HB 2830-1
(LC 2380)
6/7/17 (CMT/ps)

Requested by JOINT COMMITTEE ON TAX REFORM

**PROPOSED AMENDMENTS TO**
**HOUSE BILL 2830**

In line 2 of the printed corrected bill, after "amending" delete the rest of the line and delete line 3 and insert "ORS 63.810, 128.760, 184.484, 267.370, 267.385, 268.505, 279B.045, 279B.110, 305.265, 305.270, 305.280, 305.380, 305.419, 305.565, 305.645, 305.850, 305.992, 308A.071, 311.473, 314.011, 314.135, 314.260, 314.276, 314.287, 314.300, 314.302, 314.364, 314.385, 314.400, 314.403, 314.430, 314.466, 314.520, 314.610, 314.712, 314.714, 314.716, 314.722, 314.727, 314.730, 314.732, 314.734, 314.736, 314.738, 314.744, 314.749, 314.752, 314.781, 314.784, 315.052, 315.054, 316.037, 316.127, 316.267, 316.277, 316.695, 316.749, 317.097, 317.131, 344.755, 401.690, 461.560, 469.685, 469.687, 526.450, 526.455, 526.465, 526.475, 701.106, 723.586, 731.840 and 743B.012; repealing ORS 314.265, 314.280, 314.505, 314.515, 314.525, 314.615, 314.620, 314.647, 314.650, 314.655, 314.660, 314.665, 314.667, 314.675, 314.680, 314.682, 314.686, 314.688, 314.690, 314.695, 314.725, 314.740, 314.742, 314.750, 316.043, 316.044, 316.279, 317.005, 317.010, 317.013, 317.018, 317.019, 317.025, 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090, 317.122, 317.129, 317.151, 317.154, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301, 317.303, 317.304, 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319, 317.322, 317.327, 317.329, 317.344, 317.349, 317.351, 317.356, 317.362, 317.374, 317.379, 317.386, 317.388, 317.391, 317.394, 317.398, 317.401, 317.476, 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650, 317.655, 317.660, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.716, 317.717, 317.720, 317.725, 317.850, 317.853, 317.920, 317.950,

317.991, 318.010, 318.020, 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and 318.130; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.".

Delete lines 5 through 13 and insert:

"**DECREASE IN PERSONAL INCOME TAX RATES**

**"SECTION 1.** ORS 316.037 is amended to read:

"316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

"

| If taxable income is: | The tax is: |
|---|---|
| Not over $2,000 | [*5%*] **4.5%** of taxable income |
| Over $2,000 but not over $5,000 | [*$100*] **$90** plus [*7%*] **6.5%** of the excess over $2,000 |
| Over $5,000 but not over $125,000 | [*$310*] **$285** plus [*9%*] **8.75%** of the excess over $5,000 |
| Over $125,000 | [*$11,110*] **$10,785** plus 9.9% of the excess |

over $125,000

"

"(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

"(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

"(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph [*shall*] **may** not be changed.

"(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

"(D) The rate brackets applicable to taxable income in excess of $125,000 may not be adjusted.

"(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 1992.

"(d) As used in this subsection, 'U.S. City Average Consumer Price Index' means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

"(e) If any increase determined under paragraph (b) of this subsection is not a multiple of $50, the increase shall be rounded to the next lower multiple of $50.

"(2) A tax is imposed for each taxable year upon the entire taxable income of every part-year resident of this state. The amount of the tax shall be computed under subsection (1) of this section as if the part-year resident

were a full-year resident and shall be multiplied by the ratio provided under ORS 316.117 to determine the tax on income derived from sources within this state.

"(3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident that is derived from sources within this state. The amount of the tax shall be determined in accordance with the table set forth in subsection (1) of this section.

**"SECTION 2. The amendments to ORS 316.037 by section 1 of this 2017 Act apply to tax years beginning on or after January 1, 2018.**

## "COMMERCIAL ACTIVITY TAX

**"SECTION 3. Definitions. As used in sections 3 to 23 of this 2017 Act:**

**"(1) 'Doing business' means engaging in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit or income, at any time during a calendar year.**

**"(2) '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 subsection (h), (i) or (m) of section 501 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.**

**"(i) People's utility districts established under ORS chapter 261.**

**"(j) Governmental entities.**

**"(k) Any person that has taxable gross receipts that do not exceed $150,000 for the tax period, other than a person that is part of a combined taxpayer or consolidated elected taxpayer group as provided in sections 5 and 6 of this 2017 Act that has taxable gross receipts in excess of $150,000.**

**"(3) 'Financial institution' has the meaning given that term in ORS 314.610, except that it does not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS 723.001 or a federal credit union.**

**"(4)(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.**

**"(5) 'General contractor' means a contractor as defined in ORS 701.410.**

**"(6) '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) Any public corporation owned by a municipality.**

**"(7)(a) 'Gross receipts' means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.**

**"(b) 'Gross receipts' does not include:**

**"(A) Interest income except interest on credit sales;**

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

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

**"(E) 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;**

**"(F) 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;**

**"(G) 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;**

**"(H) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;**

**"(I) 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;**

**"(J) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;**

**"(K) 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;**

**"(L) Tax refunds, other tax benefit recoveries and reimbursements for the tax imposed under sections 3 to 23 of this 2017 Act made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group as provided under sections 5 and 6 of this 2017 Act, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are**

**required to be made for economic parity among multiple owners of an entity whose tax obligation under sections 3 to 23 of this 2017 Act is required to be reported and paid entirely by one owner, as provided in sections 5 and 6 of this 2017 Act;**

**"(M) Pension reversions;**

**"(N) Contributions to capital;**

**"(O) In the case of receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel as defined in ORS 319.010, an amount equal to the value of the motor vehicle fuel, including federal and state motor vehicle fuel excise taxes and receipts from billing or invoicing the tax imposed under ORS 319.020 to another person;**

**"(P) 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;**

**"(Q) In the case of receipts from the sale of malt beverages, wine or distilled liquor, all as defined in ORS 471.001, or cider, as defined in ORS 471.023, 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 beer or intoxicating liquor under subtitle E of the Internal Revenue Code or ORS chapter 471;**

**"(R) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a person holding a license issued under ORS 475B.010 to 475B.395, 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 475B.700 to 475B.760;**

**"(S) Receipts realized by a vehicle dealer certified under ORS 822.020 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;**

**"(T) Registration fees, taxes or other amounts collected by a vehicle dealer certified under ORS 822.020 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.**

**"(U) 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;**

**"(V) 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;**

**"(W) Net revenue of hospitals subject to assessment under section 2, chapter 736, Oregon Laws 2003, or long term care facilities subject to assessment under section 16, chapter 736, Oregon Laws 2003;**

**"(X) Net revenue of residential care facilities as defined in ORS 433.400 or in home care agencies as defined in ORS 443.305, to the extent that the revenue is derived from or received as compensation for providing serves to a medical assistance or Medicare recipient;**

**"(Y) Dividends exempted from federal taxation under section 243 or 245 of the Internal Revenue Code;**

**"(Z) Distributive income received from a pass-through entity;**

**"(AA) Receipts from sales to a wholesaler in this state, if the seller**

**receives certification from the wholesaler that the wholesaler intends to sell the purchased property outside of this state;**

**"(BB) Proceeds from the sale of a single unit of machinery used in a production process, to the extent that the proceeds exceed $5 million; or**

**"(CC) Rebates paid to purchasers by retailers or wholesalers.**

**"(8) '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 December 31, 2016.**

**"(9) '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, for-profit 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.**

**"(10) 'Retailer' means a person doing business by selling tangible personal property for a purpose other than:**

**"(a) Reselling the property as tangible personal property in the regular course of business;**

**"(b) Incorporating the property in the course of regular business as an ingredient or component of real or personal property; or**

**"(c) Consuming the property in the production for sale of a new article of tangible personal property.**

**"(11) 'Services' means services in the following industries as categorized by the North American Industry Classification codes:**

**"(a) Information services, as described in code 51;**

**"(b) Finance, insurance, real estate and professional services, as**

**described in codes 52 to 56;**

**"(c) Education, health and social services, as described in codes 61 and 62;**

**"(d) Entertainment, recreation, lodging and food services, as described in codes 71 and 72; and**

**"(e) Personal services, public administration and other services, as described in codes 81 to 99 and 00.**

**"(12) 'Subcontractor' has the meaning given that term in ORS 701.410.**

**"(13) 'Taxable gross receipts' means gross receipts sourced to this state under section 12 of this 2017 Act.**

**"(14)(a) 'Taxpayer' means any person, or any group of persons in the case of a combined taxpayer or consolidated elected taxpayer group treated as one taxpayer under sections 5 and 6 of this 2017 Act, required to register or pay tax under sections 3 to 23 of this 2017 Act.**

**"(b) 'Taxpayer' does not include excluded persons.**

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

**"SECTION 4. Accounting methods. A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal tax year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, the taxpayer's method of accounting for gross receipts under sections 3 to 23 of this 2017 Act shall be changed accordingly.**

**"SECTION 5. Consolidation of related taxpayers. (1) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of sections 3 to 23 of this 2017 Act if the group satisfies all of the following requirements:**

**"(a)(A) The group elects to include all persons, including excluded persons, having at least 80 percent, or having at least 50 percent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners.**

**"(B) A group making its initial election on the basis of the 80 percent ownership test may change its election so that its consolidated elected taxpayer group is formed on the basis of the 50 percent ownership test if all of the following are satisfied:**

**"(i) When the initial election was made, the group did not have any persons satisfying the 50 percent ownership test;**

**"(ii) One or more of the persons in the initial group subsequently acquires ownership interests in a person such that the 50 percent ownership test is satisfied, the 80 percent ownership test is not satisfied and the acquired person would be required to be included in a combined taxpayer group under section 6 of this 2017 Act;**

**"(iii) The group requests the change in writing to the Department of Revenue as required by subsection (5) of this section; and**

**"(iv) The group has not previously changed its election.**

**"(C)(i) At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the consolidated elected ownership test either shall be included in the group or shall be excluded from the group. If the group does not include any entities that meet the consolidated elected ownership test, the group shall elect to either include or exclude the newly acquired entities before the due date of the first return due after the date of the acquisition.**

**"(ii) If 50 percent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the 50 percent ownership test, the person is a**

**member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts 50 percent of the person's taxable gross receipts. Otherwise, all of the person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. The ownership or control of 50 percent of the value of a person's ownership interests by two otherwise unrelated groups may not form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under subsection (3) of this section of taxable gross receipts between members of the two groups. Paragraph (c) of this subsection applies with respect to the elections described in this paragraph.**

**"(b) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under subsection (5) of this section.**

**"(c) Subject to review and audit by the department, the group agrees that all of the following apply:**

**"(A) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election as long as at least two or more of the members of the group meet the requirements of paragraph (a) of this subsection.**

**"(B) Before the expiration of the eighth calendar quarter, the group shall notify the department if the group elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the department, the election remains in effect for another eight calendar quarters.**

**"(C) If, at any time during any of the eight calendar quarters following the election, a former member of the group no longer meets the requirements under paragraph (a) of this subsection, that member shall report and pay the tax imposed under sections 3 to 23 of this 2017**

**Act separately, as a member of a combined taxpayer or, if the former member satisfies such requirements with respect to another consolidated elected taxpayer group, as a member of that consolidated elected taxpayer group.**

**"(D) The group agrees to the application of paragraph (a)(C) of this subsection.**

**"(2) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.**

**"(3)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts from transactions among persons included in the consolidated elected taxpayer group.**

**"(b) Subject to paragraph (c) of this subsection, nothing in this section shall have the effect of requiring a consolidated elected taxpayer group to include gross receipts received by an excluded person if that person is a member of the group pursuant to the elections made by the group under subsection (1) of this section.**

**"(c)(A) As used in this paragraph, 'dealer transfer' means a transfer of property that satisfies the following:**

**"(i) The property is directly transferred by any means from one member of the group to another member of the group that is a dealer in intangibles; and**

**"(ii) The property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.**

**"(B) In the event of a dealer transfer, a consolidated elected taxpayer group may not exclude, under this paragraph, gross receipts from the transfer described in this paragraph.**

**"(4) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization**

**approved by the Federal Energy Regulatory Commission shall be excluded from taxable gross receipts under this section if all other requirements of this section are met, even if the receipts are from and to the same member of the group.**

**"(5) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the department of the election on a form prescribed by the department, signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group. Elections under subsection (1) of this section must be made on or before the due date for filing the first return due after the election applies.**

**"(6) Any person acquired or formed after the election under subsection (1) of this section shall be included in the group if the person meets the requirements of subsection (1)(a)(A) of this section, and the group shall notify the department of any additions to the group on a form prescribed by the department.**

**"SECTION 6. Combined taxpayer groups. (1) All persons, other than excluded persons, that have more than 50 percent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer group if those persons are not members of a consolidated elected taxpayer group pursuant to an election under section 5 of this 2017 Act.**

**"(2) A combined taxpayer group shall file returns and pay taxes under sections 3 to 23 of this 2017 Act as a single taxpayer and may not exclude taxable gross receipts among its members or from others that are not members.**

**"(3) The combined taxpayer group shall notify the Department of Revenue of any additions to the group on a form prescribed by the**

**department.**

**"SECTION 7. Taxation of property transferred into state. (1) Except as provided in subsection (2) of this section:**

**"(a) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and**

**"(b) In the case of a combined taxpayer or consolidated elected taxpayer group, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state.**

**"(2) Property brought into this state within one year after it is received outside this state by a person or group described in subsection (1) of this section may not be included as taxable gross receipts as required under subsection (1) of this section if the Department of Revenue ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under sections 3 to 23 of this 2017 Act.**

**"(3) The department may adopt rules necessary to administer this section.**

**"SECTION 8. Joint and several liability. All members of a combined taxpayer or consolidated elected taxpayer group during the tax period or periods for which additional tax, penalty or interest is owed are jointly and severally liable for such amounts. Although the reporting person shall be assessed for the liability, amounts due may be collected by assessment against any member of the group or pursued against any member of the group.**

**"SECTION 9. Commercial activity tax imposed on gross receipts. (1)**

**A commercial activity tax is imposed on each person with taxable gross receipts for the privilege of doing business in this state. Persons on which the commercial activity tax is imposed include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed under this section is in addition to any other taxes or fees imposed under the tax laws of the state. The tax imposed under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to the annual commercial activity tax for doing business during any portion of such calendar year. Revenues from the tax imposed under this section shall be considered revenues from corporate income and excise taxes under Article IX, section 14, of the Oregon Constitution.**

**"(2) A person has substantial nexus with this state if any of the following applies. The person:**

**"(a) Owns or uses a part or all of its capital in this state.**

**"(b) Holds a certificate of existence or authorization issued by the Secretary of State authorizing the person to do business in this state.**

**"(c) Has bright-line presence in this state.**

**"(d) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under sections 3 to 23 of this 2017 Act under the Constitution of the United States.**

**"(3) A person has bright-line presence in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:**

**"(a) Owns at any time during the calendar year property in this state with an aggregate value of at least $50,000. For purposes of this paragraph, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.**

**"(b) Has during the calendar year payroll in this state of at least $50,000. Payroll in this state includes the following:**

**"(A) Any amount subject to withholding by the person under ORS 316.167 and 316.172;**

**"(B) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and**

**"(C) Any amount the person pays for services performed in this state on the person's behalf by another.**

**"(c) Has during the calendar year taxable gross receipts of at least $500,000.**

**"(d) Has at any time during the calendar year within this state at least 25 percent of the person's total property, total payroll or total gross receipts.**

**"(e) Is domiciled in this state as an individual or for corporate, commercial or other business purposes.**

**"(4) The tax imposed by this section is a tax on the taxpayer and may not be billed or invoiced to another person.**

**"SECTION 10. Financial institutions. As applied to a financial institution:**

**"(1) 'Gross receipts' means all items of income, without deduction for expenses. If the reporting person for a taxpayer is a holding company, 'gross receipts' includes all items of income reported on the FR Y-9 filed by the holding company. If the reporting person for a taxpayer is a bank organization, 'gross receipts' includes all items of income reported on the call report filed by the bank organization. If the**

**reporting person for a taxpayer is a nonbank financial organization, 'gross receipts' includes all items of income reported in accordance with generally accepted accounting principles.**

**"(2) 'Taxable gross receipts' means:**

**"(a) Receipts from the lease, sublease, rental or subrental of real property located in this state;**

**"(b) Receipts from the lease, sublease, rental or subrental of tangible personal property to the extent such property is used in this state;**

**"(c) Interest, fees, penalties and any other charge received from loans secured by real property located within this state;**

**"(d) Interest, fees, penalties and any other charge received from loans not secured by real property if the borrower is located in this state;**

**"(e) The amount of net gains, but not less than zero, from the sale of loans secured by real property located in this state;**

**"(f) The amount of net gains, but not less than zero, from the sale of loans not secured by real property if the borrower is located in this state;**

**"(g) Interest, annual fees, penalties and any other charges received from credit card receivables and from cardholders if the billing address of the cardholder is located in this state;**

**"(h) The amount of net gains, but not less than zero, from the sale of credit card receivables if the billing address of the cardholder is located in this state;**

