not otherwise referred to in this
41 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
42 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
43 ORS 314.860 and 418.135; the Division of Child Support of the Department of Justice and district
44 attorney regarding cases for which they are providing support enforcement services under ORS
45 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of

1 Accountancy, pursuant to ORS 673.415.

2 “(k) The Director of the Department of Consumer and Business Services to determine that a
3 person complies with ORS chapter 656 and the Director of the Employment Department to determine
4 that a person complies with ORS chapter 657, the following employer information:

5 “(A) Identification numbers.

6 “(B) Names and addresses.

7 “(C) Inception date as employer.

8 “(D) Nature of business.

9 “(E) Entity changes.

10 “(F) Date of last payroll.

11 “(L) The Director of Human Services to determine that a person has the ability to pay for care
12 that includes services provided by the state institutions as described in ORS 179.321 or the Depart-
13 ment of Human Services or to collect any unpaid cost of care as provided by ORS chapter 179.

14 “(m) Employees of the Employment Department to the extent the Department of Revenue deems
15 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
16 to performance of their duties in administering the tax imposed by ORS chapter 657.

17 “(n) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions
18 and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number
19 and standard industrial classification, if available.

20 “(o) Employees of the Department of State Lands for the purposes of identifying, locating and
21 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
22 694, Oregon Laws 1993. The information shall be limited to the taxpayer’s name, address and the
23 refund amount.

24 “(p) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
25 agencies to assist in the investigation or prosecution of the following criminal activities:

26 “(A) Mail theft of a check, in which case the information that may be disclosed shall be limited
27 to the stolen document, the name, address and taxpayer identification number of the payee, the
28 amount of the check and the date printed on the check.

29 “(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Depart-
30 ment of Revenue or issued by the Department of Revenue to a taxpayer, in which case the infor-
31 mation that may be disclosed shall be limited to the counterfeit, forged or altered document, the
32 name, address and taxpayer identification number of the payee, the amount of the check, the date
33 printed on the check and the altered name and address.

34 “(q) The United States Postal Inspection Service or a federal law enforcement agency, including
35 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
36 lowing criminal activities:

37 “(A) Mail theft of a check, in which case the information that may be disclosed shall be limited
38 to the stolen document, the name, address and taxpayer identification number of the payee, the
39 amount of the check and the date printed on the check.

40 “(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Depart-
41 ment of Revenue or issued by the Department of Revenue to a taxpayer, in which case the infor-
42 mation that may be disclosed shall be limited to the counterfeit, forged or altered document, the
43 name, address and taxpayer identification number of the payee, the amount of the check, the date
44 printed on the check and the altered name and address.

45 “(r) The United States Financial Management Service, for purposes of facilitating the reciprocal

1 offsets described in ORS 305.612.

2 “(s) A municipal corporation of this state for purposes of assisting the municipal corporation in
3 the administration of a tax of the municipal corporation that is imposed on or measured by income,
4 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
5 pursuant to a written agreement between the Department of Revenue and the municipal corporation
6 that ensures the confidentiality of the information disclosed.

7 “(3)(a) Each officer or employee of the department and each person described or referred to in
8 subsection (2)(a), (e) to (k) or (m) to (p) of this section to whom disclosure or access to the tax in-
9 formation is given under subsection (2) of this section or any other provision of state law, prior to
10 beginning employment or the performance of duties involving such disclosure or access, shall be
11 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
12 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
13 certificate for the department, in a form prescribed by the department, stating in substance that the
14 person has read these provisions of law, that the person has had them explained and that the person
15 is aware of the penalties for the violation of ORS 314.835.

16 “(b) The disclosure authorized in subsection (2)(q) of this section shall be made only after a
17 written agreement has been entered into between the Department of Revenue and the person de-
18 scribed in subsection (2)(q) of this section to whom disclosure or access to the tax information is
19 given, providing that:

20 “(A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
21 section (2)(q) of this section is confidential information that may not be disclosed, except to the ex-
22 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(q) of
23 this section;

24 “(B) The information shall be protected as confidential under applicable federal and state laws;
25 and

26 “(C) The United States Postal Inspection Service or the federal law enforcement agency shall
27 give notice to the Department of Revenue of any request received under the federal Freedom of In-
28 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

29 “(4) The Department of Revenue may recover the costs of furnishing the information described
30 in subsection (2)(k), (L) and (n) to (p) of this section from the respective agencies.

31
32 **“CAPTIONS**

33
34 **“SECTION 32. The unit captions used in this 2005 Act are provided only for the conven-**
35 **ience of the reader and do not become part of the statutory law of this state or express any**
36 **legislative intent in the enactment of this 2005 Act.**

37
38 **“EFFECTIVE DATE**

39
40 **“SECTION 33. This 2005 Act takes effect on the 91st day after the date on which the**
41 **regular session of the Seventy-third Legislative Assembly adjourns sine die.”.**