

## CHAPTER 82

AN ACT

SB 1524

Relating to taxation; creating new provisions; amending ORS 284.368, 305.685, 317A.100 and 317A.137 and section 6, chapter 905, Oregon Laws 2007, section 2, chapter 527, Oregon Laws 2021, and sections 3 and 5, chapter 589, Oregon Laws 2021; and prescribing an effective date.

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

**SECTION 1.** ORS 284.368 is amended to read: 284.368. (1) As used in this section:

(a) "Actual Oregon expenses" means the costs paid in Oregon for principal photography, production or postproduction in Oregon of a film, or for media production services, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work in Oregon.

(b) "Film" means a television movie or one or more episodes of a single television series, or a movie produced for release to theaters, video or the Internet. "Film" does not include the production of a commercial or one or more segments of a newscast or sporting event.

(c) "Filmmaker" means a person who owns a television or film production company.

(d) "Local filmmaker" means a person who owns a television or film production company that has its principal place of business in this state.

(e) "Local media production project" means, if made or performed by a local media production services company, a single interactive video game or a portion thereof, or postproduction services for a single film.

(f) "Local media production services company" means a media production services company that has its principal place of business in this state.

(g) "Media production services" includes postproduction services and interactive video game development. "Media production services" does not include the production of a commercial or one or more segments of a newscast or sporting event.

(h) "Media production services company" means a person who is engaged in media production services.

(i) "Portland metropolitan zone" means the area within a 30-mile radius of the center of the Burnside Bridge in Portland.

(j) "Resident of this state" has the meaning given that term in ORS 316.027.

(2)(a) The Oregon Business Development Department may reimburse a filmmaker or local media production services company for a portion of the actual Oregon expenses incurred by the filmmaker or local media production services company.

(b) Maximum reimbursement for a single film or a single local media production project shall be the total of:

(A) [10] **20** percent of payments made for employee salaries, wages and benefits for work done in Oregon; and

(B) [20] **25** percent of all other actual Oregon expenses.

(c) Notwithstanding paragraph (b) of this subsection, maximum reimbursement for a single film may not exceed 50 percent of total moneys received by the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses are incurred.

(d) To qualify for reimbursement under this subsection, total actual Oregon expenses for a film or a local media production project must equal or exceed \$1 million.

(3)(a) The department may reimburse a local filmmaker or local media production services company for all or a portion of the actual Oregon expenses, up to \$1 million, incurred by the local filmmaker or local media production services company.

(b) To qualify for reimbursement under this subsection:

(A) Total actual Oregon expenses paid for the film or media production services must be at least \$75,000;

(B) The local filmmaker or local media production services company must have spent 80 percent of the film's payroll on employees who are residents of this state; and

(C) The local filmmaker or local media production services company must have employed or contracted with a public accountant certified under ORS 673.040 for the provision of payroll services.

(4) In combination with the reimbursements allowed under subsections (2) and (3) of this section, the department may make an additional payment to a filmmaker for one of the following:

(a) A travel and living expenses rebate of \$200 per employee per day, for any day that a film is shot entirely outside the Portland metropolitan zone, not to exceed \$10,000 per day or \$50,000 per film; or

(b) An increase of 10 percent of the amount otherwise allowable under subsections (2) and (3) of this section, if for at least six days and at least one day more than half of its total shoot days in Oregon the film is shot entirely outside the Portland metropolitan zone.

(5) Reimbursement under this section shall be made from moneys credited to or deposited in the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses were paid or any prior biennium. A reimbursement may not be made to the extent funds are not available in the fund to make the reimbursement.

(6)(a) Total actual Oregon expenses supporting a claim for reimbursement under this section must be verified by the Oregon Film and Video Office. The filmmaker or local media production services company must submit to the office proof of the actual Oregon expenses. The proof must include any documentation that may be required by the office in its discretion to verify the actual Oregon expenses.

