

Requested by JOINT COMMITTEE ON TAX EXPENDITURES

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2164**

1 In line 2 of the printed bill, after “taxation;” insert “creating new pro-  
2 visions; amending sections 58, 63, 64 and 67, chapter 122, Oregon Laws 2019  
3 (Enrolled House Bill 3427);”.

4 Delete lines 4 through 11 and insert:

5 **“SECTION 1.** Section 58, chapter 122, Oregon Laws 2019 (Enrolled House  
6 Bill 3427), is amended to read:

7 **“Sec. 58.** As used in sections 58 to 76, **chapter 122, Oregon Laws 2019**  
8 **(Enrolled House Bill 3427)** [*of this 2019 Act*]:

9 “(1)(a) ‘Commercial activity’ means:

10 **“(A)** The total amount realized by a person, arising from transactions and  
11 activity in the regular course of the person’s trade or business, without de-  
12 duction for expenses incurred by the trade or business[.];

13 **“(B) If received by a financial institution, in addition to the defi-**  
14 **inition in subparagraph (A) of this paragraph:**

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

18 **“(ii) If the reporting person for a financial institution is a bank**  
19 **organization, all items of income reported on the call report filed by**  
20 **the bank organization; and**

21 **“(iii) If the reporting person for a financial institution is a nonbank**

1 **financial organization, all items of income reported in accordance with**  
2 **generally accepted accounting principles; and**

3 **“(C)(i) If received by an insurer, in addition to the definition in**  
4 **subparagraph (A) of this paragraph, as reported on the statement of**  
5 **premiums accompanying the annual statement required under ORS**  
6 **731.574 to be filed with the Director of the Department of Consumer**  
7 **and Business Services, all gross direct life insurance premiums, gross**  
8 **direct accident and health insurance premiums and gross direct prop-**  
9 **erty and casualty insurance premiums; and**

10 **“(ii) The gross amount of surplus lines premiums received on**  
11 **Oregon home state risks as shown in the report required by ORS**  
12 **735.465.**

13 **“(b) ‘Commercial activity’ does not include:**

14 **“(A) Interest income except:**

15 **“(i) Interest on credit sales; or**

16 **“(ii) Interest income, including service charges, received by finan-**  
17 **cial institutions;**

18 **“(B) Receipts from the sale, exchange or other disposition of an asset**  
19 **described in section 1221 or 1231 of the Internal Revenue Code, without re-**  
20 **gard to the length of time the person held the asset;**

21 **“(C) If received by an insurer, federally reinsured premiums or in-**  
22 **come from transactions between a reciprocal insurer and its attorney**  
23 **in fact operating under ORS 731.142;**

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

30 **“[(C)] (E) Proceeds received attributable to the repayment, maturity or**

1 redemption of the principal of a loan, bond, mutual fund, certificate of de-  
2 posit or marketable instrument;

3 “[*D*] (F) The principal amount received under a repurchase agreement  
4 or on account of any transaction properly characterized as a loan to the  
5 person;

6 “[*E*] (G) Contributions received by a trust, plan or other arrangement,  
7 any of which is described in section 501(a) of the Internal Revenue Code, or  
8 to which title 26, subtitle A, chapter 1, subchapter (D) of the Internal Reve-  
9 nue Code applies;

10 **“(H) Compensation, whether current or deferred, and whether in**  
11 **cash or in kind, received or to be received by an employee, a former**  
12 **employee or the employee’s legal successor for services rendered to**  
13 **or for an employer, including reimbursements received by or for an**  
14 **individual for medical or education expenses, health insurance premi-**  
15 **ums or employee expenses or on account of a dependent care spending**  
16 **account, legal services plan, any cafeteria plan described in section 125**  
17 **of the Internal Revenue Code or any similar employee reimbursement;**

18 “[*F*] (I) Proceeds received from the issuance of the taxpayer’s own stock,  
19 options, warrants, puts or calls, or from the sale of the taxpayer’s treasury  
20 stock;

21 “[*G*] (J) Proceeds received on the account of payments from insurance  
22 policies **owned by the taxpayer**, except those proceeds received for the loss  
23 of business revenue;