**"(i) Reimbursement fees of a credit card issuer if the billing address of the cardholder is located in this state;**

**"(j) Receipts from merchant discounts if the merchant is located in this state;**

**"(k) Loan servicing fees derived from loans secured by real property located in this state;**

**"(L) Loan servicing fees derived from loans not secured by real property if the borrower is located in this state;**

**"(m) Loan servicing fees derived from servicing loans from other financial institutions if the borrower is located in this state; and**

**"(n) All other receipts, if the payor of those receipts is located in this state.**

**"(3) If the provisions of subsection (2) of this section do not fairly represent the extent of a financial institution's activity in this state, the financial institution may request, or the Department of Revenue may require or permit, an alternative method. A request under this subsection by a financial institution must be made within the applicable statute of limitations set forth in sections 3 to 23 of this 2017 Act.**

**"(4) The department may adopt rules to provide additional guidance to the application of this section, and to provide alternative methods of sourcing gross receipts that apply to all persons, or a subset of persons, that are engaged in similar business or trade activities.**

**"SECTION 11. Rate of taxation. (1) Except as provided in subsection (3) of this section, the commercial activity tax imposed under section 9 of this 2017 Act for each tax period shall equal $250 plus the product of a percentage multiplied by the taxpayer's taxable gross receipts in excess of $3 million for the tax period, based on the sector in which the taxpayer is primarily doing business, as follows:**

**"(a) For a taxpayer in a service sector, 0.75 percent.**

**"(b) For a taxpayer in a retail sector, as described in North American Industry Classification System codes 44 and 45, or a general contractor, 0.35 percent.**

**"(c) For a taxpayer in a wholesale sector, as described in North American Industry Classification System code 42, or a subcontractor, 0.25 percent.**

**"(d) For all other taxpayers, including agriculture, forestry, fishing and mining, as described in North American Industry Classification System codes 11 to 21, utilities, as described in code 22, construction, as described in code 23, and manufacturing, as described in codes 31 to 33, 0.48 percent.**

**"(2) If members of a combined taxpayer or consolidated elected taxpayer group do business in different sectors, each member shall be taxed at the applicable rate.**

**"(3) If the taxpayer's gross receipts for the calendar year are more than $150,000 but do not exceed $3 million, the tax imposed under this section is $250 for the calendar year.**

**"(4) No tax is owed under this section if the taxpayer's gross receipts do not exceed $150,000.**

**"SECTION 12. Sourcing of gross receipts. (1) For purposes of sections 3 to 23 of this 2017 Act, gross receipts shall be sourced to this state as follows:**

**"(a) In the case of the sale, rental, lease or license of real property, if and to the extent the property is located in this state.**

**"(b) In the case of the rental, lease or license of tangible personal property, if and to the extent the property is located in this state.**

**"(c) In the case of the sale of a tangible personal property, if and to the extent the property is delivered to a purchaser in this state.**

**"(d) In the case of the sale of a service, if and to the extent the service is delivered to a location in this state.**

**"(e) In the case of the sale, rental, lease or license of intangible property, if and to the extent the property is used in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, the receipts shall be sourced to this state to the extent the receipts are based on the right to use the property**

**in this state.**

**"(2) If the sourcing provisions of subsection (1) of this section do not fairly represent the extent of a person's gross receipts attributable to this state, the person may request, or the Department of Revenue may require or permit, an alternative method. A request under this subsection by a person must be made within the applicable statute of limitations set forth in sections 3 to 23 of this 2017 Act.**

**"(3) The department may adopt rules to provide additional guidance to the application of this section, and to provide alternative methods of sourcing gross receipts that apply to all persons, or a subset of persons, that are engaged in similar business or trade activities.**

**"SECTION 13. Pass-through entities; credit. The commercial activity tax imposed under section 9 of this 2017 Act is imposed at the entity level. A pass-through entity shall be allowed an entity level credit against the taxes otherwise due under ORS chapter 316. The total credit allowed shall equal 43 percent of the total tax imposed on the pass-through entity.**

**"SECTION 14. Records. Every person doing business in this state shall keep records, receipts, invoices and other pertinent papers related to the commercial activity tax imposed under section 9 of this 2017 Act in a form required by the Department of Revenue.**

**"RETURNS AND PAYMENTS**

**"SECTION 15. Returns, payment. (1) The commercial activity tax imposed under section 9 of this 2017 Act is due and payable to the Department of Revenue as follows:**

**"(a) If the tax due is $250 as provided in section 11 (3) of this 2017 Act, the tax is due and payable to the department not later than the last day of the calendar month next following the calendar year.**

**"(b) Except as provided in paragraph (a) of this subsection, the tax is due and payable to the department quarterly as set forth in section 16 of this 2017 Act.**

**"(2) The commercial activity tax is due and payable as provided in this section without regard to any extension of time for filing a return.**

**"SECTION 16. Returns, filing. (1) Not later than the last day of the calendar month next following the applicable tax period described in section 15 of this 2017 Act, a return for the preceding tax period must be filed with the Department of Revenue in a form prescribed by the department.**

**"(2)(a) For purposes of the commercial activity tax imposed under section 9 of this 2017 Act, every person engaged in business in this state shall file a return.**

**"(b) Notwithstanding paragraph (a) of this subsection, if a person's gross receipts in this state for the calendar year do not exceed $150,000, the person is not required to file a return under this section.**

**"(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, for each month or fraction of a month from the time the return was originally required to be filed to the time of payment, shall be added and paid.**

**"SECTION 17. Accounting, installment payment. (1) Subject to rules adopted by the Department of Revenue, the commercial activity tax imposed under section 9 of this 2017 Act becomes payable in accordance with the system of accounting regularly employed by the taxpayer.**

**"(2) In the case of a lease, contract, sale or arrangement described in section 4216(c) of the Internal Revenue Code, rules similar to the rules of section 4217(e)(2) of the Internal Revenue Code shall apply for**

**purposes of the commercial activity tax.**

**"(3) A person is entitled to a credit or refund for taxes previously paid on debts that are deductible as worthless for federal income tax purposes.**

**"COLLECTION**

**"SECTION 18. Rules, uniformity. (1) The Department of Revenue is authorized to and shall adopt rules requiring uniformity in application, reporting and collection and otherwise carrying out the purposes of sections 3 to 23 of this 2017 Act.**

**"(2) The department shall provide by rule for the effective administration of the commercial activity tax.**

**"SECTION 19. Quitting business, successor. (1) For purposes of sections 3 to 23 of this 2017 Act, 'successor' means any person to whom another person quitting, selling out, exchanging or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of business, a major part of the materials, supplies, merchandise, inventory, fixtures or equipment of the person. Any person obligated to fulfill the terms of a contract shall be considered a successor to any contractor defaulting in the performance of any contract as to which the person is a surety or guarantor.**

**"(2) If any person quits business or sells out, exchanges or otherwise disposes of a business or stock of goods, any commercial activity tax imposed under section 9 of this 2017 Act shall become immediately due and payable. The person shall, within 10 days after the sale, exchange or disposition, make a return and pay the tax due.**

**"(3) Notwithstanding ORS 314.835, the successor is liable for the full amount of the tax and may withhold from the purchase price a sum sufficient to pay any tax due until a receipt or evidence from the De-**

**partment of Revenue showing payment in full of any tax due is presented to the successor. If a receipt or other evidence is not presented to the successor within 10 days, the successor may pay the tax and the amount paid shall, to the extent paid, be considered a payment of the purchase price. If the tax paid by the successor is greater than the purchase price, the amount of the difference is a debt due to the successor from the seller or transferor.**

**"(4) A successor is not liable for any tax due from the person from whom the successor has acquired a business or stock of goods if the successor gives written notice to the department of the acquisition and the department does not assess a deficiency against the seller or transferor within one year of receipt of the notice of acquisition and mail or deliver a copy of the assessment to the successor.**

**"DISPOSITION OF PROCEEDS**

**"SECTION 20. Payments to department. For purposes of sections 3 to 23 of this 2017 Act, and except as otherwise provided by law, all taxes, interest and penalties imposed and all amounts of commercial activity tax collected or required to be paid to the state shall be paid to the Department of Revenue and upon receipt by the department shall be turned over to the State Treasurer, to be disbursed as provided in section 21 of this 2017 Act.**

**"SECTION 21. Suspense account, other disposition. (1) Except as otherwise provided by law, all moneys received by the Department of Revenue under sections 3 to 23 of this 2017 Act shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445 separate and distinct from the General Fund. Refunds, including refunds of erroneous overpayments or refunds of other moneys received in which the department has no legal interest,**

**shall be paid out of the suspense account. After payment of refunds, the net revenue shall be transferred to the State School Fund established under ORS 327.008. A working balance of unreceipted revenue from the tax imposed by sections 3 to 23 of this 2017 Act may be retained by the department for the payment of refunds, but such working balance may not at the close of any fiscal year exceed the sum of $500,000.**

**"(2) There are continuously appropriated to the department amounts necessary to pay the administrative expenses of the department in administering, collecting and enforcing the commercial activity tax.**

**"PENALTIES**

**"SECTION 22. False or fraudulent return, failure to file return. (1) Any person that is required under sections 3 to 23 of this 2017 Act to make, render, furnish, sign or verify any commercial activity tax return and that makes any false or fraudulent or supplementary return with intent to defeat or evade the determination of an amount of tax due is subject to the penalty and shall be punished as provided under ORS 314.991 (1).**

**"(2) Failure or refusal to file any commercial activity tax return or supplementary return, or to furnish any information required by the Department of Revenue, is a Class A misdemeanor.**

**"(3) Violation of any provision contained in sections 3 to 23 of this 2017 Act, or any rule adopted thereunder, is a Class A misdemeanor.**

**"SECTION 23. Penalties additional to all other penalties. Any of the penalties provided in section 22 of this 2017 Act are in addition to all other penalties applicable to sections 3 to 23 of this 2017 Act.**

**"APPLICABILITY OF CREDITS AGAINST TAX**

**"SECTION 24. Limited applicability of tax credits. (1) Notwithstanding ORS 285C.309, 285C.406, 285C.503, 285C.506, 315.004, 315.052, 315.053, 315.054, 315.068, 315.104, 315.113, 315.119, 315.138, 315.141, 315.144, 315.156, 315.163, 315.164, 315.169, 315.174, 315.204, 315.208, 315.213, 315.237, 315.271, 315.304, 315.326, 315.331, 315.336, 315.341, 315.354, 315.507, 315.514, 315.517, 315.521, 315.533, 315.536, 315.610, 315.675, 317.097, 317.111 or 469.720, and except as provided in subsection (2) of this section, a credit against the taxes otherwise due under ORS chapter 317 or 318 may not be allowed for any tax year that begins on or after January 1, 2018.**

**"(2)(a) A tax credit that is first allowed for a tax year beginning before January 1, 2018, and that is intended to be claimed over multiple years or that includes a carryforward provision may be claimed against the commercial activities tax imposed in sections 3 to 23 of this 2017 Act.**

**"(b) In no event may any credit be claimed for any tax year beginning on or after January 1, 2025. This paragraph does not apply to credits allowed under ORS 317.097.**

**"CONFORMING AMENDMENTS**

**"SECTION 25.** ORS 63.810 is amended to read:

"63.810. For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, [*317, 318,*] 319, 321, 323 and 324, a limited liability company formed under this chapter or qualified to do business in this state as a foreign limited liability company shall be classified in the same manner as it is classified for federal income tax purposes. For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, [*317, 318,*] 319, 321, 323 and 324, a

member or an assignee of a member of a limited liability company formed under this chapter or qualified to do business in this state as a foreign limited liability company shall have the same status as the member or assignee of a member has for federal income tax purposes.

**"SECTION 26.** ORS 128.760 is amended to read:

"128.760. (1) The Attorney General may issue an order disqualifying a charitable organization from receiving contributions that are deductible as charitable donations for the purpose of Oregon income tax [*and corporate excise tax*] if the Attorney General finds that the organization has failed to expend at least 30 percent of the organization's total annual functional expenses on program services when those expenses are averaged over the most recent three fiscal years for which the Attorney General has reports containing expense information. The calculation of program services expenses and total functional expenses shall be based on the amounts of program services expenses and total functional expenses identified by the organization in the organization's Internal Revenue Service Form 990 return or other Internal Revenue Service return required to be filed as part of the organization's report to the Attorney General.

"(2) A charitable organization may request a contested case hearing within 60 days after notification from the Attorney General that the Attorney General proposes to issue a disqualification order under this section. Notwithstanding a finding that the charitable organization's program services expenses fall below the minimum percentage specified in subsection (1) of this section, the Attorney General may decline to issue a disqualification order if the organization establishes:

"(a) That the organization made payments to affiliates that should be considered in calculating the organization's program services expenses;

"(b) That the organization is accumulating revenue for a specific program purpose consistent with representations in solicitations; or

"(c) Such other mitigating circumstances as may be identified by the At-

torney General by rule.

"(3) A disqualification order under this section remains in effect until such time as the charitable organization submits sufficient information to the Attorney General to demonstrate that the organization's program services expenses meet the minimum percentage specified in subsection (1) of this section. A charitable organization may submit information under this subsection no earlier than one year after the disqualification order becomes final, and may not submit information under this subsection more than once each year after the initial submission is made. The information submitted under this subsection must include all Internal Revenue Service Form 990 returns, or equivalent Internal Revenue Service returns, filed by the organization after the disqualification order became final.

"(4) A disqualification order under this section may not be issued to:

"(a) A private foundation as defined in section 509 of the Internal Revenue Code, as in effect on October 7, 2013;

"(b) A community trust or foundation operating as described in 26 C.F.R. 1.170A-9(f)(10) and (11), as in effect on October 7, 2013;

"(c) A qualified charitable remainder trust described in section 664 of the Internal Revenue Code, as in effect on October 7, 2013;

"(d) An organization that does not qualify to receive tax deductible contributions;

"(e) An organization that is not required to file annual reports with the Attorney General;

"(f) An organization that is not required to file an Internal Revenue Service Form 990 return or an equivalent Internal Revenue Service return;

"(g) An organization that receives less than 50 percent of the organization's total annual revenues from contributions or grants identified in accordance with Internal Revenue Service Form 990 or an equivalent form; and

"(h) An organization that has been in existence for less than four years.

"(5) When a disqualification order is issued under this section, the charitable organization that is the subject of the order does not qualify for and may not claim exemption from taxation under ORS 307.130 for the tax year following the tax year in which the order went into effect and subsequent tax years in which the order remains in effect.

**"SECTION 27.** ORS 184.484, as amended by section 8, chapter 112, Oregon Laws 2016, is amended to read:

"184.484. (1) For each statute that authorizes a tax expenditure with a purpose connected to economic development and that is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the State Chief Information Officer. If a statute does not exist to authorize a state agency to certify or otherwise administer the tax expenditure, or if a statute does not provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

"(2) This section applies to:

"(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331, 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778[,] **and** 317.124[, *317.391 and 317.394*] and sections 1 to 5, chapter 112, Oregon Laws 2016.

"(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

"(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

"(d) ORS 316.116, if the allowed credit exceeds $2,000.

"(3) The following information, if the information is already available in an existing database the state agency maintains, must be included in the report required under this section:

"(a) The name of each taxpayer or applicant approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

"(b) The address of each taxpayer or applicant.

"(c) The total amount of credit against tax liability, reduction in taxable

income or exemption from property taxation granted to each taxpayer or applicant.

"(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information must be based on data the state agency has already collected and analyzed in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in the statistics.

"(e) An explanation of the state agency's certification decision for each taxpayer or applicant, if applicable.

"(f) Any additional information that the taxpayer or applicant submits and that the state agency relies on in certifying the determination.

"(g) Any other information that state agency personnel deem valuable as providing context for the information described in this subsection.

"(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.410 to 192.505 or 314.835.

"(5) No later than September 30 of each year, a state agency described in subsection (1) of this section shall submit to the State Chief Information Officer the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures the state agency approved during the agency fiscal year ending during the current calendar year. The information must then be posted on the Oregon transparency website described in ORS 184.483 no later than December 31 of the same year.

"(6)(a) In addition to the information described in subsection (3) of this section, the State Chief Information Officer shall post on the Oregon transparency website:

"(A) Copies of all reports that the State Chief Information Officer, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in

enterprise zones that have received tax exemptions under ORS 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone; and

"(B) Copies of any annual reports that agencies described in subsection (1) of this section are required by law to produce regarding the administration of statutes listed in subsection (2) of this section.

"(b) The reports must be submitted to the State Chief Information Officer in a manner and format that the State Chief Information Officer prescribes.

"(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the State Chief Information Officer.

"(8) The information described in this section must be provided to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the State Chief Information Officer.

**"SECTION 28.** ORS 267.385 is amended to read:

"267.385. (1) To carry out the powers granted by ORS 267.010 to 267.390, a district may by ordinance impose an excise tax on every employer equal to not more than eight-tenths of one percent of the wages paid with respect to the employment of individuals. For the same purposes, a district may by ordinance impose a tax on each individual equal to not more than eight-tenths of one percent of the individual's net earnings from self-employment.

