

Enrolled Senate Bill 180

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Revenue)

CHAPTER

AN ACT

Relating to consolidated state tax returns; creating new provisions; and amending ORS 317.710.

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

SECTION 1. ORS 317.710 is amended to read:

317.710. (1) A corporation shall make a return with respect to the tax imposed by this chapter as provided in this section.

(2) If the corporation is a member of an affiliated group of corporations making a consolidated federal return, it shall file a return and determine its Oregon taxable income as provided in ORS 317.715. The corporation's tax liability shall be joint and several with any other corporation that is included in a consolidated state return with the corporation under subsection (5) of this section.

(3) If the corporation makes a separate return for federal income tax purposes, it shall file a separate return under this chapter. The corporation shall determine its Oregon taxable income and tax liability separately from any other corporation.

(4) For purposes of subsection (3) of this section, if the corporation is not subject to taxation under the Internal Revenue Code a return for federal income tax purposes includes any form of return required to be made in lieu of an income tax return under the Internal Revenue Code or regulations thereunder.

(5)(a) If two or more corporations subject to taxation under this chapter are members of the same affiliated group making a consolidated federal return and are members of the same unitary group, they shall file a consolidated state return. [*The Department of Revenue shall prescribe by rule the method by which a consolidated state return shall be filed.*]

(b) If any corporation that is a member of an affiliated group is permitted or required to determine its Oregon taxable income on a separate basis under ORS 314.670, or if any corporation is permitted or required by statute or rule to use different apportionment factors than a corporation with which it is affiliated, the corporation shall not be included in a consolidated state return under paragraph (a) of this subsection.

(c) Whenever two or more corporations are required to file a consolidated state return under paragraph (a) of this subsection, any reference in this chapter to a corporation for purposes of deriving Oregon taxable income shall be treated as a reference to all corporations that are included in the consolidated state return.

(d) A corporation that would not be a member of an affiliated group filing a consolidated state return based solely on the application of section 1504(b)(6) of the Internal Revenue Code must be included in the consolidated state return filed by the affiliated group.

(6) If so directed by the department, by rule or instructions on the state tax return form, every corporation required to make a return under this chapter shall also file with the return a true copy of the corporation's federal income tax return for the same taxable year. For purposes of this subsection, the corporation's federal income tax return includes a consolidated federal return for an affiliated group of which the corporation is a member. The department may, by rule or instructions, permit a corporation to submit specified excerpts from its federal return in lieu of submitting a copy of the entire federal return. The federal return or any part thereof required to be filed with the state return is incorporated in and shall be a part of the state return.

(7) Each foreign or alien insurer and each domestic insurer owned and controlled, directly or indirectly, by one or more foreign insurers shall determine its Oregon taxable income under ORS 317.650 to 317.665 and make a return of the tax imposed by this chapter on a separate basis. An interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange may file a consolidated return under the circumstances in the manner and subject to the rules adopted by the department.

(8) The Department of Revenue may prescribe by rule the method by which a consolidated state return shall be filed under this section.

SECTION 2. The amendments to ORS 317.710 by section 1 of this 2009 Act apply to tax years beginning on or after January 1, 2010.

Passed by Senate April 14, 2009

.....
Secretary of Senate

.....
President of Senate

Passed by House May 29, 2009

.....
Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

.....
Secretary of State