24 “[*H*] (K) Gifts or charitable contributions received, membership dues  
25 received by trade, professional, homeowners’ or condominium associations,  
26 payments received for educational courses, meetings or meals, or similar  
27 payments to a trade, professional or other similar association, and  
28 fundraising receipts received by any person when any excess receipts are  
29 donated or used exclusively for charitable purposes;

30 “[*I*] (L) Damages received as the result of litigation in excess of

1 amounts that, if received without litigation, would be treated as commercial  
2 activity;

3 “[*J*] (**M**) Property, money and other amounts received or acquired by an  
4 agent on behalf of another in excess of the agent’s commission, fee or other  
5 remuneration;

6 “[*K*] (**N**) Tax refunds, other tax benefit recoveries and reimbursements  
7 for the tax imposed under sections 58 to 76, **chapter 122, Oregon Laws 2019**  
8 **(Enrolled House Bill 3427)**, [*of this 2019 Act*] made by entities that are part  
9 of the same unitary group as provided under section 60, **chapter 122,**  
10 **Oregon Laws 2019 (Enrolled House Bill 3427)** [*of this 2019 Act*], and re-  
11 imbursements made by entities that are not members of a unitary group that  
12 are required to be made for economic parity among multiple owners of an  
13 entity whose tax obligation under sections 58 to 76, **chapter 122, Oregon**  
14 **Laws 2019 (Enrolled House Bill 3427)**, [*of this 2019 Act*] is required to be  
15 reported and paid entirely by one owner, as provided in section 60, **chapter**  
16 **122, Oregon Laws 2019 (Enrolled House Bill 3427)** [*of this 2019 Act*];

17 “[*L*] (**O**) Pension reversions;

18 “[*M*] (**P**) Contributions to capital;

19 “[*N*] (**Q**) Receipts from the sale, transfer, exchange or other disposition  
20 of motor vehicle fuel or any other product used for the propulsion of motor  
21 vehicles;

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

27 “[*P*] (**S**) In the case of receipts from the sale of malt beverages[, *wine*  
28 *or alcoholic liquor, all*] **or wine**, as defined in ORS 471.001, [*or*] cider, as  
29 defined in ORS 471.023[,] **or distilled liquor, as defined in ORS 471.001,**  
30 by a person holding a license issued under ORS chapter 471, an amount equal

1 to the federal and state excise taxes paid by any person on or for such malt  
2 beverages, [*wine or alcoholic liquor*] **wine or distilled liquor** under subtitle  
3 E of the Internal Revenue Code or ORS chapter 471 **or 473**, and any [*net*]  
4 amount paid to the Oregon Liquor Control Commission [*by a person licensed*  
5 *to sell alcoholic liquor under ORS chapter 471 in excess of the purchase price*  
6 *paid by the licensee*] **for sales of distilled spirits by an agent appointed**  
7 **under ORS 471.750;**

8 “[(Q)] (T) In the case of receipts from the sale of marijuana items, as  
9 defined in ORS 475B.015, by a person holding a license issued under ORS  
10 475B.010 to 475B.545, an amount equal to the federal and state excise taxes  
11 paid by any person on or for such marijuana items under subtitle E of the  
12 Internal Revenue Code or ORS 475B.700 to 475B.760 **and any local retail**  
13 **taxes authorized under ORS 475B.491;**

14 “(U) **Local taxes collected by a restaurant or other food establish-**  
15 **ment on sales of meals, prepared food or beverages;**

16 “(V) **Tips or gratuities collected by a restaurant or other food es-**  
17 **tablishment and passed on to employees;**

18 “[(R)] (W) Receipts realized by a vehicle dealer certified under ORS  
19 822.020 from the sale or other transfer of a motor vehicle, as defined in ORS  
20 801.360, to another vehicle dealer for the purpose of resale by the transferee  
21 vehicle dealer, but only if the sale or other transfer was based upon the  
22 transferee’s need to meet a specific customer’s preference for a motor vehicle;

23 “[(S)] (X) Registration fees or taxes collected by a vehicle dealer certified  
24 under ORS 822.020 at the sale or other transfer of a motor vehicle, as defined  
25 in ORS 801.360, that are owed to a third party by the purchaser of the motor  
26 vehicle and passed to the third party by the dealer;

27 “[(T)] (Y) Receipts from a financial institution for services provided to  
28 the financial institution in connection with the issuance, processing, servic-  
29 ing and management of loans or credit accounts, if the financial institution  
30 and the recipient of the receipts have at least 50 percent of their ownership