"(2) No employer shall make a deduction from the wages of an employee to pay all or any portion of a tax imposed under this section.

"(3) The provisions of ORS 305.620 are applicable to collection, enforcement, administration and distribution of a tax imposed under this section.

"(4) At any time an employer or individual fails to remit the amount of taxes when due under an ordinance of the district board imposing a tax under this section, the Department of Revenue may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount

and all penalties, interest and collection charges accrued thereon. Such warrant shall be issued and may be enforced in the same manner and have the same force and effect as prescribed with respect to warrants for the collection of delinquent state income taxes.

"(5) Any ordinance adopted under subsection (1) of this section shall require an individual having net earnings from self-employment from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net earnings to the district [*in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675*] **in a manner consistent with section 12 of this 2017 Act**. Such ordinance shall give the individual the option of apportioning income based on a single factor designated by the ordinance.

"(6) Any ordinance adopted under subsection (1) of this section with respect to net earnings from self-employment may impose a tax for a taxable year measured by each individual's net earnings from self-employment for the prior taxable year, whether such prior taxable year begins before or after November 1, 1981, or such ordinance.

"(7) Any ordinance imposing a tax authorized by subsection (1) of this section shall not apply to any business, trade, occupation or profession upon which a tax is imposed under ORS 267.360.

"(8) The district board may not adopt an ordinance increasing a tax authorized by subsection (1) of this section unless the board makes a finding that the economy in the district has recovered to an extent sufficient to warrant the increase in tax. In making the finding, the board shall consider regional employment and income growth.

**"SECTION 29.** ORS 267.370 is amended to read:

"267.370. (1) To carry out any of the powers granted by ORS 267.010 to 267.390, a district may by ordinance impose a tax:

"(a) Upon the entire taxable income of every resident of the district subject to tax under ORS chapter 316 and upon the taxable income of every

nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316; and

"(b) On or measured by the net income of a mercantile, manufacturing, business, financial, centrally assessed, investment, insurance or other corporation or entity taxable as a corporation doing business, located, or having a place of business or office within or having income derived from sources within the district which income is subject to tax under [*ORS chapter 317 or 318*] **section 11 of the Internal Revenue Code**.

"(2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this section [*shall*] **may** not exceed one percent. The tax may be imposed and collected as a surtax upon the state income or excise tax.

"(3) Any ordinance adopted pursuant to subsection (1) of this section shall require a nonresident, corporation or other entity taxable as a corporation having income from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net income to the district [*in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675*] **in a manner consistent with section 12 of this 2017 Act**.

"(4) The district shall allow a credit against the tax imposed pursuant to this section, in an amount equal to the employer's payroll tax paid to the district by the taxpayer.

"(5) If a district adopts an ordinance under this section, the ordinance shall be consistent with any state law relating to the same subject, and with rules and regulations of the Department of Revenue prescribed under ORS 305.620.

"(6) An ordinance adopted under this section shall not declare an emergency.

**"SECTION 30.** ORS 268.505 is amended to read:

"268.505. (1) Subject to the provisions of a district charter, to carry out

the purposes of this chapter, a district may by ordinance impose a tax:

"(a) Upon the entire taxable income of every resident of the district subject to tax under ORS chapter 316 and upon the taxable income of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316; and

"(b) On or measured by the net income of a mercantile, manufacturing, business, financial, centrally assessed, investment, insurance or other corporation or entity taxable as a corporation doing business, located, or having a place of business or office within or having income derived from sources within the district which income is subject to tax under [*ORS chapter 317 or 318*] **section 11 of the Internal Revenue Code**.

"(2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this section shall not exceed one percent. The tax may be imposed and collected as a surtax upon the state income or excise tax.

"(3) Any ordinance adopted pursuant to subsection (1) of this section may require a nonresident, corporation or other entity taxable as a corporation having income from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net income to the district in the manner required [*for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675*] **under section 12 of this 2017 Act**.

"(4) If a district adopts an ordinance under this section, the ordinance shall be consistent with any state law relating to the same subject, and with rules and regulations of the Department of Revenue prescribed under ORS 305.620.

"(5) Any ordinance adopted by the district under subsection (1) of this section shall receive the approval of the electors of the district before taking effect.

**"SECTION 31.** ORS 279B.045 is amended to read:

"279B.045. Every public contract that is subject to this chapter must include a representation and warranty from the contractor that the contractor

has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS [*chapters 316, 317 and 318*] **chapter 316 and sections 3 to 23 of this 2017 Act**. The public contract must also require a covenant from the contractor to continue to comply with the tax laws of this state or a political subdivision of this state during the term of the public contract and provide that a contractor's failure to comply with the tax laws of this state or a political subdivision of this state before the contractor executed the public contract or during the term of the public contract is a default for which a contracting agency may terminate the public contract and seek damages and other relief available under the terms of the public contract or under applicable law.

**"SECTION 32.** ORS 279B.110 is amended to read:

"279B.110. (1) As part of a contracting agency's evaluation of a bid or proposal, the contracting agency shall determine whether the bidder or proposer is responsible in accordance with the standards of responsibility set forth in subsection (2) of this section. If the contracting agency determines that a bidder or proposer is not responsible, the contracting agency shall provide the bidder or proposer with written notice of the contracting agency's determination.

"(2) In order for a contracting agency to determine that a bidder or proposer is responsible, the bidder or proposer must demonstrate to the contracting agency that the bidder or proposer:

"(a) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.

"(b) Completed previous contracts of a similar nature with a satisfactory record of performance. For purposes of this paragraph, a satisfactory record of performance means that to the extent that the costs associated with and time available to perform a previous contract remained within the bidder's or proposer's control, the bidder or proposer stayed within the time and

budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. The contracting agency shall document the bidder's or proposer's record of performance if the contracting agency finds under this paragraph that the bidder or proposer is not responsible.

"(c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder's or proposer's record of integrity may consider, among other things, whether the bidder or proposer has previous criminal convictions for offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the bidder's or proposer's performance of a contract or subcontract. The contracting agency shall document the bidder's or proposer's record of integrity if the contracting agency finds under this paragraph that the bidder or proposer is not responsible.

"(d) Is legally qualified to contract with the contracting agency.

"(e) Complied with the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS [*chapters 316, 317 and 318*] **chapter 316 and sections 3 to 23 of this 2017 Act**. The bidder or proposer shall demonstrate compliance by attesting to the bidder's or proposer's compliance in any way the contracting agency deems credible and convenient.

"(f) Possesses an unexpired certificate that the Oregon Department of Administrative Services issued under ORS 279A.167 if the bidder or proposer employs 50 or more full-time workers and submitted a bid or proposal for a procurement with an estimated contract price that exceeds $500,000 in response to an advertisement or solicitation from a state contracting agency.

"(g) Supplied all necessary information in connection with the inquiry concerning responsibility. If a bidder or proposer fails to promptly supply information concerning responsibility that the contracting agency requests, the contracting agency shall determine the bidder's or proposer's responsibility based on available information or may find that the bidder or proposer is not responsible.

"(h) Was not debarred by the contracting agency under ORS 279B.130.

"(3) A contracting agency may refuse to disclose outside of the contracting agency confidential information furnished by a bidder or proposer under this section when the bidder or proposer has clearly identified in writing the information the bidder or proposer seeks to have treated as confidential and the contracting agency has authority under ORS 192.410 to 192.505 to withhold the identified information from disclosure.

**"SECTION 33.** ORS 305.265 is amended to read:

"305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports or returns of tax or tax liability filed with the Department of Revenue under the revenue and tax laws administered by it, except those filed under ORS 320.005 to 320.150.

"(2) As soon as practicable after a report or return is filed, the department shall examine or audit it, if required by law or the department deems such examination or audit practicable. If the department discovers from an examination or an audit of a report or return or otherwise that a deficiency exists, it shall compute the tax and give notice to the person filing the return of the deficiency and of the department's intention to assess the deficiency, plus interest and any appropriate penalty. Except as provided in subsection (3) of this section, the notice shall:

"(a) State the reason for each adjustment;

"(b) Give a reference to the statute, regulation or department ruling upon which the adjustment is based; and

"(c) Be certified by the department that the adjustments are made in good faith and not for the purpose of extending the period of assessment.

"(3) When the notice of deficiency described in subsection (2) of this section results from the correction of a mathematical or clerical error and states what would have been the correct tax but for the mathematical or clerical error, such notice need state only the reason for each adjustment to the report or return.

"(4) With respect to any tax return filed under ORS chapter 314, 316, 317

or 318 **or sections 3 to 23 of this 2017 Act**, deficiencies shall include but not be limited to the assertion of additional tax arising from:

"(a) The failure to report properly items or amounts of income subject to or which are the measure of the tax;

"(b) The deduction of items or amounts not permitted by law;

"(c) Mathematical errors in the return or the amount of tax shown due in the records of the department; or

"(d) Improper credits or offsets against the tax claimed in the return.

"(5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right to make written objections, the person's right to request a conference and the procedure for requesting a conference. The statement, and an accompanying form, shall also explain that conference determinations are routinely transmitted via regular mail and that a person desiring to have conference determinations transmitted by certified mail may do so by indicating on the form the person's preference for certified mail and by returning the form with the person's written objections as described in paragraph (b) of this subsection.

"(b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay the deficiency with interest computed to the date of payment and any penalty proposed. Or within that time the person shall advise the department in writing of objections to the deficiency, and may request a conference with the department, which shall be held prior to the expiration of the one-year period set forth in subsection (7) of this section.

"(6) If a request for a conference is made, the department shall notify the person of a time and place for conference and appoint a conference officer to meet with the person for an informal discussion of the matter. After the conference, the conference officer shall send the determination of the issues to the person. The determination letter shall be sent by regular mail, or by certified mail if the person given notice has indicated a preference for transmission of the determination by certified mail. The department shall

assess any deficiency in the manner set forth in subsection (7) of this section. If no conference is requested and written objections are received, the department shall make a determination of the issues considering such objections, and shall assess any deficiency in the manner provided in subsection (7) of this section. The failure to request or have a conference shall not affect the rights of appeal otherwise provided by law.

"(7) If neither payment nor written objection to the deficiency is received by the department within 30 days after the notice of deficiency has been mailed, the department shall assess the deficiency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within one year from the date of the notice of deficiency unless an extension of time is agreed upon as described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

"(8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section for giving of notice of assessment, the department and the person consent in writing to the deficiency being assessed after the expiration of such prescribed period, such deficiency may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period agreed upon.

"(9) The failure to hold a requested conference within the one-year period prescribed in subsection (5) of this section shall not invalidate any assessment of deficiency made within the one-year period pursuant to subsection (7) of this section or within any extension of time made pursuant to subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable to the deficiency. After an assessment has been made, the department and the person assessed may still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day period under ORS 305.280 (2) shall run from the date of the conference officer's

written determination of the issues.

"(10)(a) In the case of a failure to file a report or return on the date prescribed therefor (determined with regard to any extension for filing), the department shall determine the tax according to the best of its information and belief, assess the tax plus appropriate penalty and interest, and give written notice of the failure to file the report or return and of the determination and assessment to the person required to make the filing. The amount of tax shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be lawfully claimed upon the return.

"(b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent allowed by rules adopted by the department, the department may accept the filing of a report or return submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

"(c) The department may reject a report or return:

"(A) That is not verified as required by ORS 305.810;

"(B) That the department determines is not true and correct as to every material matter as required by ORS 305.815; or

"(C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report or return.

"(d) If the department rejects a report or return of a person assessed a tax under paragraph (a) of this subsection, the department shall issue a notice of rejection to the person. The person may appeal the rejection to the magistrate division of the Oregon Tax Court only if:

"(A) The report or return was filed within 90 days of the date the department's assessment under paragraph (a) of this subsection was issued; and

"(B) The appeal is filed within 90 days of the date shown on the notice of rejection.

"(e) If the person assessed under paragraph (a) of this subsection submits

a report or return to the department and appeals the assessment to the tax court, the department may request a stay of action from the court pending review of the report or return. If the department:

"(A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

"(B) Rejects the report or return, the stay of action on the appeal shall be lifted.

"(f) If the department accepts the filing of a report or return, the department may reduce the assessment issued under paragraph (a) of this subsection. A report or return filed under this subsection that is accepted by the department, whether or not the assessment has been reduced, shall be considered a report or return described in subsection (1) of this section and shall be subject to the provisions of this section, including but not limited to examination and adjustment pursuant to subsection (2) of this section.

"(g) The department may refund payments made with respect to a report or return filed and accepted pursuant to this subsection. If the report or return is filed within three years of the due date for filing the report or return, excluding extensions, the refund shall be made as provided by ORS 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing the report or return, excluding extensions, the refund shall be limited to payments received within the two-year period ending on the date the report or return is received by the department and payments received after the date the report or return is received by the department. Interest shall be paid at the rate established under ORS 305.220 for each month or fraction of a month from the date the report or return is received by the department to the time the refund is made.

"(11) Mailing of notice to the person at the person's last-known address shall constitute the giving of notice as prescribed in this section.

"(12) If a return is filed with the department accompanied by payment of less than the amount of tax shown on or from the information on the return

as due, the difference between the tax and the amount submitted is considered as assessed on the due date of the report or return (determined with regard to any extension of time granted for the filing of the return) or the date the report or return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or from the information on the return as due shall be reduced by the amount of any part of the tax that is paid on or before the due date prescribed for payment of the tax, and by any credits against the tax that are claimed on the return. If the amount required to be shown as tax on a return is less than the amount shown as tax on the return, this subsection shall be applied by substituting the lesser amount.

"(13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each month or fraction of a month computed from the due date of the return to date of payment. If the return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent of the deficiency shall be assessed and collected. All payments received shall be credited first to penalty, then to interest accrued, and then to tax due.

"(14) If the deficiency is paid in full before a notice of assessment is issued, the department is not required to send a notice of assessment, and the tax shall be considered as assessed as of the date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid, whichever is the later. A partial payment of the deficiency shall constitute only a credit to the account of the person assessed. Assessments and billings of taxes shall be final after the expiration of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under ORS 305.280 (3) following payment of the tax.

"(15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest assessed.

**"SECTION 34.** ORS 305.270 is amended to read:

"305.270. (1) If the amount of the tax shown as due on a report or return

originally filed with the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318 or 321 **or sections 3 to 23 of this 2017 Act**, or collected pursuant to ORS 305.620, or as corrected by the department, is less than the amount theretofore paid, or if a person files a claim for refund of any tax paid to the department under such laws within the period specified in subsection (2) of this section, any excess tax paid shall be refunded by the department with interest as provided in this section and ORS 314.415.

"(2) The claim shall be made on a form prescribed by the department, except that an amended report or return showing a refund due and filed within the time allowed by this subsection for the filing of a claim for refund, shall constitute a claim for refund. The claim shall be filed within the period specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310, 314, 316, 317 and 318, **and sections 3 to 23 of this 2017 Act** or collected pursuant to ORS 305.620 (except where any applicable ordinance specifies another period), within the period specified in ORS 118.100 (2) for taxes imposed under ORS chapter 118 and within two years of the payment of any tax under ORS chapter 308, 308A or 321.

"(3) Upon receipt of a claim for refund, or original report or return claiming a refund, the department shall either refund the amount requested or send to the claimant a notice of any proposed adjustment to the refund claim, stating the basis upon which the adjustment is made. A proposed adjustment may either increase or decrease the amount of the refund claim or result in the finding of a deficiency. If the proposed adjustment results in a determination by the department that some amount is refundable, the department may send the claimant the adjusted amount with the notice.

"(4)(a) The notice of proposed adjustment shall be accompanied by a statement explaining the claimant's right to make written objections to the refund adjustment, the claimant's right to request a conference and the procedure for requesting a conference. The statement, and an accompanying

form, shall also explain that conference determinations are routinely transmitted via regular mail and that a claimant desiring to have conference determinations transmitted by certified mail may do so by indicating on the form the claimant's preference for certified mail and by returning the form with the claimant's written objections as described in paragraph (b) of this subsection.

"(b) The claimant may, within 30 days of the date of the notice of proposed adjustment, advise the department in writing of objections to the refund adjustment and may request a conference with the department, which shall be held within one year of the date of the notice. The department shall notify the claimant of a time and place for the conference, and appoint a conference officer to meet with the claimant for an informal discussion of the claim. After the conference, the conference officer shall send a determination of the matter to the claimant. The determination letter shall be sent by regular mail, or by certified mail if the claimant has indicated a preference for transmission of the determination by certified mail. The department shall issue either a notice of refund denial or payment of any amount found to be refundable, together with any applicable interest provided by this section. If the conference officer determines that a deficiency exists, the department shall issue a notice of assessment.

"(5) If no conference is requested, and the adjustments have not resulted in the finding of a deficiency, the following shall apply:

"(a) If written objections have been made by the claimant, the department shall consider the objections, determine any issues raised and send the claimant a notice of refund denial or payment of any amount found to be refundable, together with any interest provided by this section.

"(b) If no written objections are made, the notice of any proposed adjustment shall be final after the period for requesting a conference or filing written objections has expired.