(b) The office may charge the filmmaker or local media production services company for costs reasonably incurred to verify the actual Oregon expenses, including but not limited to the cost for a review or audit of the supporting documentation by an accountant or auditor. The office may require the department to deduct the costs incurred by the office in performing its review or audit from any reimbursement made to the filmmaker or local media production services company under this section.

(c) The office may adopt rules that establish a procedure for the submission and verification of actual Oregon expenses.

**NOTE:** Section 2 was deleted by amendment. Subsequent sections were not renumbered.

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

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

(a) Individuals subject to the personal income tax imposed under ORS chapter 316; or

(b) Entities that are pass-through entities owned entirely by individuals subject to the personal income tax imposed under ORS chapter 316.

(2) The election to pay the pass-through business alternative income tax is available if consent is given by all members of the electing pass-through entity who are members at the time the election is filed or is made by any officer, manager or member of the electing pass-through entity who is authorized, under law or the entity's organizational documents, to make the election and who represents to having such authorization under penalties of perjury. The election shall be made annually on or before the due date, including extensions, of the pass-through entity's return, in the form and manner prescribed by the Department of Revenue. The election may not be made retroactively. The members of a pass-through entity may revoke an election under this section for a tax year only on or before the due date of the pass-through entity's return for that tax year, and only if the revocation is agreed to by all members who are members at the time of the revocation.

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

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

(4) Each pass-through entity that makes an election for a tax year pursuant to this section shall annually report to each of its members, for the tax

year, the member's share of distributive proceeds and share of tax paid under this section and eligible for the credit allowed under section 8, **chapter 589, Oregon Laws 2021** [of this 2021 Act].

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

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

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

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

(7) The amount of pass-through business alternative income tax due from a pass-through entity in a tax year shall be exclusive of any amount of tax due and paid by the pass-through entity under this chapter, except as otherwise provided in sections 2 to 6, **chapter 589, Oregon Laws 2021** [of this 2021 Act].

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

**SECTION 4.** Section 5, chapter 589, Oregon Laws 2021, is amended to read:

**Sec. 5.** (1) The Department of Revenue shall administer and enforce sections 2 to 6, **chapter 589, Oregon Laws 2021** [of this 2021 Act].

**(2)(a) The department shall require that taxpayers make estimated payments.**

**(b) If a pass-through entity or its members have made sufficient estimated payments, the department shall by rule provide relief from penalty for any party that did not make estimated payments.**

[2] (3) The department may adopt or establish rules and procedures that the department considers necessary or appropriate for the implementation, administration and enforcement of sections 2 to 6, **chapter 589, Oregon Laws 2021**, [of this 2021 Act] and that are consistent with sections 2 to 6, **chapter 589, Oregon Laws 2021** [of this 2021 Act].

**SECTION 5.** ORS 317A.100 is amended to read: 317A.100. As used in ORS 317A.100 to 317A.158:

(1)(a) "Commercial activity" means:

(A) The total amount realized by a person, arising from transactions and activity in the regular course of the person's trade or business, without deduction for expenses incurred by the trade or business;

(B) If received by a financial institution:

(i) If the reporting person for a financial institution is a holding company, all items of income reported on the FR Y-9 filed by the holding company;

(ii) If the reporting person for a financial institution is a bank organization, all items of income

reported on the call report filed by the bank organization; and

(iii) If the reporting person for a financial institution is a nonbank financial organization, all items of income reported in accordance with generally accepted accounting principles; and

(C)(i) If received by an insurer, as reported on the statement of premiums accompanying the annual statement required under ORS 731.574 to be filed with the Director of the Department of Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and health insurance premiums and gross direct property and casualty insurance premiums; and

(ii) The gross amount of surplus lines premiums received on Oregon home state risks as shown in the report required by ORS 735.465.