1 interests owned or controlled, directly or constructively through related in-  
2 terests, by common owners;

3 “[U] (**Z**) In the case of amounts retained as commissions by a holder of  
4 a license under ORS chapter 462, an amount equal to the amounts specified  
5 under ORS chapter 462 that must be paid to or collected by the Department  
6 of Revenue as a tax and the amounts specified under ORS chapter 462 to be  
7 used as purse money;

8 “[V] (**AA**) Net revenue of residential care facilities as defined in ORS  
9 443.400 or in-home care agencies as defined in ORS 443.305, to the extent that  
10 the revenue is derived from or received as compensation for providing ser-  
11 vices to a medical assistance or Medicare recipient;

12 “[W] (**BB**) Dividends received;

13 “[X] (**CC**) Distributive income received from a pass-through entity;

14 “[Y] (**DD**) Receipts from sales to a wholesaler in this state, if the seller  
15 receives certification at the time of sale from the wholesaler that the  
16 wholesaler will sell the purchased property outside this state;

17 “[Z] (**EE**) Rebates paid to purchasers by retailers or wholesalers;

18 “[AA] (**FF**) Receipts from the wholesale or retail sale of groceries;

19 “[BB] (**GG**) Receipts from transactions among members of a unitary  
20 group;

21 “[CC] (**HH**) Moneys, including public purpose charge moneys collected  
22 under ORS 757.612 and costs of funding or implementing cost-effective energy  
23 conservation measures collected under ORS 757.689, that are collected from  
24 customers, passed to a utility and approved by the Public Utility Commission  
25 and that support energy conservation, renewable resource acquisition and  
26 low-income assistance programs;

27 “[DD] (**II**) Moneys collected by a utility from customers for the payment  
28 of loans through on-bill financing;

29 “[EE] (**JJ**) Surcharges collected under ORS 757.736;

30 “[FF] (**KK**) Moneys passed to a utility by the Bonneville Power Ad-

1 ministration for the purpose of effectuating the Regional Power Act Ex-  
2 change credits or pursuant to any settlement associated with the exchange  
3 credit;

4 “[(GG)] (LL) Moneys collected [*by a utility for*] **or recovered for right-**  
5 **of-way fees**, franchise fees, privilege taxes, federal taxes, local taxes and  
6 fees payable under ORS 756.310;

7 “[(HH)] (MM) Charges paid to the Residential Service Protection Fund  
8 required by chapter 290, Oregon Laws 1987;

9 “[(II)] (NN) Universal service surcharge moneys collected [*by telecommu-*  
10 *nications carriers*] **or recovered** and paid into the universal service fund  
11 established in ORS 759.425;

12 “[(JJ)] (OO) Moneys collected for public purpose funding as described in  
13 ORS 759.430;

14 “[(KK)] (PP) Moneys collected [*for*] **or recovered and paid into** the  
15 federal universal service fund as determined by the Federal Communications  
16 Commission;

17 “[(LL)] (QQ) In the case of a seller or provider of telecommunications  
18 services, the amount of tax imposed under ORS 403.200 for access to the  
19 emergency communications system that is collected from subscribers or con-  
20 sumers;

21 “[(MM)] (RR) In the case of a transient lodging tax collector, the amount  
22 of tax imposed under ORS 320.305 and of any local transient lodging tax  
23 imposed upon the occupancy of transit lodging;

24 “[(NN)] (SS) In the case of a seller of bicycles, the amount of tax imposed  
25 under ORS 320.415 upon retail sales of bicycles;

26 “[(OO)] (TT) In the case of a qualified heavy equipment provider, the  
27 amount of tax imposed under section 2, chapter 64, Oregon Laws 2018, upon  
28 the rental price of heavy equipment;

29 “[(PP)] (UU) [*Receipts representing business done with or for members of*]  
30 **Farmer sales to** an agricultural cooperative in this state that is a cooper-

1 active organization described in section 1381 of the Internal Revenue Code;  
2 and

3 “[~~(QQ)~~] (**VV**) Revenue received by a business entity that is mandated by  
4 contract or subcontract to be distributed to another person or entity if the  
5 revenue constitutes sales commissions that are paid to a person who is not  
6 an employee of the business entity, including, without limitation, a split-fee  
7 real estate commission.