"(6) If no conference is requested, and the notice of proposed adjustment

has asserted a deficiency, the department shall consider any objections made by the person denied the refund, make a determination of any issues raised, pay any refunds found due, with applicable interest, or assess any deficiency and mail a notice thereof within one year from the date of the notice of deficiency, unless an extension of time is agreed upon as described in subsection (7) of this section.

"(7) If, prior to the expiration of any period of time prescribed in subsection (6) of this section for giving of notice of assessment, the department and the person consent in writing to the deficiency being assessed after the expiration of such prescribed period, such deficiency may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period agreed upon.

"(8) If the department refunds the amount requested as provided in subsection (3) of this section, without examination or audit of the refund claim, the department shall give notice of this to the claimant at the time of making the refund. Thereafter, the department shall have one year in which to examine or audit the refund claim, and send the notice of proposed adjustment provided for in subsection (3) of this section, in addition to any time permitted in ORS 314.410 or 314.415.

"(9) The failure to hold a requested conference within the one-year period prescribed in subsection (4) of this section shall not invalidate any assessment of deficiency made within the one-year period pursuant to subsection (8) of this section or within any extension of time made pursuant to subsection (7) of this section, but shall invalidate any assessment of interest or penalties attributable to the deficiency. After an assessment has been made, the department and the person assessed may still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day period under ORS 305.280 (2) shall run from the date of the conference officer's written determination of the issues.

"(10) The claimant may appeal any notice of proposed adjustment, refund denial or notice of assessment in the manner provided in ORS 305.404 to 305.560. The failure to file written objections or to request or have a conference shall not affect the rights of appeal so provided. All notices and determinations shall set forth rights of appeal.

**"SECTION 35.** ORS 305.280 is amended to read:

"305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred, or the order or determination has been made. An appeal under ORS 308.505 to 308.681 shall be filed within 90 days after the date the order is issued under ORS 308.584 (3). An appeal from a supervisory order or other order or determination of the Department of Revenue shall be filed within 90 days after the date a copy of the order or determination or notice of the order or determination has been served upon the appealing party by mail as provided in ORS 306.805.

"(2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318, 321 or this chapter **or sections 3 to 23 of this 2017 Act**, or collected pursuant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final.

"(3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes imposed under ORS chapter 314, 316, 317 or 318 **or sections 3 to 23 of this 2017 Act** may be filed within two years after the date the amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

"(4) Except as provided in subsection (2) of this section or as specifically

provided in ORS chapter 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of property tax appeals shall be filed within 30 days after the date of the notice of the determination made by the department or date of mailing of the order, date of publication of notice of the order, date the order is personally delivered to the taxpayer or date of mailing of the notice of the order to the taxpayer, whichever is applicable.

"(5) If the tax court denies an appeal made pursuant to this section on the grounds that it does not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a written decision rejecting the petition and shall set forth in the decision the reasons the tax court considered the appeal to be defective.

**"SECTION 36.** ORS 305.380 is amended to read:

"305.380. As used in ORS 305.385:

"(1) 'Agency' means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

"(2) 'License' means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

"(3) 'Provider' means any person who contracts to supply goods, services or real estate space to an agency.

"(4) 'Tax' means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and **sections 3 to 23 of this 2017 Act and** local taxes administered by the Department of Revenue under ORS 305.620.

**"SECTION 37.** ORS 305.419 is amended to read:

"305.419. (1) Except as provided in subsection (3) of this section, in any appeal from an order, act, omission or determination of the Department of Revenue involving a deficiency of taxes [*imposed upon or measured by net income*] **as prescribed in ORS 305.265**, the tax assessed, and all penalties

and interest due, shall be paid to the department on or before the filing of a complaint with the regular division of the Oregon Tax Court under ORS 305.560 or within 30 days after entry of an order specially designating a complaint for hearing in the regular division under ORS 305.501. If a dispute exists as to whether the matter involves a deficiency of taxes [*imposed upon or measured by net income*] **as prescribed in ORS 305.265**, the tax assessed and all penalties and interest shall be paid within 30 days after entry of a decision or order finding that the matter involves a deficiency of taxes [*imposed upon or measured by net income*] **as prescribed in ORS 305.265**. The complaint shall be filed as a claim for refund.

"(2) Penalty and interest due under subsection (1) of this section are the amounts stated in the order, notice of assessment, notice of refund denial or proposed adjustment under ORS 305.270 by the department from which the appeal is taken.

"(3) Where payment of the tax, penalty and interest would be an undue hardship, plaintiff may file an affidavit alleging undue hardship within the time described in subsection (1) of this section. A plaintiff's failure to file an affidavit alleging hardship is not grounds for dismissal of the complaint, provided the plaintiff files the affidavit within 30 days after receiving notice of lack of an affidavit alleging undue hardship from the court. If the tax court finds undue hardship, the tax court judge may stay all or any part of the payment of tax, penalty and interest required under subsection (1) of this section. If the tax court judge finds no undue hardship, the tax court judge may grant the plaintiff up to 30 days from the date of determination to pay the tax, penalty and interest. Failure by the plaintiff to pay the tax, penalty and interest or to establish undue hardship will be cause for dismissing the complaint.

"(4) If, in any appeal to the Oregon Tax Court for which payment of tax, penalty and interest assessed is required before filing of a complaint, the tax court orders that all or any part of the amount paid be refunded by the de-

partment, the amount so ordered to be refunded shall bear interest at the rate established for refunds in ORS 305.220. Interest shall be computed from the date of payment to the department.

**"SECTION 38.** ORS 305.565 is amended to read:

"305.565. (1) Except as provided in subsection (2) of this section, proceedings for the collection of any taxes, interest or penalties resulting from an assessment of additional taxes imposed by ORS chapter 118, 310, 314, 316, 317, 318, 321 or this chapter **or sections 3 to 23 of this 2017 Act** shall be stayed by the taking or pendency of any appeal to the tax court.

"(2) Notwithstanding subsection (1) of this section, the Department of Revenue may proceed to collect any taxes, interest or penalties described in subsection (1) of this section if the department determines that collection will be jeopardized if collection is delayed or that the taxpayer has taken a frivolous position in the appeal. For purposes of this subsection:

"(a) Collection of taxes, interest or penalties will be jeopardized if the taxpayer designs quickly to depart from the state or to remove the taxpayer's property from the state, or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax.

"(b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS 316.992 (5).

"(3) No proceeding for the apportionment, levy or collection of taxes on any property shall be stayed by the taking or pendency of any appeal to the tax court, or from an order of the county board of property tax appeals or the Oregon Tax Court, unless the assessor or tax collector either as a party to the suit or an intervenor, requests a stay and it appears to the satisfaction of the court that a substantial public interest requires the issuance of a stay.

"(4) The tax court may, as a condition of a stay, require the posting of a bond sufficient to guarantee payment of the tax. Payment of taxes while appeal is pending shall not operate as a waiver of the appeal or of a right to refund of taxes found to be excessively charged or assessed.

**"SECTION 39.** ORS 305.645 is amended to read:

"305.645. If a political subdivision of this state imposes a tax on or measured by income as determined under ORS chapter 316[*, 317 or 318*] **or section 11 of the Internal Revenue Code**, the Department of Revenue shall provide to the political subdivision, at the request of the political subdivision, collection, enforcement, administration and distribution services for the tax in the manner provided in ORS 305.620.

**"SECTION 40.** ORS 305.850 is amended to read:

"305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 and 305.610, the [*Director of the*] Department of Revenue may engage the services of a collection agency to collect any taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by ORS chapter 118, 310, 314, 316, 317, 318, 321 or 323 or ORS 320.005 to 320.150 **or sections 3 to 23 of this 2017 Act** and any other tax laws administered by the department [*of Revenue*]. The [*director*] **department** may engage the services of a collection agency by entering into an agreement to pay reasonable charges on a contingent fee or other basis.

"(2) The [*director*] **department** shall cause to be collected, in the same manner as provided in subsection (1) of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected pursuant to this subsection shall be credited as provided in ORS 293.250.

"(3) The [*director*] **department** may assign to the collection agency, for collection purposes only, any of the taxes, penalties, interest and moneys due the state.

"(4) The collection agency may bring such action or take such proceedings, including but not limited to attachment and garnishment proceedings, as may be necessary.

**"SECTION 41.** ORS 305.992 is amended to read:

"305.992. (1) If any returns required to be filed under ORS 475B.700 to 475B.760 or ORS chapter 118, 314, 316, 317, 318, 321 or 323 **or sections 3 to**

**23 of this 2017 Act** or under a local tax administered by the Department of Revenue under ORS 305.620 are not filed for three consecutive years by the due date (including extensions) of the return required for the third consecutive year, there shall be a penalty for each year of 100 percent of the tax liability determined after credits and prepayments for each such year.

"(2) The penalty imposed under this section is in addition to any other penalty imposed by law. However, the total amount of penalties imposed for any taxable year under this section, ORS 305.265 (13), 314.400, 323.403, 323.585 or 475B.755 may not exceed 100 percent of the tax liability.

**"SECTION 42.** ORS 308A.071 is amended to read:

"308A.071. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a farm parcel that is not within an area zoned for exclusive farm use is not used exclusively for farm use unless all of the prerequisites of subsections (2) to (5) of this section are met.

"(2)(a) Except as provided in subsection (6) of this section, in three out of the five full calendar years immediately preceding the assessment date, the farmland or farm parcel was operated as a part of a farm unit that has produced a gross income from farm uses in the following amount for a calendar year:

"(A) If the farm unit consists of 6-1/2 acres or less, the gross income from farm use shall be at least $650.

"(B) If the farm unit consists of more than 6-1/2 acres but less than 30 acres, the gross income from farm use shall be at least equal to the product of $100 times the number of acres and any fraction of an acre of land included.

"(C) If the farm unit consists of 30 acres or more, the gross income from farm use shall be at least $3,000.

"(b) For purposes of determining the number of acres to be considered under paragraph (a) of this subsection, the land described in ORS 308A.056 (3) and the land, not exceeding one acre, used as a homestead shall not be

included.

"(c) If a farm parcel is operated as part of a farm unit and the farmland of the farm unit is not all under the same ownership, the gross income requirements applicable to the farm parcel shall be as provided under paragraph (a) of this subsection. In addition, the gross income from farm use of a farm parcel described under this paragraph must be at least:

"(A) One-half of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit; or

"(B) A cash or net share crop rental of one-quarter of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit. For purposes of this subparagraph, 'net share crop rental' means the value of any crop received by the owner of the farm parcel less any costs borne by the owner of the farm parcel.

"(3) [*Excise or income*] Tax returns are filed [*with the Department of Revenue*] for purposes of ORS chapter 316[*, 317 or 318*] **or section 11 of the Internal Revenue Code** by the farmland owner or the operator of the farm unit that include a Schedule F and, if applicable, by the owner of a farm parcel that include a schedule or schedules showing rental income received by the owner of the farm parcel, during the years to which the income requirements of this section apply.

"(4) Upon request, a copy of the returns or the schedules of the returns showing the gross income received from farm use is furnished by the taxpayer to the county assessor.

"(5) The burden of proving the gross income of the farm unit for the years described in subsection (2) of this section is upon the person claiming special assessment for the land.

"(6) The failure of a farm unit to produce the amount of gross income required by subsection (2) of this section shall not prevent the farm unit from

meeting the qualifications of this section if:

"(a) The failure is because:

"(A) The effect of flooding substantially precludes normal and reasonable farming during the year; or

"(B) Severe drought conditions are declared under ORS 536.700 to 536.780; and

"(b) The farm unit produces the required amount of gross income in three out of the last five nonflood or nondrought years.

"(7) As used in this section:

"(a) 'Farm parcel' means the contiguous land under the same ownership, whether assessed as one or more than one tax lot.

"(b) 'Gross income' includes the value of any crop or livestock that is used by the owner personally or in the farming operation of the owner, but does not include:

"(A) The value of any crop or livestock so used unless records accurately reflecting both value and use of the crop or livestock are kept by the owner in a manner consistent with generally accepted accounting principles; and

"(B) The purchase cost of livestock.

"(c) 'Owner' or 'ownership' means any person described under ORS 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an owner as tenant in common or other joint ownership interest.

**"SECTION 43.** ORS 311.473 is amended to read:

"311.473. **(1) As used in this section:**

**"(a) 'Financial institution' means a person, corporation or other business entity that is any of the following:**

**"(A) A bank holding company under the laws of this state or under the federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq., as amended.**

**"(B) A savings and loan holding company under the National Housing Act, 12 U.S.C. 1701 et seq., as amended.**

**"(C) A national bank organized and existing as a national bank association under the National Bank Act, 12 U.S.C. 21 et seq., as amended.**

**"(D) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.**

**"(E) A bank or thrift institution incorporated or organized under the laws of any state.**

**"(F) An entity organized under the provisions of 12 U.S.C. 611 to 631, as amended.**

**"(G) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101, as amended.**

**"(H) A state credit union with loan assets that exceed $50,000,000 as of the first day of the tax year of the state credit union.**

**"(I) A production credit association subject to 12 U.S.C. 2071 et seq., as amended.**

**"(J) A corporation, more than 50 percent of the voting stock of which is owned, directly or indirectly, by a person, corporation or other business entity described in subparagraphs (A) to (I) of this paragraph, provided that the corporation is not an insurer taxable under section 3 to 23 of this 2017 Act.**

**"(K) An entity that is not otherwise described in this subsection and that derives more than 50 percent of its gross income from activities that a person, corporation or entity described in subparagraph (C), (D), (E), (F), (G), (H), (I) or (L) of this paragraph is authorized to conduct, not taking into account any income derived from nonrecurring extraordinary sources.**

**"(L) A person that derives at least 50 percent of the person's annual average gross income, for financial accounting purposes for the current tax year and the two preceding tax years, from finance leases, excluding any gross income from incidental or occasional transactions.**

**For purposes of this subparagraph, 'finance lease' means:**

**"(i) A lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks of the ownership of the leased property;**

**"(ii) A direct financing lease or a leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13; or**

**"(iii) Any other lease that is accounted for as a financing by a lessor under generally accepted accounting principles.**

**"(b) 'Financial institution' does not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS 723.001 or a federal credit union.**

"[*(1)*] **(2)** Any financial institution[*, as defined in ORS 317.010,*] or agent or representative of a financial institution, that, in the process of foreclosing any security interest or other lien on taxable personal property, including property classified as real property machinery and equipment, or after the lien is foreclosed, causes the property to be removed, or is knowledgeable that the property will be removed by another after the foreclosure sale, from the county in which the property is assessed or seized, shall notify the tax collector of that county prior to the removal. The notice shall be mailed to the tax collector, return receipt requested, and shall contain a description of the property that is the subject of the foreclosure, together with the name and address of the owner or owners of the property.

"[*(2)*] **(3)** Failure to give the notice required under subsection [*(1)*] **(2)** of this section shall not affect the foreclosure, but the tax collector shall have recourse against the financial institution on behalf of the taxing units for any damages sustained on account of failure to mail the notice.

**"SECTION 44.** ORS 314.011, as amended by section 17, chapter 33, Oregon Laws 2016, is amended to read:

"314.011. (1) As used in this chapter, unless the context requires other-

wise, 'department' means the Department of Revenue.

"(2) As used in this chapter:

"(a) Any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter.

"(b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

"(A) On December 31, 2015; or

"(B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

"(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260 (1)(b), [*314.265 (1)(b),*] 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412[*, 314.525, 314.742 (7), 314.750*] and 314.752 and other provisions of this chapter, except those described in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, 2015, even when the amendments take effect or become operative after that date, except where the Legislative Assembly has specifically provided otherwise.

"(3) Insofar as is practicable in the administration of this chapter, the department shall apply and follow the administrative and judicial interpretations of the federal income tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two or more federal courts, the department shall follow the rule observed by the United States Commissioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of the department to audit the return

of any taxpayer or to determine any fact relating to the tax liability of any taxpayer.

"(4) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury, then such rules or regulations shall be regarded as rules adopted by the department under and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

"(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section are later corrected by an Act or a Title within an Act of the United States Congress designated as an Act or Title making technical corrections, then notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title), as if originally included in the provisions of the Act being technically corrected. If, on account of this subsection, any adjustment is required to an Oregon return that would otherwise be prevented by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the manner provided under ORS 314.135.

"(b) As used in this subsection, 'Act or Title' includes any subtitle, division or other part of an Act or Title.

**"SECTION 45.** ORS 314.135 is amended to read:

"314.135. (1)(a) In computing the amount of an adjustment under ORS 314.105 to 314.135 there shall first be ascertained the tax previously determined for the taxable year with respect to which the error was made. The amount of the tax previously determined shall be the excess of:

"(A) The sum of the amount shown as the tax by the taxpayer on the re-

turn of the taxpayer, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus the amounts previously assessed (or collected without assessment) as a deficiency, over

"(B) The amount of refunds (as defined in ORS 314.415) made.