(b) "Commercial activity" does not include:

(A) Interest income except:

(i) Interest on credit sales; or

(ii) Interest income, including service charges, received by financial institutions;

(B) Receipts from the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

(C) If received by an insurer, federally reinsured premiums or income from transactions between a reciprocal insurer and its attorney in fact operating under ORS 731.142;

(D) Receipts from hedging transactions, to the extent that the transactions are entered into primarily to protect a financial position, including transactions intended to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or investments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity price fluctuations;

(E) Proceeds received attributable to the repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument;

(F) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(G) Contributions received by a trust, plan or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter (D) of the Internal Revenue Code applies;

(H) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, a former employee or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code or any similar employee reimbursement;

(I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or calls, or from the sale of the taxpayer's treasury stock;

(J) Proceeds received on the account of payments from insurance policies, including crop insurance policies, owned by the taxpayer, except those proceeds received for the loss of commercial activity;

(K) Gifts or charitable contributions received, membership dues received by trade, professional, homeowners' or condominium associations, payments received for educational courses, meetings or meals, or similar payments to a trade, professional or other similar association, and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(L) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be treated as commercial activity;

(M) Property, money and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee or other remuneration;

(N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary group as provided under ORS 317A.106, and reimbursements made by entities that are not members of a unitary group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid entirely by one owner, as provided in ORS 317A.106;

(O) Pension reversions;

(P) Contributions to capital;

(Q) Receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel or any other product used for the propulsion of motor vehicles;

(R) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or ORS chapter 323;

(S) In the case of receipts from the sale of malt beverages or wine, as defined in ORS 471.001, cider, as defined in ORS 471.023 or distilled liquor, as defined in ORS 471.001, by a person holding a license issued under ORS chapter 471, an amount equal to the federal and state excise taxes paid by any person on or for such malt beverages, wine or distilled liquor under subtitle E of the Internal Revenue Code or ORS chapter 471 or 473, and any amount paid to the Oregon Liquor and Cannabis Commission for sales of distilled spirits by an agent appointed under ORS 471.750;

(T) In the case of receipts from the sale of marijuana items, as defined in ORS 475C.009, by a person holding a license issued under ORS 475C.005 to 475C.525, an amount equal to the federal and state excise taxes paid by any person on or for such

marijuana items under subtitle E of the Internal Revenue Code or ORS 475C.670 to 475C.734 and any local retail taxes authorized under ORS 475C.453;

(U) Local taxes collected by a restaurant or other food establishment on sales of meals, prepared food or beverages;

(V) Tips or gratuities collected by a restaurant or other food establishment and passed on to employees;

(W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360, to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle or is an exchange of new vehicles between franchised motor vehicle dealerships;

(X) Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 or a person described in ORS 320.400 (8)(a)(B) at the sale or other transfer of a motor vehicle, as defined in ORS 801.360, that are owed to a third party by the purchaser of the motor vehicle and passed to the third party by the dealer;

(Y) Receipts from a financial institution for services provided to the financial institution in connection with the issuance, processing, servicing and management of loans or credit accounts, if the financial institution and the recipient of the receipts have at least 50 percent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or collected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to be used as purse money;

(AA) Receipts of residential care facilities as defined in ORS 443.400 or in-home care agencies as defined in ORS 443.305, to the extent that the receipts are derived from or received as compensation for providing services to a medical assistance or Medicare recipient;

(BB) Dividends received;

(CC) Distributive income received from a pass-through entity;

(DD) Receipts from sales to a wholesaler in this state, if the seller receives certification at the time of sale from the wholesaler that the wholesaler will sell the purchased property outside this state;

(EE) Receipts from the wholesale or retail sale of groceries, including receipts of a person that owns groceries at the time of sale and compensation of any consignee engaged in effecting the sale of groceries on behalf the owner of the groceries, but only to the extent that the compensation relates to grocery sales;

(FF) Receipts from transactions among members of a unitary group;

(GG) Moneys, including public purpose charge moneys collected under ORS 757.612 and moneys collected to plan for and pursue cost-effective energy efficiency resources under ORS 757.054, that are collected from customers, passed to a utility and approved by the Public Utility Commission and that support energy conservation, renewable resource acquisition and low-income assistance programs;

(HH) Moneys collected by a utility from customers for the payment of loans through on-bill financing;

(II) Surcharges collected under ORS 757.736;