8 “[~~(2)(a)~~] *‘Commercial activity of a financial institution’ includes all items*  
9 *of income without deduction for expenses.*]

10 “[~~(b)~~] *If the reporting person for a financial institution is a holding com-*  
11 *pany, ‘commercial activity of a financial institution’ includes all items of in-*  
12 *come reported on the FR Y-9 filed by the holding company.*]

13 “[~~(c)~~] *If the reporting person for a financial institution is a bank organiza-*  
14 *tion, ‘commercial activity of a financial institution’ includes all items of in-*  
15 *come reported on the call report filed by the bank organization.*]

16 “[~~(d)~~] *If the reporting person for a financial institution is a nonbank fi-*  
17 *nancial organization, ‘commercial activity of a financial institution’ includes*  
18 *all items of income reported in accordance with generally accepted accounting*  
19 *principles.*]

20 “[~~(3)~~] *‘Commercial activity of an insurer’ includes all items of income with-*  
21 *out deduction for expenses and all items of income* [ *reported on the statement*  
22 *of income accompanying the annual statement required under ORS 731.574 to*  
23 *be filed with the Director of the Department of Consumer and Business Ser-*  
24 *vices.*]

25 “[~~(4)~~] (**2**) *‘Cost inputs’ means the cost of goods sold as calculated* [*under*  
26 *section 471 of the Internal Revenue Code*] **in arriving at federal taxable**  
27 **income under the Internal Revenue Code.**

28 “[~~(5)~~] (**3**) *‘Doing business’ means engaging in any activity, whether legal*  
29 *or illegal, that is conducted for, or results in, the receipt of commercial ac-*  
30 *tivity at any time during a calendar year.*



1        “[6] (4) ‘Excluded person’ means any of the following:

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

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

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

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

12       “(e) Charitable risk pools described in section 501(n) of the Internal Rev-  
13 enue Code.

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

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

17       “(h) Foreign or alien insurance companies, but only with respect to the  
18 underwriting profit derived from writing wet marine and transportation in-  
19 surance subject to tax under ORS 731.824 and 731.828.

20       “(i) Governmental entities.

21       “(j) Any person with commercial activity that does not exceed [*\$1*  
22 *million*] **\$750,000** for the calendar year, other than a person that is part of  
23 a unitary group as provided in section 60, **chapter 122, Oregon Laws 2019**  
24 **(Enrolled House Bill 3427)**, [*of this 2019 Act*] with commercial activity in  
25 excess of [*\$1 million*] **\$750,000**.

26       “(k) Hospitals subject to assessment under section 2, chapter 736, Oregon  
27 Laws 2003, long term care facilities subject to assessment under section 16,  
28 chapter 736, Oregon Laws 2003, or any entity subject to assessment under  
29 section 3, 5 or 9, chapter 538, Oregon Laws 2017.

30       “[7] (5) ‘Financial institution’ has the meaning given that term in ORS

1 314.610, except that ‘financial institution’ does not include a credit union.

2 “[8](a) (6)(a) ‘FR Y-9’ means the consolidated or parent-only financial  
3 statements that a holding company is required to file with the Federal Re-  
4 serve Board pursuant to 12 U.S.C. 1844.

5 “(b) In the case of a holding company required to file both consolidated  
6 and parent-only financial statements, ‘FR Y-9’ means the consolidated finan-  
7 cial statements that the holding company is required to file.

8 “[9] (7) ‘Governmental entity’ means:

9 “(a) The United States and any of its unincorporated agencies and in-  
10 strumentalities.

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

14 “(c) The State of Oregon and any of its unincorporated agencies and in-  
15 strumentalities.

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

17 “(e) Any public corporation.

18 “(f) A federally recognized Indian tribe.

19 “[10] (8) ‘Groceries’ means food as defined in 7 U.S.C. 2012(k), **but does**  
20 **not include cannabinoid edibles or marijuana seeds.**

21 “(9)(a) ‘**Hedging transaction**’ means a **hedging transaction as de-**  
22 **fin**ed in section 1221 of the Internal Revenue Code or a transaction  
23 **accorded hedge accounting treatment under Financial Accounting**  
24 **Standards Board Statement No. 133.**

25 “(b) ‘**Hedging transaction**’ **does not include a transaction in which**  
26 **an actual transfer of title of real or tangible property to another entity**  
27 **occurs.**

28 “[11] (10) ‘Insurer’ has the meaning given that term in ORS 317.010.