"(b) There shall then be ascertained the increase or decrease in tax previously determined which results solely from the correct treatment of the item in the computation of gross income, taxable income, and other matters under ORS 316.317 or [*ORS chapter 317 or 318*] **sections 3 to 23 of this 2017 Act**. A similar computation shall be made for any other taxable year affected, or treated as affected, by an Oregon net loss for prior years [*(as provided by ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws 1987)*], by a net operating loss deduction (as defined in the federal Internal Revenue Code) or by a capital loss carryback or carryover (as defined in the federal Internal Revenue Code) determined with reference to the taxable year with respect to which the error was made. The amount so ascertained (together with any amounts wrongfully collected as additions to the tax or interest, as a result of such error) for each taxable year shall be the amount of the adjustment for that taxable year.

"(2) The adjustment authorized in ORS 314.115 (1) shall be made by assessing and collecting, or refunding or crediting, the amount thereof in the same manner as if it were a deficiency determined by the Department of Revenue with respect to the taxpayer as to whom the error was made or an overpayment claimed by such taxpayer, as the case may be, for the taxable year or years with respect to which an amount is ascertained under subsection (1) of this section and as if on the date of the determination one year remained before the expiration of the periods of limitation upon assessment or filing claim for refund for such taxable year or years. If, as a result of a determination described in ORS 314.105 (1)(d), an adjustment has been made by the assessment and collection of a deficiency of the refund or credit of an overpayment, and subsequently such determination is altered or revoked,

the amount of the adjustment ascertained under subsection (1) of this section shall be redetermined on the basis of such alteration or revocation and any overpayment or deficiency resulting from such redetermination shall be refunded or credited, or assessed and collected, as the case may be, as an adjustment under this part. In the case of an adjustment resulting from an increase or decrease in a net operating loss or net capital loss which is carried back to the year of adjustment, interest [*shall*] **may** not be collected or paid for any period prior to the close of the taxable year in which the net operating loss or net capital loss arises.

"(3) The amount to be assessed and collected in the same manner as a deficiency, or to be refunded or credited in the same manner as an overpayment, under ORS 314.105 to 314.135, shall not be diminished by any credit or setoff based upon any item other than the one which was the subject of the adjustment. The amount of the adjustment under ORS 314.105 to 314.135, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item other than the one which was the subject of the adjustment.

**"SECTION 46.** ORS 314.260 is amended to read:

"314.260. (1)(a) An entity described in section 860D of the Internal Revenue Code (a real estate mortgage investment conduit or REMIC) is not subject to a tax under ORS chapter 316[*, 317 or 318 (*] **or sections 3 to 23 of this 2017 Act** and may not be treated as a corporation, partnership or trust for purposes of ORS chapter 316[*, 317 or 318)*] **or sections 3 to 23 of this 2017 Act**.

"(b) If a REMIC engages in a prohibited transaction as defined in section 860F(a)(2) of the Internal Revenue Code, the REMIC shall be subject to a tax equal to six and six-tenths percent of the net income derived from the prohibited transaction. The tax imposed under this paragraph shall be assessed and collected under this chapter and ORS chapter 305 and shall be credited to the General Fund to be made available for general governmental expenses.

"(2) The income of any REMIC shall be taxable to the holders of the interests in the REMIC under ORS chapter 316[*, 317 or 318,*] **or sections 3 to 23 of this 2017 Act,** whichever is applicable.

"(3) Taxable income or loss with respect to income received as the holder of any interest in a REMIC shall be determined under sections 860A to 860G of the Internal Revenue Code.

"(4) To determine the portion of the income of a REMIC that is taxable to a nonresident holder of an interest in the REMIC, there shall be included only that part derived from or connected with sources in this state, as such part is determined under rules adopted by the Department of Revenue in accordance with the general rules in ORS 316.352 (1987 Replacement Part).

**"SECTION 47.** ORS 314.276 is amended to read:

"314.276. (1) The method of accounting of a partnership, REMIC (real estate mortgage investment conduit)[*, FASIT (financial asset securitization investment trust)*] or taxpayer shall be the same as the method of accounting which the partnership, REMIC[*, FASIT*] or taxpayer uses for federal income tax purposes for the taxable year.

"(2) Notwithstanding subsection (1) of this section, if the method of accounting used by the partnership, REMIC[*, FASIT*] or taxpayer does not clearly reflect income, the computation of taxable income shall be made under such method as the Department of Revenue may prescribe.

"(3) If the method of accounting is changed for federal income tax purposes, the partnership, REMIC[*, FASIT*] or taxpayer shall adopt the same method of accounting for purposes of ORS chapter 316[*, 317 or 318*] **or sections 3 to 23 of this 2017 Act** and shall use that method beginning with the return filed which corresponds to the first federal return filed which is required to use the new method. Any adjustments required to prevent amounts from being duplicated or omitted shall be taken into account for state tax purposes in the same manner as for federal tax purposes.

"(4) Subsections (1) and (3) of this section [*shall*] **do** not apply with re-

spect to methods of accounting which are disallowed for purposes of ORS chapter 316[*, 317 or 318*] **or sections 3 to 23 of this 2017 Act**.

**"SECTION 48.** ORS 314.287 is amended to read:

"314.287. (1) In the computation of state taxable income, costs allocable to inventory shall be the same as those allocable to inventory under section 263A of the Internal Revenue Code as of the close of the tax year for which a return is filed and shall not be adjusted for any addition, subtraction, modification or other adjustment contained in this chapter or ORS chapter 316[*, 317 or 318*] or other law governing the imposition of state taxes imposed upon or measured by net income.

"(2) If any provision of ORS chapter 316[*, 317 or 318*] appears to require an adjustment to inventory costs contrary to the provisions of this section, that adjustment shall not be made.

"(3) The additions, subtractions, modifications or other adjustments to federal taxable income required in determining Oregon taxable income under ORS chapter 316[*, 317 or 318*] shall be made to federal taxable income notwithstanding that such adjustments are properly attributable to costs allocable to inventory.

**"SECTION 49.** ORS 314.300 is amended to read:

"314.300. For purposes of applying section 469 of the Internal Revenue Code to the laws of this state imposing taxes upon or measured by income:

"(1) Passive activity loss shall be determined with respect to the activities of the taxpayer under section 469 of the Internal Revenue Code and related federal law and then shall be adjusted by the additions, subtractions, modifications and other adjustments as allocated to passive activity loss under subsection (2) of this section.

"(2) Those additions, subtractions, modifications and other adjustments required to be made to federal taxable income under this chapter or ORS **chapter 316** [*chapters 316, 317 and 318*], or other law governing the imposition of state taxes imposed upon or measured by income, shall be allocated

to passive activity loss as provided by rule of the Department of Revenue.

"(3) Passive activity loss, as determined under subsections (1) and (2) of this section, shall not be allowed for the taxable year of the taxpayer. Passive activity loss shall be treated as a deduction allocable to passive activity in the next succeeding year, and except as otherwise adjusted under subsection (1) of this section, shall be treated in the same manner as passive activity loss is treated under section 469 of the Internal Revenue Code, and related sections.

"(4) For state personal income tax purposes, in the case of a nonresident, passive activity loss attributable to Oregon sources shall be treated in the same manner as described under subsections (1) to (3) of this section.

**"SECTION 50.** ORS 314.302 is amended to read:

"314.302. (1) Subject to subsections (2) to (4) of this section, if interest on deferred tax liability with respect to an installment obligation is required to be paid for federal income tax purposes under section 453A of the Internal Revenue Code, then interest on that same deferred tax liability shall be paid in the same manner (including the pledging rules under section 453A(d) of the Internal Revenue Code) for state tax purposes and shall, in the amount added, increase the tax imposed under ORS chapter 316[*, 317 or 318, whichever is appropriate*].

"(2) Interest added to tax pursuant to subsection (1) of this section shall be determined in the same manner as interest is determined under section 453A(c) of the Internal Revenue Code except that in determining the interest to be added using section 453A(c) of the Internal Revenue Code:

"(a) The interest rate in effect under ORS 305.220 for deficiencies for the month with or within which the taxable year of the taxpayer ends shall be substituted for the underpayment rate referred to in section 453A(c)(2)(B); and

"(b) The maximum rate of tax in effect under ORS chapter 316[*, 317 or 318, whichever is appropriate,*] shall be substituted for the federal rates of tax

referred to in section 453A(c)(3)(B).

"(3) The Department of Revenue shall adopt rules consistent with those adopted under section 453A of the Internal Revenue Code and with laws of this state as may be necessary to carry out the provisions of this section, including rules providing for the application of this subsection in the case of contingent payments, short taxable years, pass-through entities and derivation, attribution or apportionment of installment obligations or income from installment obligations.

"(4) In the case of a nonresident subject to taxation under ORS chapter 316, in determining whether or not interest is to be added to tax under this section, and the amount of interest to be added, only those installment obligations that arise from dispositions of property in this state shall be taken into consideration.

"(5) For purposes of determining interest under ORS 314.395 or penalties under ORS 314.400 or other law, and for purposes of refund, estimated and other prepayments of tax, credits and all other purposes, the interest added under this section shall be considered as any other increase in the tax imposed under ORS chapter 316[*, 317 or 318, whichever is appropriate*].

"(6) The interest added to tax imposed under this section shall be assessed and collected under the applicable provisions of this chapter and ORS chapters 305[,] **and** 316[*, 317 and 318*] and shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

**"SECTION 51.** ORS 314.364 is amended to read:

"314.364. (1) As used in this section:

"(a) 'Electronic means' includes computer-generated electronic or magnetic media, Internet-based applications or similar computer-based methods or applications.

"(b) 'Paid tax preparer' means a person who prepares a tax return for

another or advises or assists in the preparation of a tax return for another, or who employs or authorizes another to do the same, for valuable consideration.

"(c) 'Tax return' means a return filed under ORS chapter 314[,] **or** 316[*, 317 or 318*] **or sections 3 to 23 of this 2017 Act**.

"(2) The Department of Revenue may by rule**:**

**"(a)** Require a paid tax preparer to file tax returns by electronic means if the paid tax preparer is required to file federal tax returns by electronic means.

"[*(3)*] **(b)** [*The department may by rule*] Require a corporation to file tax returns by electronic means if the corporation is required to file federal tax returns by electronic means.

"**(c) Require a taxpayer subject to the tax imposed under sections 3 to 23 of this 2017 Act to file tax returns by electronic means.**

"[*(4)*] **(d)** [*The department may by rule*] Establish exceptions to the electronic filing requirements of this section.

**"SECTION 52.** ORS 314.385, as amended by section 17a, chapter 33, Oregon Laws 2016, is amended to read:

"314.385. (1)(a) For purposes of ORS chapter 316, returns shall be filed with the Department of Revenue on or before the due date of the corresponding federal return for the tax year as prescribed under the Internal Revenue Code and the regulations adopted pursuant thereto.

"[*(b) For purposes of ORS chapters 317 and 318, returns shall be filed with the department on or before the 15th day of the month following the due date of the corresponding federal return for the tax year, as prescribed under the Internal Revenue Code and the regulations adopted pursuant thereto.*]

"**(b) For purposes of sections 3 to 23 of this 2017 Act, returns shall be filed with the department on or before the last day of the month following the close of the calendar quarter.**

"(c) The department may allow further time for filing returns equal in

length to the extension periods allowed under the Internal Revenue Code and its regulations.

"(d) If no return is required to be filed for federal income tax purposes, the due date or extension period for a return shall be the same as the due date, or extension period, would have been if the taxpayer had been required to file a return for federal income tax purposes for the tax year. [*However, the due date for returns filed for purposes of ORS chapter 317 or 318 shall be on or before the 15th day of the month following what would have been the federal return due date for the tax year.*]

"(2) There shall be annexed to the return a statement verified as provided under ORS 305.810 by a declaration of the taxpayer making the return to the effect that the statements contained therein are true.

"(3) Returns shall be in the form the department may, from time to time, prescribe. The department shall prepare blank forms for the returns and distribute them throughout the state. The forms shall be furnished the taxpayer upon request, but failure to receive or secure a form does not relieve the taxpayer from the obligation of making any return required by law.

"(4)(a) The department may by rule authorize the filing of a return in alternative formats to those described in subsection (3) of this section and may prescribe the conditions, requirements and technical standards for a filing under this subsection.

"(b) Notwithstanding subsections (1) to (3) of this section, the department may by rule prescribe a different due date for a return filed in an alternative format.

"(c) The policy of the Legislative Assembly in granting the department rulemaking authority under paragraph (b) of this subsection is to have the department prescribe due dates that mirror the due dates that apply to federal returns filed in alternative formats for federal tax purposes.

**"SECTION 53.** ORS 314.400 is amended to read:

"314.400. (1) If a taxpayer fails to file a report or return or fails to pay

a tax by the date on which the filing or payment is due, the Department of Revenue shall add to the amount required to be shown as tax on the report or return a delinquency penalty of five percent of the amount of the unpaid tax.

"(2) In the case of a report or return that is required to be filed annually or for a one-year period, if the failure to file the report or return continues for a period in excess of three months after the due date:

"(a) There shall be added to the amount of tax required to be shown on the report or return a failure to file penalty of 20 percent of the amount of the tax; and

"(b) Thereafter the department may send a notice and demand to the person to file a report or return within 30 days of the mailing of the notice. If after the notice and demand no report or return is filed within the 30 days, the department may determine the tax according to the best of its information and belief, assess the tax with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the department and give written notice of the determination and assessment to the person required to make the filing.

"(3) In the case of a report or return that is required to be filed more frequently than annually and the failure to file the report or return continues for a period in excess of one month after the due date:

"(a) There shall be added to the amount of tax required to be shown on the report or return a failure to file penalty of 20 percent of the amount of the tax; and

"(b) Thereafter the department may send a notice and demand to the person to file a report or return within 30 days of the mailing of the notice. If after the notice and demand no report or return is filed within the 30 days, the department may determine the tax according to the best of its information and belief, assess the tax with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the de-

partment and give written notice of the determination and assessment to the person required to make the filing.

"(4) Notwithstanding subsections (2) and (3) of this section, if a taxpayer is required to file a federal income tax return for a period of less than 12 months under section 443 of the Internal Revenue Code, the Oregon personal income or corporate excise or income tax return required to be filed for that period shall be subject to subsection (2) of this section.

"(5) If a report or return that is subject to a failure to file penalty described in subsection (2) or (3) of this section is filed before a notice of determination and assessment is issued by the department, the failure to file penalty referred to in subsection (2)(a) or (3)(a) of this section shall be added to the amount of tax shown on the report or return.

"(6) A penalty equal to 100 percent of any deficiency determined by the department shall be assessed and collected if:

"(a) There is a failure to file a report or return with intent to evade the tax; or

"(b) A report or return was falsely prepared and filed with intent to evade the tax.

"(7) Interest shall be collected on the unpaid tax at the rate established under ORS 305.220 for each month or fraction of a month, computed from the time the tax became due, during which the tax remains unpaid.

"(8) Each penalty imposed under this section is in addition to any other penalty imposed under this section. However, the total amount of penalty imposed under this section and ORS 305.265 (13) with respect to any deficiency shall not exceed 100 percent of the deficiency.

"(9) For purposes of subsections (1) to (3) of this section, the amount of tax required to be shown or that is shown on the report or return shall be reduced by the amount that is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax that is claimed on the report or return. If the amount required to be shown as tax

on the report or return is less than the amount that is actually shown as tax on the report or return, this subsection shall be applied by substituting the lower amount.

"(10) Notwithstanding subsection (1) of this section, the five percent penalty for failure to file a report or return or pay a tax at the time the tax becomes due may not be imposed if:

"(a) The taxpayer pays the full amount of the tax plus accrued interest within 30 days of the date shown on the department's notice sent to the taxpayer; and

"(b)(A) The taxpayer had filed an amended individual tax return or an amended [*corporate return of income or excise tax*] **commercial activity tax return** accompanied by less than full payment of the tax shown on the return plus accrued interest; or

"(B) The department issues a notice of tax deficiency to the taxpayer under ORS 305.265.

**"SECTION 54.** ORS 314.403 is amended to read:

"314.403. (1) If a taxpayer has a listed transaction understatement for a tax year, there shall be added to the tax liability of the taxpayer for the tax year a penalty equal to 60 percent of the amount of the understatement.

"(2) The penalty imposed under this section applies to listed transaction understatements discovered or reported on or after January 1, 2008, and is in addition to and not in lieu of any other penalty.

"(3) As used in this section, 'listed transaction understatement' means the sum of:

"(a) The amount determined by multiplying the highest rate of tax imposed on the taxpayer under ORS chapter 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318,*] by any net increase in taxable income that results from a difference between the proper tax treatment of a listed transaction and the treatment of the transaction on the return of the taxpayer; and

"(b) The amount of any decrease in the aggregate amount of credits determined for purposes of ORS chapter 316 [*or, if the taxpayer is a corporation, for purposes of ORS chapter 317 or 318,*] that results from the taxpayer's treatment of a listed transaction and the proper tax treatment of that transaction.

"(4) The Department of Revenue may by rule further define 'listed transaction understatement' consistent with ORS 314.307 and subsection (3) of this section.