(JJ) Moneys passed to a utility by the Bonneville Power Administration for the purpose of effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with the exchange credit;

(KK) Moneys collected or recovered, by entities listed in ORS 756.310, cable operators as defined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-way fees, franchise fees, privilege taxes, federal taxes and local taxes;

(LL) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987;

(MM) Universal service surcharge moneys collected or recovered and paid into the universal service fund established in ORS 759.425;

(NN) Moneys collected for public purpose funding as described in ORS 759.430;

(OO) Moneys collected or recovered and paid into the federal universal service fund as determined by the Federal Communications Commission;

(PP) In the case of a seller or provider of telecommunications services, the amount of tax imposed under ORS 403.200 for access to the emergency communications system that is collected from subscribers or consumers;

(QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

(RR) In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon retail sales of bicycles;

(SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS 307.872 upon the rental price of heavy equipment;

(TT) Farmer sales to an agricultural cooperative in this state that is a cooperative organization described in section 1381 of the Internal Revenue Code;

(UU) Revenue received by a business entity that is mandated by contract or subcontract to be distributed to another person or entity if the revenue constitutes sales commissions that are paid to a person who is not an employee of the business entity, including, without limitation, a split-fee real estate commission; and

(VV) Receipts from the sale of fluid milk by dairy farmers that are not members of an agricultural cooperative.

(2) “Cost inputs” means:

(a) The cost of goods sold as calculated in arriving at federal taxable income under the Internal Revenue Code; or

(b) In the case of a taxpayer that is engaged in a farming operation, as defined in ORS 317A.102, and that does not report cost of goods sold for federal tax purposes, the taxpayer’s operating expenses excluding labor costs.

(3) “Doing business” means engaging in any activity, whether legal or illegal, that is conducted for, or results in, the receipt of commercial activity at any time during a calendar year.

(4) “Excluded person” means any of the following:

(a) Organizations described in sections 501(c) and 501(j) of the Internal Revenue Code, unless the exemption is denied under section 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal Revenue Code.

(b) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption is denied under section 502 or 503 of the Internal Revenue Code.

(c) Organizations described in section 501(e) of the Internal Revenue Code.

(d) Organizations described in section 501(f) of the Internal Revenue Code.

(e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

(f) Organizations described in section 521 of the Internal Revenue Code.

(g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

(h) Foreign or alien insurance companies, but only with respect to the underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828 or if an insurance company is subject to the retaliatory tax under ORS 731.854 and 731.859.

(i) Governmental entities.

(j) Any person with commercial activity that does not exceed \$750,000 for the [calendar] tax year, other than a person that is part of a unitary group as provided in ORS 317A.106 with commercial activity in excess of \$750,000.

(k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to assessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or 5, chapter 538, Oregon Laws 2017.

(L) Manufactured dwelling park nonprofit cooperatives organized under ORS chapter 62.

(5) “Financial institution” has the meaning given that term in ORS 314.610, except that “financial institution” does not include a credit union.

(6)(a) “FR Y-9” means the consolidated or parent-only financial statements that a holding company is required to file with the Federal Reserve Board pursuant to 12 U.S.C. 1844.

(b) In the case of a holding company required to file both consolidated and parent-only financial statements, “FR Y-9” means the consolidated financial statements that the holding company is required to file.

(7) “Governmental entity” means:

(a) The United States and any of its unincorporated agencies and instrumentalities.

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(c) The State of Oregon and any of its unincorporated agencies and instrumentalities.

(d) Any county, city, district or other political subdivision of the state.

(e) A special government body as defined in ORS 174.117.

(f) A federally recognized Indian tribe.

(8) “Groceries” means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid edibles or marijuana seeds.

(9)(a) “Hedging transaction” means a hedging transaction as defined in section 1221 of the Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Accounting Standards Board Statement No. 133.

(b) “Hedging transaction” does not include a transaction in which an actual transfer of title of real or tangible property to another entity occurs.

(10) “Insurer” has the meaning given that term in ORS 317.010.

(11) “Internal Revenue Code,” except where the Legislative Assembly has provided otherwise, refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect on April 1, 2021.

