76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

A-Engrossed

Senate Bill 883

Ordered by the Senate May 9
Including Senate Amendments dated May 9

Sponsored by Senator OLSEN; Senators TELFER, THOMSEN, Representatives CONGER, MCLANE, PARRISH

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[*Reduces rate of tax on capital gains of personal income and corporate income and excise taxpayers.*]

[*Applies to tax years beginning on or after January 1, 2011.*]

[*Takes effect on 91st day following adjournment sine die.*]

Creates subtraction from federal taxable income for net long-term capital gain. Provides greatest subtraction for gain attributable to sale of business asset used in state and held at least 60 consecutive months. Phases in subtraction, over successive tax years ending in 2020, for gain attributable to sale of non-business asset held at least 60 consecutive months.

Applies to sale of assets on or after January 1, 2013, and to tax years beginning on or after January 1, 2013.

Takes effect only if Senate Joint Resolution 26 (2011) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed in Senate Joint Resolution 26 (2011).

A BILL FOR AN ACT

Relating to decreases in capital gains tax rates; creating new provisions; amending ORS 318.020; repealing ORS 316.045 and 317.063; and prescribing an effective date.

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

SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS chapter 316.

SECTION 2. (1) As used in this section and section 3 of this 2011 Act, "long-term capital gain" means gain recognized through the sale of an asset that has been held by the taxpayer for at least 60 consecutive months and that otherwise qualifies as long-term capital gain under section 1222 of the Internal Revenue Code. "Long-term capital gain" does not include qualified dividends.

(2) In addition to the other modifications to federal taxable income contained in this chapter, to derive Oregon taxable income there shall be subtracted from federal taxable income a percentage of the net long-term capital gain incurred by the taxpayer during the tax year that is included in federal taxable income for Oregon tax purposes, as calculated in section 3 of this 2011 Act.

(3) A taxpayer may elect not to claim a subtraction under this section.

SECTION 3. (1) For the sale of property that has a primary purpose of income generation, that is used in Oregon in a revenue-producing enterprise and that has been held by the taxpayer for at least 60 consecutive months, the subtraction allowed under section 2 of this 2011 Act shall be determined by multiplying 50 percent by the total of the following amounts:

(a) Net long-term capital gain recognized through the sale of real property.

(b) The sale price of tangible personal property.

(2) For long-term capital gain other than that described in subsection (1) of this section, the subtraction allowed shall be a percentage of net long-term capital gain incurred by the taxpayer that is included in federal taxable income. The percentage shall be the following:

(a) For tax years beginning on or after January 1, 2013, and before January 1, 2014, five percent.

(b) For tax years beginning on or after January 1, 2014, and before January 1, 2015, 10 percent.

(c) For tax years beginning on or after January 1, 2015, and before January 1, 2016, 15 percent.

(d) For tax years beginning on or after January 1, 2016, and before January 1, 2017, 20 percent.

(e) For tax years beginning on or after January 1, 2017, and before January 1, 2018, 25 percent.

(f) For tax years beginning on or after January 1, 2018, and before January 1, 2019, 30 percent.

(g) For tax years beginning on or after January 1, 2019, and before January 1, 2020, 35 percent.

(h) For tax years beginning on or after January 1, 2020, 40 percent.

<u>SECTION 4.</u> Sections 2 and 3 of this 2011 Act apply to the sale of assets on or after January 1, 2013, and to tax years beginning on or after January 1, 2013.

<u>SECTION 5.</u> ORS 318.020 is amended to read:

318.020. (1) There hereby is imposed upon every corporation for each taxable year a tax at the rate provided in ORS 317.061 upon its Oregon taxable income derived from sources within this state, other than income for which the corporation is subject to the tax imposed by ORS chapter 317 according to or measured by its Oregon taxable income.

(2) Income from sources within this state includes income from tangible or intangible property located or having a situs in this state and income from any activities carried on in this state, regardless of whether carried on in intrastate, interstate or foreign commerce.

[*(3) Income that constitutes net long-term capital gain described in ORS 317.063 shall be taxed at the rate imposed under ORS 317.063.*]

<u>SECTION 6.</u> ORS 316.045 and 317.063 are repealed.

<u>SECTION 7.</u> This 2011 Act does not become effective unless the amendment to the Oregon Constitution proposed by Senate Joint Resolution 26 (2011) is approved by the people at the regular general election held in November 2012. This 2011 Act takes effect on the effective date of that amendment.