**"SECTION 55.** ORS 314.430 is amended to read:

"314.430. (1) If any tax imposed under ORS chapter 118[,] **or** 316[*, 317 or 318*] **or sections 3 to 23 of this 2017 Act** or any portion of the tax is not paid within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed (or within five days after the tax becomes due, in the case of the termination of the tax year by the Department of Revenue under the provisions of ORS 314.440), or any amount payable by a transferee under ORS 311.695 is not paid as required under ORS 311.686, and no provision is made to secure the payment thereof by bond, deposit or otherwise, pursuant to regulations promulgated by the department, the department may issue a warrant for the payment of the amount of the tax or amount payable under ORS 311.695, with the added penalties, interest and any collection charge incurred. A copy of the warrant shall be mailed or delivered to the taxpayer or transferee by the department at the taxpayer's or transferee's last-known address.

"(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer or transferee found within that county, and to levy upon any currency of the taxpayer or transferee found within

that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

"(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect taxes, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

"(4) Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for taxes against the taxpayer or for amounts payable by the transferee as if the state had recovered judgment against the taxpayer for the amount of the tax or against the transferee for the amount payable under ORS 311.695.

**"SECTION 56.** ORS 314.466 is amended to read:

"314.466. The provisions of ORS chapter 305 as to the audit and examination of reports and returns, [*determination of deficiencies, assessments, claims for refund, conferences and appeals to the Oregon Tax Court, and the procedures relating thereto, shall*] **periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto,** apply to the determination of taxes, penalties and interest imposed under this chapter and ORS chapters 315[,] **and** 316[*, 317 and 318*] **and sections 3 to 23 of this 2017 Act**, except where the context requires otherwise.

**"SECTION 57.** ORS 314.712 is amended to read:

"314.712. (1) Except as provided in ORS 314.722 or 314.723, a partnership as such is not subject to the tax imposed by ORS chapter 316[*, 317 or 318*]. Partnership income shall be computed pursuant to section 703 of the Internal Revenue Code, with the modifications, additions and subtractions provided in this chapter and ORS chapter 316. Persons carrying on business as partners are liable for the tax imposed by ORS chapter 316[*, 317 or 318*] on their distributive shares of partnership income only in their separate or individual capacities.

"(2) If a partner engages in a transaction with a partnership other than in the partner's capacity as a member of the partnership, the transaction shall be treated in the manner described in section 707 of the Internal Revenue Code.

"(3) If a partnership is an electing large partnership under section 775 of the Internal Revenue Code, the modifications of law applicable to an electing large partnership for federal tax purposes are applicable to the electing large partnership for purposes of the tax imposed by this chapter or ORS chapter 316[*, 317 or 318*].

**"SECTION 58.** ORS 314.714 is amended to read:

"314.714. (1) Each item of partnership income, gain, loss or deduction has the same character for a partner as it has for federal income tax purposes. If an item is not characterized for federal income tax purposes, it has the same character for a partner as if realized directly from the source from which realized by the partnership or incurred in the same manner as incurred by the partnership.

"(2) A partner's distributive share of an item of partnership income, gain, loss or deduction (or item thereof) shall be that partner's distributive share of partnership income, gain, loss or deduction (or item thereof) for federal income tax purposes as determined under section 704 of the Internal Revenue Code and adjusted for the modifications, additions and subtractions provided

in this chapter and ORS [*chapters 316, 317 and 318*] **chapter 316**.

"(3) A partner shall, on the partner's return, treat a partnership item in a manner that is consistent with the treatment of the partnership item on the partnership return, unless the partner notifies the Department of Revenue of the inconsistency. The department shall prescribe by rule the method for notification of an inconsistency. A partner of an electing large partnership under section 775 of the Internal Revenue Code must treat a partnership item in a manner that is consistent with the treatment of the partnership item on the partnership return.

**"SECTION 59.** ORS 314.716 is amended to read:

"314.716. (1) The adjusted basis of a partner's interest in a partnership shall be determined pursuant to the method described in sections 704(c)(1)(B)(iii), 705 and 733 of the Internal Revenue Code, and shall be increased or decreased as provided in this chapter and ORS chapter 316[*, 317 or 318*], whichever is applicable.

"(2) Upon the sale or exchange of an interest in a partnership, gain or loss shall be recognized to the transferor partner pursuant to section 741 of the Internal Revenue Code.

"(3) If a partnership elects to adjust the basis of its assets under section 754 of the Internal Revenue Code, then upon a transfer of an interest in the partnership by sale or exchange or upon a death of a partner, that election shall also be effective for Oregon income tax purposes.

**"SECTION 60.** ORS 314.722 is amended to read:

"314.722. (1) As used in this section, 'publicly traded partnership' means a partnership treated as a corporation for federal income tax purposes under section 7704 of the Internal Revenue Code for the tax year.

"(2) Persons carrying on business as partners in a publicly traded partnership are not subject to tax under ORS chapter 316[*, 317 or 318*] on their distributive shares of partnership income, but the publicly traded partnership is taxable as a corporation under [*ORS chapter 317 or 318 as provided under*

*ORS chapter 317 or 318*] **sections 3 to 23 of this 2017 Act**.

**"SECTION 61.** ORS 314.727 is amended to read:

"314.727. The Department of Revenue may disclose to a partner of a partnership those items of partnership gain, loss or other particulars relating to the partnership that are necessary to determine or administer the tax imposed by ORS chapter 316[*, 317 or 318*] if the department considers the disclosure necessary to facilitate the audit of the partner's income [*or excise*] tax return.

**"SECTION 62.** ORS 314.730 is amended to read:

"314.730. For purposes of this chapter and [*ORS chapters 316, 317 and 318*] **ORS chapter 316 and sections 3 to 23 of this 2017 Act**:

"(1) 'C corporation' means, with respect to any taxable year, a corporation which is not an S corporation for such year.

"(2) 'S corporation' means, with respect to any taxable year, a corporation for which an election under section 1362(a) of the Internal Revenue Code is in effect for such year.

**"SECTION 63.** ORS 314.732 is amended to read:

"314.732. (1) [*Except as otherwise provided in ORS 314.740, 314.742 and 317.090,*] An S corporation [*shall*] **is** not [*be*] subject to the taxes imposed by ORS chapter 316[*, 317 or 318*].

"(2)(a) Subject to paragraphs (b) to (d) of this subsection, the taxable income of an S corporation shall be computed pursuant to section 1363(b) of the Internal Revenue Code, with the modifications, additions and subtractions provided in this chapter and ORS chapter 316.

"(b) Except as otherwise provided under this chapter and ORS chapter 316[*, 317 or 318*], and except as inconsistent with ORS 314.730 to 314.752, subchapter C, chapter 1, Internal Revenue Code, shall apply to an S corporation and its shareholders for Oregon tax purposes. For Oregon tax purposes, the provisions of section 1371 of the Internal Revenue Code shall apply, subject to the modifications, additions and subtractions under this

chapter or ORS chapter 316[*, 317 or 318*] and any provisions to the contrary in this chapter or ORS chapter 316[*, 317 or 318*].

"(c) [*Notwithstanding ORS 317.476, 317.478 or 317.479,*] No carryforward, arising for a taxable year for which a corporation is a C corporation, may be carried to a taxable year for which such corporation is an S corporation.

"(d) [*Notwithstanding ORS 317.476 or other law,*] No carryforward, and no carryback, shall arise at the corporate level for a taxable year for which a corporation is an S corporation.

**"SECTION 64.** ORS 314.736 is amended to read:

"314.736. A distribution of property made by an S corporation with respect to its stock shall be treated in the manner provided under section 1368 of the Internal Revenue Code, subject to modifications, additions and subtractions under ORS chapter 316[*, 317 or 318*].

**"SECTION 65.** ORS 314.738 is amended to read:

"314.738. (1) For purposes of employee fringe benefits, and subject to this chapter and ORS chapters 305[*, 316, 317 and 318*] **and 316** and ORS 314.712 to 314.722, 314.726 and 316.124, section 1372 of the Internal Revenue Code shall apply to an S corporation and its shareholders.

"(2) For purposes of foreign income, and subject to this chapter and ORS chapters 305[*, 316, 317 and 318*] **and 316** and ORS 314.712 to 314.722, 314.726 and 316.124 **and sections 3 to 23 of this 2017 Act**, section 1373 of the Internal Revenue Code shall apply to an S corporation and its shareholders.

**"SECTION 66.** ORS 314.744 is amended to read:

"314.744. (1) Subject to subsection (2) of this section, if the Internal Revenue Code requires or permits an election or revocation to be made by an S corporation, then that election or revocation shall apply for Oregon tax purposes. If the Internal Revenue Code requires or permits an election or revocation to be made by a shareholder or shareholders of an S corporation, then that election or revocation shall apply for Oregon tax purposes.

"(2) The Department of Revenue may adopt rules that contravene sub-

section (1) of this section if the election or revocation does not carry out the purposes of this chapter and ORS chapter 305[,] **or** 316[*, 317 or 318*] **or sections 3 to 23 of this 2017 Act**.

**"SECTION 67.** ORS 314.749 is amended to read:

"314.749. The Department of Revenue may disclose to the shareholder of an S corporation those items of S corporation gain, loss or other particulars relating to the S corporation that are necessary to administer the tax imposed by ORS chapter 316[*, 317 or 318*] if the department considers the disclosure necessary to facilitate the audit of the shareholder's income tax return.

**"SECTION 68.** ORS 314.752 is amended to read:

"314.752. (1) [*Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation.*] The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

"(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on income of the shareholder of an S corporation, there shall be taken into account the shareholder's pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), recapture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

"(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

"(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident the credit

be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

"(5) As used in this section, 'business tax credit' means [*a tax credit granted to personal income taxpayers to encourage certain investment, to create employment, economic opportunity or incentive or for charitable, educational, scientific, literary or public purposes that is listed under this subsection as a business tax credit or is designated as a business tax credit by law or by the Department of Revenue by rule and includes but is not limited to*] the following credits: ORS 285C.309 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), **ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts),** ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic commerce) [*and ORS 315.533 (low income community jobs initiative).*]**, ORS 315.514 (film production development contributions), ORS 315.521 (university venture development funds), ORS 315.533 (low-income community jobs initiative) and ORS 315.675 (Trust for Cultural Development Account contributions).**

**"SECTION 69.** ORS 314.781 is amended to read:

"314.781. (1) A pass-through entity shall withhold tax as prescribed in this section if:

"(a) The pass-through entity has distributive income from Oregon sources; and

"(b) One or more owners of the entity are nonresidents and do not have other Oregon source income.

"(2) For each taxpayer described in subsection (1)(b) of this section who is subject to tax under ORS chapter 316, the entity shall withhold tax at the highest marginal rate applicable for the tax year under ORS 316.037. The withheld tax shall be computed based on the taxpayer's share of the entity's distributive income from Oregon sources for the entity's tax year.

"[*(3) For each corporation described in subsection (1)(b) of this section, the entity shall withhold tax at the rate applicable for the tax year under ORS 317.061 and 318.020. The tax shall be computed based on the corporation's share of the entity's distributive income from Oregon sources for the entity's tax year.*]

"[*(4)*] **(3)** A pass-through entity that is required to withhold tax under this section shall file a withholding return or report with the Department of Revenue setting forth the share of Oregon source distributive income of each nonresident owner, the amount of tax withheld under this section and any other information required by the department. The return shall be filed with the department on the form and in the time and manner prescribed by the department. Taxes withheld under this section shall be paid to the department in the time and manner prescribed by the department.

"[*(5)*] **(4)** A pass-through entity that is required to withhold tax under this section shall furnish a statement to each owner on whose behalf tax is withheld. The statement shall state the amount of tax withheld on behalf of the owner for the tax year of the entity. The statement shall be made on a form prescribed by the department and shall contain any other information required by the department.

"[*(6)*] **(5)** The department shall apply taxes withheld under this section by a lower-tier pass-through entity on distributions to an upper-tier pass-through entity to the withholding required by the upper-tier pass-through entity under this section.

"[*(7)*] **(6)** A pass-through entity is liable to the State of Oregon for amounts of tax required to be withheld and paid under this section. A pass-through entity is not liable to an owner of the pass-through entity for amounts required to be withheld under this section that were paid to the department as prescribed in this section.

**"SECTION 70.** ORS 314.784 is amended to read:

"314.784. (1) A pass-through entity is not required to withhold taxes under ORS 314.781 on behalf of a nonresident owner if:

"(a) The nonresident owner has a share of distributive income that is less than $1,000 for the tax year of the pass-through entity;

"(b) Withholding is not required pursuant to a rule adopted under this section;

"(c) The owner makes a timely election under ORS 314.778 to have taxes on the owner's distributive share of income paid and reported on the composite return described in ORS 314.778, and the composite return is filed by the pass-through entity;

"(d) The pass-through entity is a publicly traded partnership, as defined in section 7704(b) of the Internal Revenue Code, that is treated as a partnership for federal tax purposes and that agrees to file an annual information return on the form and in the time and manner prescribed by the Department of Revenue and containing the information required by the department, including but not limited to the name, address and taxpayer identification number of each person with an ownership interest in the entity that results in the person receiving Oregon source income of more than $500; or

"(e) The nonresident owner files an affidavit with the department, in the form and manner prescribed by the department, under which the nonresident owner agrees to allow the department and the courts of this state to have personal jurisdiction over the nonresident owner for the purpose of determining and collecting any taxes imposed under ORS chapter 316[*, 317 or*

*318*] that are attributable to the nonresident owner's distributive share of taxable income from the pass-through entity. The department may reject the affidavit if the taxpayer fails to comply with Oregon law requiring the filing of a tax return or the payment of any tax.

"(2) The department may adopt rules setting forth circumstances under which pass-through entities are not required to withhold taxes under ORS 314.781.

**"SECTION 71.** ORS 315.052 is amended to read:

"315.052. An income tax credit that is allowed under this chapter or ORS chapter 316[*, 317 or 318*] and that is transferable may be transferred or sold only once, unless expressly provided otherwise by statute.

**"SECTION 72.** ORS 315.054 is amended to read:

"315.054. No credits applied directly to the income tax calculated for federal purposes pursuant to the Internal Revenue Code shall be applied in calculating the tax due under ORS [*chapter*] **chapters** 314[,] **and** 316[*, 317 or 318*] except those prescribed in this chapter or ORS [*chapter*] **chapters** 314[,] **and** 316[*, 317 or 318*].

**"SECTION 73.** ORS 316.127 is amended to read:

"316.127. (1) The adjusted gross income of a nonresident derived from sources within this state is the sum of the following:

"(a) The net amount of items of income, gain, loss and deduction entering into the nonresident's federal adjusted gross income that are derived from or connected with sources in this state including (A) any distributive share of partnership income and deductions and (B) any share of estate or trust income and deductions; and

"(b) The portion of the modifications, additions or subtractions to federal taxable income provided in this chapter and other laws of this state that relate to adjusted gross income derived from sources in this state for personal income tax purposes, including any modifications attributable to the nonresident as a partner.

"(2) Items of income, gain, loss and deduction derived from or connected with sources within this state are those items attributable to:

"(a) The ownership or disposition of any interest in real or tangible personal property in this state;

"(b) A business, trade, profession or occupation carried on in this state; and

"(c) A taxable lottery prize awarded by the Oregon State Lottery, including a taxable lottery prize awarded by a multistate lottery association of which the Oregon State Lottery is a member if the ticket upon which the prize is awarded was sold in this state.

"(3) Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property, constitutes income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession or occupation carried on in this state.

"(4) Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gains, losses and deductions derived from or connected with sources in this state, under regulations to be prescribed by the Department of Revenue, but otherwise shall be determined in the same manner as the corresponding federal deductions.

"(5) Notwithstanding subsection (3) of this section:

"(a) The income of an S corporation for federal income tax purposes derived from or connected with sources in this state constitutes income derived from sources within this state for a nonresident individual who is a shareholder of the S corporation; and

"(b) A net operating loss of an S corporation derived from or connected with sources in this state constitutes a loss or deduction connected with sources in this state for a nonresident individual who is a shareholder of the S corporation.

"(6) If a business, trade, profession or occupation is carried on partly

within and partly without this state, the determination of net income derived from or connected with sources within this state shall be made by apportionment and allocation under ORS 314.605 to 314.675 **(2015 Edition)**.

"(7) Compensation paid by the United States for service in the Armed Forces of the United States performed by a nonresident does not constitute income derived from sources within this state.

"(8) Compensation paid to a nonresident for services performed by the nonresident at a hydroelectric facility does not constitute income derived from sources within this state if the hydroelectric facility:

"(a) Is owned by the United States;

"(b) Is located on the Columbia River; and

"(c) Contains portions located within both this state and another state.

"(9)(a) Retirement income received by a nonresident does not constitute income derived from sources within this state unless the individual is domiciled in this state.

"(b) As used in this section, 'retirement income' means retirement income as that term is defined in 4 U.S.C. 114, as amended and in effect for the tax period.

"(10) Compensation for the performance of duties described in this subsection that is paid to a nonresident does not constitute income derived from sources within this state if the individual:

"(a) Is engaged on a vessel to perform assigned duties in more than one state as a pilot licensed under 46 U.S.C. 7101 or licensed or authorized under the laws of a state; or

"(b) Performs regularly assigned duties while engaged as a master, officer or member of a crew on a vessel operating in the navigable waters of more than one state.

**"SECTION 74.** ORS 316.267 is amended to read:

"316.267. The tax imposed by this chapter on individuals applies to the taxable income of estates and trusts[*, except for trusts taxed as corporations*

*under ORS chapter 317 or 318*].