(12) “Labor costs” means total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.

(13)(a) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” means:

(A) Motor vehicle fuel as defined in ORS 319.010; and

(B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.

(b) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” does not mean:

(A) Electricity; or

(B) Electric batteries or any other mechanical or physical component or accessory of a motor vehicle.

(14) “Person” includes individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded

for federal income tax purposes and any other entities.

(15) "Retailer" means a person doing business by selling tangible personal property to a purchaser for a purpose other than:

(a) Resale by the purchaser of the property as tangible personal property in the regular course of business;

(b) Incorporation by the purchaser of the property in the course of regular business as an ingredient or component of real or personal property; or

(c) Consumption by the purchaser of the property in the production for sale of a new article of tangible personal property.

(16) "Taxable commercial activity" means commercial activity sourced to this state under ORS 317A.128, less any subtraction pursuant to ORS 317A.119.

(17)(a) "Taxpayer" means any person or unitary group required to register, file or pay tax under ORS 317A.100 to 317A.158.

(b) "Taxpayer" does not include excluded persons, except to the extent that a tax-exempt entity has unrelated business income as described in the Internal Revenue Code.

(18) "Tax year" means, except as otherwise provided in ORS 317A.103, a taxpayer's annual accounting period used for federal income tax purposes under section 441 of the Internal Revenue Code.

(19)(a) "Unitary business" means a business enterprise in which there exists directly or indirectly between the members or parts of the enterprise a sharing or exchange of value as demonstrated by:

(A) Centralized management or a common executive force;

(B) Centralized administrative services or functions resulting in economies of scale; or

(C) Flow of goods, capital resources or services demonstrating functional integration.

(b) "Unitary business" may include a business enterprise the activities of which:

(A) Are in the same general line of business, such as manufacturing, wholesaling or retailing; or

(B) Constitute steps in a vertically integrated process, such as the steps involved in the production of natural resources, which might include exploration, mining, refining and marketing.

(20) "Unitary group" means a group of persons with more than 50 percent common ownership, either direct or indirect, that is engaged in business activities that constitute a unitary business.

(21) "Wholesaler" means a person primarily doing business by merchant distribution of tangible personal property to retailers or to other wholesalers.

**SECTION 6.** ORS 317A.137 is amended to read: 317A.137. (1) For purposes of the corporate activity tax imposed under ORS 317A.116, every person doing business in this state with commercial activity for the tax year in excess of \$1 million shall file an annual return not later than the 15th day of the fourth month following the end of the tax year. The

return must be filed with the Department of Revenue in a form prescribed by the department.

(2) The corporate activity tax imposed under ORS 317A.116 is due and estimated tax payments for the previous quarter are payable to the department on or before **the last day** of the 4th, 7th and 10th months of the tax year and **of** the first month immediately following the end of the tax year.

(3) The department may by rule extend the time for making any return for good cause. If the time for filing a return is extended at the request of a taxpayer, interest on any unpaid tax at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment, shall be added and paid.

**SECTION 7.** ORS 305.685 is amended to read:

305.685. (1) There is created in the General Fund of the State Treasury the Multistate Tax Commission Revolving Account. Notwithstanding any other law, all moneys received by the Department of Revenue as a result of audits performed by the Multistate Tax Commission shall be deposited in the Multistate Tax Commission Revolving Account and are continuously appropriated to the Department of Revenue for expenses of the Multistate Tax Commission. As of June 30 of each year, all moneys in excess of [~~\$150,000~~] **\$250,000** in this account shall be forwarded to the State Treasurer for deposit as miscellaneous revenues of the General Fund of the State of Oregon.

(2) The Department of Revenue may transfer \$5,000 from the funds appropriated in section 1, chapter 187, Oregon Laws 1975, to the Multistate Tax Commission Revolving Account. Such funds are continuously appropriated for reimbursement to the Multistate Tax Commission for out-of-state corporation audits made for the State of Oregon.

**SECTION 8.** Section 2, chapter 527, Oregon Laws 2021, is amended to read:

**Sec. 2.** (1)(a) The governing body of a county with a population of less than 15,000 may adopt an ordinance or resolution granting a property tax exemption for eligible housing located within the boundaries of the county.

(b) The terms of the exemption must conform to the provisions of sections 1 to 5, **chapter 527, Oregon Laws 2021** [*of this 2021 Act*].

(2)(a) The exemption may be granted only to the eligible housing of an eligible owner who has annual [*taxable*] **adjusted gross** income of not more than \$75,000 if the owner files a separate federal return, or not more than \$150,000 if the owner files a joint federal return, for the tax year of the eligible owner immediately preceding the tax year in which the eligible owner files an application under section 4 or 5, **chapter 527, Oregon Laws 2021**, [*of this 2021 Act*] for the eligible housing.

(b) The Department of Revenue shall annually adjust the maximum annual [*taxable*] income amounts specified in paragraph (a) of this subsection by multiplying the amounts by the percentage, if

any, by which the monthly averaged Consumer Price Index for All Urban Consumers, West Region (All Items), for the 12 consecutive months ending on the immediately preceding December 31 exceeds the monthly averaged Consumer Price Index for All Urban Consumers, West Region (All Items), for the 12 consecutive months ending on the second preceding December 31.

(c) The first year of exemption must be the first assessment year that begins after the eligible housing is first occupied by the eligible owner.

(d) No more than five dwellings in a county may be newly granted exemption as eligible housing for any property tax year.

(3) A workforce housing exemption law must:

(a) Set the percentage of the exemption granted against the real market value of the eligible housing; and

(b) Establish the number of consecutive property tax years, not fewer than three and not more than five, for which the exemption may be granted.

(4)(a) A workforce housing exemption law may not take effect unless, upon request of the county that adopted the exemption law, the rates of taxation of the taxing districts whose governing bodies agree to grant the exemption, when combined with the rate of taxation of the county, equal 51 percent or more of the total combined rate of taxation on the eligible housing.

(b) If the exemption law takes effect, the exemption shall apply to all property tax levies of all taxing districts in which the eligible housing is located.

(c) The decisions of the taxing districts under paragraph (a) of this subsection may not be changed but are not binding with respect to an exemption law subsequently adopted by the governing body of the county pursuant to this section.

(d) All eligible housing shall be granted exemption on the same terms provided in the exemption law of the county as in effect on the date the application for the eligible housing is submitted under section 3, **chapter 527, Oregon Laws 2021** [of this 2021 Act].

(5)(a) A county may adopt at any time a workforce housing exemption law amending the terms of an exemption granted pursuant to this section, subject to approval of the taxing districts under subsection (4)(a) of this section, or terminating the exemption.

(b) Notwithstanding an exemption law adopted, or the termination of an exemption law, pursuant to this subsection, eligible housing that has previously been granted an exemption shall continue to receive the exemption under the terms of the exemption law in effect at the time the exemption was first granted.

(6)(a) The county assessor shall disqualify eligible housing granted an exemption under a workforce housing exemption law upon discovery or notice from the eligible owner claiming the deduction that the dwelling is no longer eligible housing or the individual is no longer an eligible owner.

(b)(A) If eligible housing becomes disqualified prior to July 1 of the assessment year, the dwelling shall be valued under ORS 308.232 at its real market value and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law.

(B) If eligible housing becomes disqualified on or after July 1, the eligible housing shall continue to receive the exemption for the current tax year.

**SECTION 9. Section 10 of this 2022 Act is added to and made a part of ORS 317A.100 to 317A.158.**

**SECTION 10. (1) As used in this section:**

(a) “**Eligible pharmacy**” means a pharmacy that has nine or fewer locations under common ownership in this state. “**Eligible pharmacy**” does not include a pharmacy that caters primarily to veterinary customers.

(b) “**Pharmacy**” has the meaning given that term in ORS 689.005.