**"SECTION 75.** ORS 316.277 is amended to read:

"316.277. (1) An association, trust or other unincorporated organization that is taxable as a corporation for federal income tax purposes is not subject to tax under this chapter[*, but is taxable as a corporation under ORS chapter 317 or 318, or both, as provided therein*].

"(2) An association, trust or other unincorporated organization that is not taxable as a corporation for federal income tax purposes but by reason of its purposes or activities is exempt from federal income tax except with respect to its unrelated business taxable income, is taxable under this chapter on such federally taxable income.

**"SECTION 76.** ORS 316.695 is amended to read:

"316.695. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be added to or subtracted from federal taxable income:

"(a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions, as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized deductions are reduced under section 68 of the Internal Revenue Code).

"(b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard deduction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount of the standard deduction deducted.

"(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section, for purposes of this subparagraph, 'standard deduction' means the sum of the basic standard deduction and the additional standard deduction.

"(B) For purposes of subparagraph (A) of this paragraph, the basic

standard deduction is:

"(i) $3,280, in the case of joint return filers or a surviving spouse;

"(ii) $1,640, in the case of an individual who is not a married individual and is not a surviving spouse;

"(iii) $1,640, in the case of a married individual who files a separate return; or

"(iv) $2,640, in the case of a head of household.

"(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

"(ii) If any change in the maximum household income determined under this subparagraph is not a multiple of $5, the increase shall be rounded to the next lower multiple of $5.

"(iii) As used in this subparagraph, 'U.S. City Average Consumer Price Index' means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

"(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

"(E) As used in subparagraph (B) of this paragraph, 'surviving spouse' and 'head of household' have the meanings given those terms in section 2 of the Internal Revenue Code.

"(F) In the case of the following, the standard deduction referred to in subparagraph (A) of this paragraph shall be zero:

"(i) One of the spouses in a marriage filing a separate return where the other spouse has claimed itemized deductions under subparagraph (A) of this paragraph;

"(ii) A nonresident alien individual;

"(iii) An individual making a return for a period of less than 12 months on account of a change in the individual's annual accounting period;

"(iv) An estate or trust;

"(v) A common trust fund; or

"(vi) A partnership.

"(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the deduction for Oregon income tax **or the tax imposed under sections 3 to 23 of this 2017 Act** (reduced, if applicable, by the proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code).

"(2)(a) There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

"(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection may not be added to federal

taxable income in the year earned by the plan and may not be subtracted from federal taxable income in the year received by the taxpayer.

"(3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable income the amount of any federal income taxes in excess of the amount provided in paragraphs (b) to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

"(b) The limits applicable to this subsection are:

"(A) $5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than $125,000, or, if reported on a joint return, less than $250,000.

"(B) $4,400, if the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more and less than $130,000, or, if reported on a joint return, $250,000 or more and less than $260,000.

"(C) $3,300, if the federal adjusted gross income of the taxpayer for the tax year is $130,000 or more and less than $135,000, or, if reported on a joint return, $260,000 or more and less than $270,000.

"(D) $2,200, if the federal adjusted gross income of the taxpayer for the tax year is $135,000 or more and less than $140,000, or, if reported on a joint return, $270,000 or more and less than $280,000.

"(E) $1,100, if the federal adjusted gross income of the taxpayer for the tax year is $140,000 or more and less than $145,000, or, if reported on a joint return, $280,000 or more and less than $290,000.

"(c) If the federal adjusted gross income of the taxpayer is $145,000 or more for the tax year, or, if reported on a joint return, $290,000 or more, the limit is zero and the taxpayer is not allowed a subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

"(d) In the case of spouses in a marriage filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess

of 50 percent of the amount provided for individual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

"(e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

"(f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue shall make a cost-of-living adjustment to the federal income tax threshold amounts described in paragraphs (b) and (d) of this subsection.

"(B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

"(C) As used in this paragraph, 'U.S. City Average Consumer Price Index' means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

"(D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of $50, the adjustment shall be rounded to the next lower multiple of $50.

"(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

"(4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion provided in ORS 316.117.

"(b) In the case of spouses in a marriage filing separate tax returns, the

amount added under this subsection shall be computed in a manner consistent with the computation of the amount to be added in the case of spouses in a marriage filing separate returns under subsection (3) of this section. The method of computation shall be determined by the Department of Revenue by rule.

"(5) Subsections (3)(d) and (4)(b) of this section shall not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

"[*(6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.*]

"[*(b)*] **(6)(a)** For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder the items are required to be adjusted under the provisions of this chapter.

"[*(c)*] **(b)** The tax years referred to in [*paragraphs (a) and (b)*] **paragraph (a)** of this subsection are those of the S corporation.

"[*(d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small business corporation.*]

"(7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of $1,000:

"(A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax year; and

"(B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code.

"(b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of $1,000:

"(A) For the taxpayer if the taxpayer is blind at the close of the tax year; and

"(B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse dies during the tax year, the determination of whether such spouse is blind shall be made immediately prior to death.

"(c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a) and (b) of this subsection shall be applied by substituting '$1,200' for '$1,000.'

"(d) For purposes of this subsection, an individual is blind only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(8) In the case of an individual with respect to whom a deduction under section 151 of the Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax year beginning in the calendar year in which the individual's tax year begins, the basic standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such individual's tax year shall equal the lesser of:

"(a) The amount allowed to the individual under section 63(c)(5) of the

Internal Revenue Code for federal income tax purposes for the tax year for which the deduction is being claimed; or

"(b) The amount determined under subsection (1)(c)(B) of this section.

**"SECTION 77.** ORS 316.749 is amended to read:

"316.749. (1) In addition to the other modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income the amount of any dividend received by the taxpayer on or after January 1, 2013, from a domestic international sales corporation formed on or before January 1, 2014, and subject to the tax imposed under ORS 317.283 (2)(a) **(2015 Edition)**.

"(2) As used in this section, 'domestic international sales corporation' means a domestic international sales corporation as defined in section 992 of the Internal Revenue Code.

**"SECTION 78.** ORS 317.131 is amended to read:

"317.131. (1) For each tax year in which a taxpayer is allowed a credit under ORS 317.124, the Department of Revenue shall distribute to the local taxing districts in which the facility that is the basis of the credit is located an amount of tax payments that corresponds to the amount of payments deposited under ORS 317.129 **(2015 Edition)**.

"(2)(a) Amounts to be distributed under subsection (1) of this section shall be distributed to the local taxing districts of the code area in which the facility is located that are not school districts, education service districts, community college districts or community college service districts.

"(b) If the facility is located in more than one code area, amounts to be distributed under subsection (1) of this section shall be allocated to each code area in which the facility is located, based on the ratio of the real market value of the facility in each code area to the total real market value of the facility.

"(c) The amount distributed to each district under subsection (1) of this section shall be the amount that bears the same proportion to the total

amount to be distributed under this section as the proportion of the operating tax billing rate of the district receiving distribution bears to the total operating tax billing rate of all of the local taxing districts described in paragraph (a) of this subsection.

"(d) Notwithstanding paragraph (b) of this subsection, the amount distributed to a local taxing district under subsection (1) of this section for a fiscal year may not exceed the amount of property taxes forgone by that district as a result of the exemption from property tax under ORS 285C.409 in that year.

"(3) If any moneys described in subsection (1) of this section remain following computation of the distributions to local taxing districts under subsection (2) of this section, the moneys shall be distributed to the zone sponsor.

"(4) Distributions shall be made under this section on or before June 1 of each fiscal year.

**"SECTION 78a.** ORS 317.097, as amended by section 23, chapter 33, Oregon Laws 2016, is amended to read:

"317.097. (1) As used in this section:

"(a) 'Annual rate' means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

"(b) 'Finance charge' means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

"(c) 'Lending institution' means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

"(d) 'Manufactured dwelling park' has the meaning given that term in ORS 446.003.

"(e) 'Nonprofit corporation' means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2015.

"(f) 'Preservation project' means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

"(g) 'Qualified assignee' means any investor participating in the secondary market for real estate loans.

"(h) 'Qualified borrower' means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

"(i) 'Qualified loan' means:

"(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

"(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

"(j) 'Sponsoring entity' means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

"(2) The Department of Revenue shall allow a credit against taxes otherwise due under [*this chapter*] **sections 3 to 23 of this 2017 Act** for the tax-

able year to a lending institution that makes a qualified loan certified by the Housing and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

"(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a qualified loan that is made before January 1, 2020, that complies with the requirements of this section; and

"(b) The amount of finance charge that would have been charged during the taxable year by the lending institution for the qualified loan for housing construction, development, acquisition or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the qualified loan for housing construction, development, acquisition or rehabilitation is made.

"(3) The maximum amount of credit for the difference between the amounts described in subsection (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of the qualified loan during the tax year for which the credit is claimed.

"(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

"(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds,

as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

"(a) An individual or individuals who own a dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level when the loan is made of less than 80 percent of the area median income;

"(b) A qualified borrower who:

"(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

"(B) Provides a written certification executed by the Housing and Community Services Department that the:

"(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

"(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project;

"(c) Subject to subsection (14) of this section, a qualified borrower who:

"(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

"(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed; or

"(d) A qualified borrower who:

"(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a preservation project; and

"(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

"(i) Is or will be occupied by households earning less than 80 percent of the area median income; and

"(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower.

"(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this section must be treated the same as a loan that meets the criteria stated in subsection (5) of this section.

"(7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing and Community Services Department must execute a written certification for the qualified loan that:

"(a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan; and

"(b) States that the qualified loan is within the limitation imposed by subsection (8) of this section.

"(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed $17 million for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

"(9) The tax credit provided for in this section may be taken whether or not:

"(a) The financial institution is eligible to take a federal income tax

credit under section 42 of the Internal Revenue Code with respect to the project financed by the qualified loan; or

"(b) The project receives financing from bonds, the interest on which is exempt from federal taxation under section 103 of the Internal Revenue Code.

"(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the Internal Revenue Code, the amount of finance charge that would have been charged under subsection (2)(b) of this section is determined by reference to the finance charge that would have been charged if the federally tax exempt bonds had been issued and the tax credit under this section did not apply.

"(11) A lending institution may sell a qualified loan for which a certification has been executed to a qualified assignee whether or not the lending institution retains servicing of the qualified loan so long as a designated lending institution maintains records, annually verified by a loan servicer, that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

"(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

"(13) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for a tax credit under this section.

"(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified

borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be a nonprofit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority.

"(15) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

**"SECTION 79.** ORS 344.755 is amended to read:

"344.755. Training agents who terminate youth apprentices without cause as determined by the appropriate apprenticeship committee prior to completion of training or who violate ORS 344.745 or 344.750 or rules adopted pursuant thereto by the State Apprenticeship and Training Council or the Department of Education[*, upon notice to the Department of Revenue,*] may lose their eligibility [*for tax credits pursuant to ORS 318.031 and their eligibility*] to train and employ youth apprentices under ORS 344.745 to 344.757 for a period of one year.

**"SECTION 80.** ORS 401.690 is amended to read:

"401.690. (1) Disaster or emergency related work conducted by an out-of-state business may not be used as the sole basis for:

"(a) [*Notwithstanding ORS 317.018 and 317.080,*] A finding that the out-of-state business is doing business in this state;

"(b) Imposition of the taxes imposed under [*ORS 314.725 or*] ORS chapter 316 [*or 317*];

"(c) Notwithstanding ORS 60.704, 63.704, 65.704, 67.705 and 70.355, a requirement that the out-of-state business register with or obtain authority to transact business from the Secretary of State during the disaster response period; or

"(d) A requirement that the out-of-state business or an out-of-state employee comply with state or local business or professional licensing or registration requirements or state and local taxes or fees including

unemployment insurance, state or local occupational licensing fees and ad valorem tax on equipment brought into this state for use during the disaster response period and subsequently removed from this state.

"(2) For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business that is conducted in this state, or equipment brought into this state, pursuant to ORS 401.685 to 401.695 shall be disregarded with respect to [*the filing requirements of ORS 317.710 and 317.715 and*] the apportionment provisions of ORS 314.605 to 314.675. Receipts from disaster or emergency related work may not be sourced to and may not otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

"(3) For purposes of ORS chapter 316, an out-of-state employee is not taxed as a resident, nonresident or part-year resident and is not considered to have established domicile or residence in this state. Wages paid for disaster or emergency related work are not subject to the withholding provisions of ORS 316.162 to 316.221.

"(4) Out-of-state businesses and out-of-state employees shall be required to pay transaction taxes and fees including fuel taxes, transient lodging taxes, car rental taxes or applicable fees during the disaster response period, unless an exemption applies to the taxes or fees during the disaster response period.

"(5) Any out-of-state business that transacts business in this state or out-of-state employee who remains in this state after the end of the disaster response period will become subject to this state's normal standards for establishing domicile or residency or doing business in this state and will become responsible for any business or employee tax requirements that ensue.

"(6) ORS 401.990 does not apply to ORS 401.685 to 401.695.

**"SECTION 81.** ORS 461.560 is amended to read:

"461.560. (1) No state or local taxes shall be imposed upon the sale of lottery tickets or shares of the Oregon State Lottery established by this

chapter or any prize awarded by the state lottery established by this chapter that does not exceed $600. A prize awarded by the state lottery that is greater than $600 shall be subject to tax under ORS chapters 314 [*to 318*] **and 316** and any other applicable state or local tax. For purposes of this section, 'prize awarded by the state lottery' includes a prize awarded by a multistate lottery association of which the Oregon State Lottery is a member if the ticket upon which the prize is awarded was sold in this state.

"(2) A city, county or other political subdivision in this state may not impose, by charter provision or ordinance, or collect a tax that is imposed on lottery game retailers only and that is measured by or based upon the amount of the commissions or other compensation received by lottery game retailers for selling tickets or shares in lottery games. However, if a city, county or other political subdivision levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing authority an income, gross income or gross receipts tax, as otherwise provided by law, such tax may be levied or imposed upon lottery game retailers.

**"SECTION 82.** ORS 469.685 is amended to read:

"469.685. A dwelling owner served by an investor-owned utility, as defined in ORS 469.631, or a publicly owned utility, as defined in ORS 469.649, who applies for financing under the provisions of ORS 316.744[*, 317.386*] and 469.631 to 469.687, may use without obtaining a new energy audit an energy audit obtained from an energy supplier under chapter 887, Oregon Laws 1977, or a public utility under chapter 889, Oregon Laws 1977, before November 1, 1981.

**"SECTION 83.** ORS 469.687 is amended to read:

"469.687. ORS 316.744[*, 317.386*] and 469.631 to 469.687 shall be known as the Oregon Residential Energy Conservation Act.

**"SECTION 84.** ORS 526.450 is amended to read:

"526.450. ORS 315.104[*, 318.031*] and 526.450 to 526.475 may be cited as the 'Woodland Management Act of 1979.'

**"SECTION 85.** ORS 526.450, as amended by section 5, chapter 883, Oregon Laws 2007, is amended to read:

"526.450. ORS [*318.031 and*] 526.450 to 526.475 may be cited as the 'Woodland Management Act of 1979.'

**"SECTION 86.** ORS 526.455 is amended to read:

"526.455. As used in ORS 315.104[*, 318.031*] and 526.450 to 526.475, unless the context requires otherwise:

"(1) 'Approved forest management practice' means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management or such other young growth management practices that increase wood growth as the State Forester shall approve or determine proper generally with regard to any particular applicant.

"(2) 'Board' means State Board of Forestry.

"(3) 'Commercial forestland' means land for which a primary use is the growing and harvesting of forest tree species and other forest resource values.

"(4) 'Eligible owner' means any private individual, group, Indian tribe or other native group, association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commercial forestland.

"(5) 'Forest management plan' means an operation plan to reach landowner objectives and assures public benefits as they relate to producing timber and other values. It shall include a cover map, basic forest stand description data, treatment opportunities, landowner objectives and a schedule for implementing the forest management plan.

"(6) 'Forest management practices' means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management and other young growth management practices that increase wood growth.

"(7) 'Industrial private forestlands' means lands capable of producing

crops of industrial wood, greater than 10 acres and owned by other than an eligible owner.

"(8) 'Industrial wood' means forest products used to sustain a sawmill, plywood mill, pulp mill or other forest industry related manufacturing facility.

"(9) 'Landowner' means any private individual, group, Indian tribe or other native group, association, corporation or other legal entity, owning both the forestland and any timber thereon.

"(10) 'Nonindustrial private forestlands' means lands capable of producing crops of industrial wood and owned by an eligible owner.

"(11) 'State Forester' means the individual appointed pursuant to ORS 526.031, or the authorized representative of the State Forester.

"(12) 'Timber' means wood growth, mature or immature, growing or dead, standing or down of species acceptable for regeneration under the Oregon Forest Practices Act.

"(13) 'Underproductive forestlands' means commercial forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act.