(2) Notwithstanding ORS 317A.100, amounts received by an eligible pharmacy in receipt for the sale of prescription drugs are excluded from the definition of commercial activity and are exempt from the tax imposed under ORS 317A.116.

**SECTION 11. Section 6, chapter 905, Oregon Laws 2007, as amended by section 5, chapter 757, Oregon Laws 2015, is amended to read:**

**Sec. 6. (1)** ORS 285C.615 and 285C.635 apply to:

(a) Tax years beginning on or after January 1, 2009.

(b) Income taxes attributable to eligible projects that first become exempt from property taxation under ORS 307.123 on or after January 1, 2008.

(2) Distributions under ORS 285C.635 (3) may not be made after July 15, [2024] **2025**.

**SECTION 12. Section 13 of this 2022 Act is added to and made a part of ORS chapter 316.**

**SECTION 13. (1) As used in this section, “eligible taxpayer” means a taxpayer primarily doing business in 2017 North American Industry Classification System code 111, crop production, or code 112, animal production and aquaculture.**

**(2) An eligible taxpayer may elect under this section to use a three-year net operating loss carryback.**

**(3)(a) Notwithstanding ORS 316.028, if an eligible taxpayer uses a net operating loss carryback under this section, there shall be added to taxable income the amount of net operating loss carryback or carryover allowed in arriving at federal taxable income.**

**(b) After making the addition under paragraph (a) of this subsection, an eligible taxpayer shall subtract from federal taxable income a deduction for net operating loss carryback. The amount of a net operating loss deduction under this subsection may be carried back to each of**

the three tax years preceding the tax year in which the loss arises.

**SECTION 14.** Section 15 of this 2022 Act is added to and made a part of ORS chapter 317.

**SECTION 15.** (1) As used in this section, “eligible taxpayer” means a taxpayer primarily doing business in 2017 North American Industry Classification System code 111, crop production, or code 112, animal production and aquaculture.

(2) After making the addition required under ORS 317.344, an eligible taxpayer may elect to subtract from federal taxable income a deduction for net operating loss carryback. The amount of a net operating loss deduction under this subsection may be carried back to each of the three tax years preceding the tax year in which the loss arises.

**SECTION 16.** (1) The amendments to ORS 284.368 by section 1 of this 2022 Act apply to fiscal years beginning on or after July 1, 2022.

(2) The amendments to sections 3 and 5, chapter 589, Oregon Laws 2021, by sections 3 and 4 of this 2022 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2024, and to estimated payments due on and after June 15, 2022.

(3) The amendments to section 2, chapter 527, Oregon Laws 2021, by section 8 of this 2022 Act apply to applications for precertification under section 4, chapter 527, Oregon Laws 2021, and applications for exemption under section 5, chapter 527, Oregon Laws 2021, without precertification, filed on or after the effective date of this 2022 Act.

(4) Section 10 of this 2022 Act applies to tax years beginning on or after January 1, 2022, and before January 1, 2026.

(5) Sections 13 and 15 of this 2022 Act apply to tax years beginning on or after January 1, 2023, and before January 1, 2029, and to any tax year to which a net operating loss arising in those tax years is carried back.

**SECTION 17.** The Department of Revenue may not impose any interest or penalty that would otherwise apply to taxes due if the interest or penalty is based on underpayment or underreporting that results solely from the operation of the amendments to section 5, chapter 589, Oregon Laws 2021, by section 4 of this 2022 Act.

**SECTION 18.** (1) Sections 13 and 15 of this 2022 Act do not become operative unless all sections of chapter 115, Oregon Laws 2022 (Enrolled House Bill 4002), become law before January 1, 2023.

(2) If all sections of chapter 115, Oregon Laws 2022 (Enrolled House Bill 4002), become law before January 1, 2023, sections 13 and 15 of this 2022 Act become operative on the earlier of:

- (a) The effective date of chapter 115, Oregon Laws 2022 (Enrolled House Bill 4002); or
- (b) January 1, 2023.

**SECTION 19.** This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Approved by the Governor March 23, 2022

Filed in the office of Secretary of State March 30, 2022

Effective date June 3, 2022

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