**"SECTION 87.** ORS 526.455, as amended by section 6, chapter 883, Oregon Laws 2007, is amended to read:

"526.455. As used in ORS [*318.031 and*] 526.450 to 526.475, unless the context requires otherwise:

"(1) 'Approved forest management practice' means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management or such other young growth management practices that increase wood growth as the State Forester shall approve or determine proper generally with regard to any particular applicant.

"(2) 'Board' means State Board of Forestry.

"(3) 'Commercial forestland' means land for which a primary use is the growing and harvesting of forest tree species and other forest resource val-

ues.

"(4) 'Eligible owner' means any private individual, group, Indian tribe or other native group, association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commercial forestland.

"(5) 'Forest management plan' means an operation plan to reach landowner objectives and assures public benefits as they relate to producing timber and other values. It shall include a cover map, basic forest stand description data, treatment opportunities, landowner objectives and a schedule for implementing the forest management plan.

"(6) 'Forest management practices' means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management and other young growth management practices that increase wood growth.

"(7) 'Industrial private forestlands' means lands capable of producing crops of industrial wood, greater than 10 acres and owned by other than an eligible owner.

"(8) 'Industrial wood' means forest products used to sustain a sawmill, plywood mill, pulp mill or other forest industry related manufacturing facility.

"(9) 'Landowner' means any private individual, group, Indian tribe or other native group, association, corporation or other legal entity, owning both the forestland and any timber thereon.

"(10) 'Nonindustrial private forestlands' means lands capable of producing crops of industrial wood and owned by an eligible owner.

"(11) 'State Forester' means the individual appointed pursuant to ORS 526.031, or the authorized representative of the State Forester.

"(12) 'Timber' means wood growth, mature or immature, growing or dead, standing or down of species acceptable for regeneration under the Oregon Forest Practices Act.

"(13) 'Underproductive forestlands' means commercial forestlands not

meeting the minimum stocking standards of the Oregon Forest Practices Act.

**"SECTION 88.** ORS 526.465 is amended to read:

"526.465. The purpose of ORS 315.104[*, 318.031*] and 526.450 to 526.475 is to encourage long term forestry investments that lead to increased management of Oregon's forestlands by:

"(1) Providing the forest owner with tax relief during the timber growth period.

"(2) Promoting programs that provide forest credit on young stands and encourage harvesting of mature forest crops.

"(3) Promoting the establishment of new forest crops on cutover, denuded or underproductive privately owned forestlands.

"(4) Protecting the public interest by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild game.

**"SECTION 89.** ORS 526.465, as amended by section 7, chapter 883, Oregon Laws 2007, is amended to read:

"526.465. The purpose of ORS [*318.031 and*] 526.450 to 526.475 is to encourage long term forestry investments that lead to increased management of Oregon's forestlands by:

"(1) Promoting programs that provide forest credit on young stands and encourage harvesting of mature forest crops.

"(2) Promoting the establishment of new forest crops on cutover, denuded or underproductive privately owned forestlands.

"(3) Protecting the public interest by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild game.

**"SECTION 90.** ORS 526.475 is amended to read:

"526.475. (1) Any owner affected by a determination of the State Forester made under ORS 315.104[*, 318.031*] and 526.450 to 526.475 may appeal to the State Board of Forestry under such rules as it may adopt. An appeal to set aside any decision of the board with respect to ORS 315.104 [*or 318.031*] may be taken within 60 days of the decision to the Oregon Tax Court in the manner provided for tax cases under ORS chapter 305.

"(2) Any owner affected by a determination of the Department of Revenue made under ORS 315.104 [*or 318.031*] may appeal directly to the tax court under ORS 305.404 to 305.560.

**"SECTION 91.** ORS 526.475, as amended by section 8, chapter 883, Oregon Laws 2007, is amended to read:

"526.475. [*(1)*] Any owner affected by a determination of the State Forester made under ORS [*318.031 and*] 526.450 to 526.475 may appeal to the State Board of Forestry under such rules as it may adopt. [*An appeal to set aside any decision of the board with respect to ORS 318.031 may be taken within 60 days of the decision to the Oregon Tax Court in the manner provided for tax cases under ORS chapter 305.*]

"[*(2) Any owner affected by a determination of the Department of Revenue made under ORS 318.031 may appeal directly to the tax court under ORS 305.404 to 305.560.*]

**"SECTION 92.** ORS 701.106 is amended to read:

"701.106. (1) A contractor that violates or fails to comply with any of the following provisions or any rules adopted under those provisions is subject to the suspension of, revocation of, refusal to issue or refusal to renew a license, imposition of a civil penalty under ORS 701.992, or a combination of those sanctions:

"(a) ORS 87.007 (2).

"(b) ORS chapter 316 [*or 317*].

"(c) ORS 446.225 to 446.285.

"(d) ORS 446.395 to 446.420.

"(e) ORS 447.010 to 447.156.

"(f) ORS chapter 455.

"(g) ORS 460.005 to 460.175.

"(h) ORS 479.510 to 479.945.

"(i) ORS 480.510 to 480.670.

"(j) ORS chapter 656.

"(k) ORS chapter 657.

"(L) ORS 670.600.

"(m) ORS 671.510 to 671.760.

"(n) ORS chapter 693.

"**(o) Sections 3 to 23 of this 2017 Act.**

"(2) The imposition of a sanction under this section is subject to ORS 183.413 to 183.497.

**"SECTION 93.** ORS 731.840 is amended to read:

"731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and 731.859, or the [*corporate excise*] **commercial activity** tax imposed upon a foreign or alien insurer under [*ORS chapter 317*] **sections 3 to 23 of this 2017 Act**, is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes measured by income that might otherwise be imposed upon the foreign or alien insurer except the fire insurance premiums tax imposed under ORS 731.820 and the tax imposed upon wet marine and transportation insurers under ORS 731.824 and 731.828. However, all real and personal property, if any, of the insurer shall be listed, assessed and taxed the same as real and personal property of like character of noninsurers. Nothing in this subsection shall be construed to preclude the imposition of the assessments imposed under ORS 656.612 upon a foreign or alien insurer.

"(2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity as such.

"(3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS 731.824 and 731.828.

"(4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege, franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers and their insurance producers and other representatives as such, and:

"(a) No county, city, district, or other political subdivision or agency in this state shall so regulate, or shall levy upon insurers, or upon their insurance producers and representatives as such, any such tax, license or fee; except that whenever a county, city, district or other political subdivision levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or imposed upon domestic insurers; and

"(b) No county, city, district, political subdivision or agency in this state shall require of any insurer, insurance producer or representative, duly authorized or licensed as such under the Insurance Code, any additional authorization, license, or permit of any kind for conducting therein transactions otherwise lawful under the authority or license granted under this code.

**"SECTION 94.** ORS 743B.012 is amended to read:

"743B.012. (1) As a condition of transacting business in the small employer health insurance market in this state, a carrier shall offer small employers all of the carrier's health benefit plans, approved by the Department of Consumer and Business Services for use in the small employer market, for which the small employer is eligible.

"(2) A carrier shall issue to a small employer any health benefit plan that is offered by the carrier if the small employer applies for the plan and agrees to make the required premium payments and to satisfy the other provisions

of the health benefit plan.

"(3) A multiple employer welfare arrangement, professional or trade association or other similar arrangement established or maintained to provide benefits to a particular trade, business, profession or industry or their subsidiaries may not issue coverage to a group or individual that is not in the same trade, business, profession or industry as that covered by the arrangement. The arrangement shall accept all groups and individuals in the same trade, business, profession or industry or their subsidiaries that apply for coverage under the arrangement and that meet the requirements for membership in the arrangement. For purposes of this subsection, the requirements for membership in an arrangement may not include any requirements that relate to the actual or expected health status of the prospective enrollee.

"(4) A carrier shall, pursuant to subsection (2) of this section, accept applications from and offer coverage to a small employer group covered under an existing health benefit plan regardless of whether a prospective enrollee is excluded from coverage under the existing plan because of late enrollment. When a carrier accepts an application for a small employer group, the carrier may continue to exclude the prospective enrollee excluded from coverage by the replaced plan until the prospective enrollee would have become eligible for coverage under that replaced plan.

"(5) A carrier is not required to accept applications from and offer coverage pursuant to subsection (2) of this section if the department finds that acceptance of an application or applications would endanger the carrier's ability to fulfill its contractual obligations or result in financial impairment of the carrier.

"(6) A carrier shall actively market all health benefit plans that are offered by the carrier to small employers in the geographical areas in which the carrier makes coverage available or provides benefits.

"(7)(a) Subsection (2) of this section does not require a carrier to offer

coverage to or accept applications from:

"(A) A small employer if the small employer is not physically located in the carrier's approved service area;

"(B) An employee of a small employer if the employee does not work or reside within the carrier's approved service areas; or

"(C) Small employers located within an area where the carrier reasonably anticipates, and demonstrates to the department, that it will not have the capacity in its network of providers to deliver services adequately to the enrollees of those small employer groups because of its obligations to existing small employer group contract holders and enrollees.

"(b) A carrier that does not offer coverage pursuant to paragraph (a)(C) of this subsection may not offer coverage in the applicable service area to new employer groups other than small employers until the carrier resumes enrolling groups of new small employers in the applicable area.

"(8) For purposes of ORS 743B.010 to 743B.013, except as provided in this subsection, carriers that are affiliated carriers or that are eligible to file a consolidated tax return pursuant to [*ORS 317.715*] **section 5 of this 2017 Act** shall be treated as one carrier and any restrictions or limitations imposed by ORS 743B.010 to 743B.013 apply as if all health benefit plans delivered or issued for delivery to small employers in this state by the affiliated carriers were issued by one carrier. However, any insurance company or health maintenance organization that is an affiliate of a health care service contractor located in this state, or any health maintenance organization located in this state that is an affiliate of an insurance company or health care service contractor, may treat the health maintenance organization as a separate carrier and each health maintenance organization that operates only one health maintenance organization in a service area in this state may be considered a separate carrier.

"(9) A carrier that elects to discontinue offering all of its health benefit plans to small employers under ORS 743B.013 (3)(e) or elects to discontinue

renewing all such plans is prohibited from offering health benefit plans to small employers in this state for a period of five years from one of the following dates:

"(a) The date of notice to the department pursuant to ORS 743B.013 (3)(e); or

"(b) If notice is not provided under paragraph (a) of this subsection, from the date on which the department provides notice to the carrier that the department has determined that the carrier has effectively discontinued offering health benefit plans to small employers in this state.

**"SECTION 95.** ORS 314.520 is amended to read:

"314.520. ORS [*314.505,*] 314.518 and 316.198 do not alter the authority under ORS 293.525 of a state agency to require by rule that certain payments to the agency be made by electronic funds transfer.

**"SECTION 96.** ORS 314.610 is amended to read:

"314.610. As used in ORS 314.605 to 314.675, unless the context otherwise requires:

"(1) 'Business income' means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, the management, use or rental, and the disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

"(2) 'Commercial domicile' means the principal place from which the trade or business of the taxpayer is directed or managed.

"(3) 'Compensation' means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

"(4) 'Financial institution' means a person, corporation or other business entity that is any of the following:

"(a) A bank holding company under the laws of this state or under the federal Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq., as amended.

"(b) A savings and loan holding company under the National Housing Act, 12 U.S.C. 1701 et seq., as amended.

"(c) A national bank organized and existing as a national bank association under the National Bank Act, 12 U.S.C. 21 et seq., as amended.

"(d) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

"(e) A bank or thrift institution incorporated or organized under the laws of any state.

"(f) An entity organized under the provisions of 12 U.S.C. 611 to 631, as amended.

"(g) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101, as amended.

"(h) A state credit union with loan assets that exceed $50,000,000 as of the first day of the taxable year of the state credit union.

"(i) A production credit association subject to 12 U.S.C. 2071 et seq., as amended.

"(j) A corporation, more than 50 percent of the voting stock of which is owned, directly or indirectly, by a person, corporation or other business entity described in paragraphs (a) to (i) of this subsection, provided that the corporation is not an insurer taxable under [*ORS 317.655*] **sections 3 to 23 of this 2017 Act**.

"(k) An entity that is not otherwise described in this subsection[*, that is not an insurer taxable under ORS 317.655*] and that derives more than 50 percent of its gross income from activities that a person, corporation or entity described in paragraph (c), (d), (e), (f), (g), (h), (i) or (L) of this subsection is authorized to conduct, not taking into account any income derived from nonrecurring extraordinary sources.

"(L) A person that derives at least 50 percent of the person's annual average gross income, for financial accounting purposes for the current tax year and the two preceding tax years, from finance leases, excluding any gross income from incidental or occasional transactions. For purposes of this

paragraph, 'finance lease' means:

"(A) A lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks of the ownership of the leased property;

"(B) A direct financing lease or a leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13; or

"(C) Any other lease that is accounted for as a financing by a lessor under generally accepted accounting principles.

"(5) 'Nonbusiness income' means all income other than business income.

"(6) 'Public utility' means any business entity whose principal business is ownership and operation for public use of any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products or gas.

"(7) 'Sales' means all gross receipts of the taxpayer not allocated under ORS 314.615 to 314.645.

"(8) 'State' means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

**"SECTION 97.** ORS 314.734 is amended to read:

"314.734. (1) The shareholder's pro rata share of the income of an S corporation is subject to tax under ORS chapter 316. In determining the tax imposed under ORS chapter 316 of a shareholder for the shareholder's taxable year in which the taxable year of the S corporation ends (or for the final taxable year of a shareholder who dies, or of a trust or estate that terminates, before the end of the corporation's taxable year), there shall be taken into account the shareholder's pro rata share of the corporation's separately stated items of income, loss or deduction and nonseparately computed income or loss, as determined under or for purposes of section 1366 of the Internal Revenue Code (including but not limited to section 1366(d) and (e) of the

Internal Revenue Code), with the modifications, additions and subtractions provided under this chapter and ORS chapter 316.

"(2) Each item of shareholder income, gain, loss or deduction has the same character for a shareholder under this chapter and ORS chapter 316 as it has for federal income tax purposes. If an item is not characterized for federal income tax purposes, it has the same character for a shareholder as if realized directly from the source from which realized by the S corporation or incurred in the same manner as incurred by the S corporation.

"(3) In any case where it is necessary to determine the gross income of a shareholder for purposes of ORS chapter 316, such gross income shall include the shareholder's pro rata share of the gross income of the S corporation.

"[*(4) If any tax is imposed under ORS 314.740 for any taxable year on an S corporation, for purposes of subsection (1) of this section, the amount of each recognized built-in gain for such taxable year shall be reduced by its proportionate share of such tax.*]

"[*(5) If any tax is imposed under ORS 314.742 on an S corporation, for purposes of subsection (1) of this section, each item of passive investment income shall be reduced by an amount which bears the same ratio to the amount of such tax as the amount of such item bears to the total passive investment income for the taxable year.*]

**"SECTION 98.** ORS 723.586 is amended to read:

"723.586. A credit union may enter into cooperative marketing arrangements to facilitate its members' voluntary purchases of such goods and services as are in the interest of improving economic and social conditions of the members. Said investment shall not exceed one percent of the credit union's assets. [*Notwithstanding any other provision of law, the taxable income from such activities which are conducted by the credit union shall be subject to tax pursuant to ORS 317.920.*]

**"SECTION 99. ORS 314.265, 314.280, 314.505, 314.515, 314.525, 314.615,**

**314.620, 314.647, 314.650, 314.655, 314.660, 314.665, 314.667, 314.675, 314.680, 314.682, 314.686, 314.688, 314.690, 314.695, 314.725, 314.740, 314.742, 314.750, 316.043, 316.044, 316.279, 317.005, 317.010, 317.013, 317.018, 317.019, 317.025, 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090, 317.122, 317.129, 317.151, 317.154, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301, 317.303, 317.304, 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319, 317.322, 317.327, 317.329, 317.344, 317.349, 317.351, 317.356, 317.362, 317.374, 317.379, 317.386, 317.388, 317.391, 317.394, 317.398, 317.401, 317.476, 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650, 317.655, 317.660, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.716, 317.717, 317.720, 317.725, 317.850, 317.853, 317.920, 317.950, 317.991, 318.010, 318.020, 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and 318.130 are repealed.**

**"SECTION 100. (1) Sections 3 to 23 of this 2017 Act, the amendments to statutes by sections 25 to 98 of this 2017 Act and the repeal of statutes by section 99 of this 2017 Act apply:**

**"(a) For purposes of sections 3 to 23 of this 2017 Act, to calendar years and calendar quarters beginning on or after January 1, 2018; and**

**"(b) For purposes of ORS chapters 314, 315, 316, 317 and 318, to tax years beginning on or after January 1, 2018.**

**"(2) The amendments to statutes by sections 25 to 98 of this 2017 Act and the repeal of statutes by section 99 of this 2017 Act may not be construed to limit the authority of the Department of Revenue to administer and enforce the taxes imposed under ORS chapters 317 and 318, as applicable to tax years beginning before January 1, 2018.**

**"CAPTIONS**

**"SECTION 101. The unit and section captions used in this 2017 Act are provided only for convenience in locating provisions of this 2017 Act and do not become part of the statutory law of this state or ex-**

**press any legislative intent in the enactment of this 2017 Act.**

**"EFFECTIVE DATE**

**"SECTION 102. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**".

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