29 “[12] (11) ‘Internal Revenue Code,’ except where the Legislative Assem-  
30 bly has provided otherwise, refers to the laws of the United States or to the

1 Internal Revenue Code as they are amended and in effect on December 31,  
2 2018.

3 “[~~(13)~~] **(12)** ‘Labor costs’ means total compensation of all employees, not  
4 to include compensation paid to any single employee in excess of \$500,000.

5 “[~~(14)(a)~~] **(13)(a)** ‘Motor vehicle fuel or any other product used for the  
6 propulsion of motor vehicles’ means:

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

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

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

12 “(A) Electricity; or

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

15 “[~~(15)~~] **(14)** ‘Person’ includes individuals, combinations of individuals of  
16 any form, receivers, assignees, trustees in bankruptcy, firms, companies,  
17 joint-stock companies, business trusts, estates, partnerships, limited liability  
18 partnerships, limited liability companies, associations, joint ventures, clubs,  
19 societies, entities organized as for-profit corporations under ORS chapter 60,  
20 C corporations, S corporations, qualified subchapter S subsidiaries, qualified  
21 subchapter S trusts, trusts, entities that are disregarded for federal income  
22 tax purposes and any other entities.

23 “[~~(16)~~] **(15)** ‘Retailer’ means a person doing business by selling tangible  
24 personal property to a purchaser for a purpose other than:

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

27 “(b) Incorporation by the purchaser of the property in the course of reg-  
28 ular business as an ingredient or component of real or personal property; or

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

1 “[(17)] (16) ‘Taxable commercial activity’ means commercial activity  
2 sourced to this state under section 66, **chapter 122, Oregon Laws 2019**  
3 **(Enrolled House Bill 3427)** [of this 2019 Act], less any subtraction pursuant  
4 to section 64, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**  
5 [of this 2019 Act].

6 “[(18)(a)] (17)(a) ‘Taxpayer’ means any person or unitary group required  
7 to register, file or pay tax under sections 58 to 76, **chapter 122, Oregon**  
8 **Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act].

9 “(b) ‘Taxpayer’ does not include excluded persons, **except to the extent**  
10 **that a tax-exempt entity has unrelated business income that is taxable**  
11 **under the Internal Revenue Code.**

12 “[(19)(a)] (18)(a) ‘Unitary business’ means a business enterprise in which  
13 there exists directly or indirectly between the members or parts of the en-  
14 terprise a sharing or exchange of value as demonstrated by:

15 “(A) Centralized management or a common executive force;

16 “(B) Centralized administrative services or functions resulting in econo-  
17 mies of scale; or

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

20 “(b) ‘Unitary business’ may include a business enterprise the activities  
21 of which:

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

24 “(B) Constitute steps in a vertically integrated process, such as the steps  
25 involved in the production of natural resources, which might include explo-  
26 ration, mining, refining and marketing.

27 “[(20)] (19) ‘Unitary group’ means a group of persons with more than 50  
28 percent common ownership, either direct or indirect, that is engaged in  
29 business activities that constitute a unitary business.

30 “[(21)] (20) ‘Wholesaler’ means a person primarily doing business by mer-

1 chant distribution of tangible personal property to retailers or to other  
2 wholesalers.

3 **“SECTION 2.** Section 63, chapter 122, Oregon Laws 2019 (Enrolled House  
4 Bill 3427), is amended to read:

5 **“Sec. 63.** (1) A corporate activity tax is imposed on each person with  
6 taxable commercial activity for the privilege of doing business in this state.  
7 The tax is imposed upon persons with substantial nexus with this state. The  
8 tax imposed under this section is not a transactional tax and is not subject  
9 to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed under this  
10 section is in addition to any other taxes or fees imposed under the tax laws  
11 of this state. The tax imposed under this section is imposed on the person  
12 [receiving] **with** the commercial activity and is not a tax imposed directly  
13 on a purchaser. The tax imposed under this section is an annual privilege  
14 tax for the calendar year and shall be remitted quarterly to the Department  
15 of Revenue. A taxpayer is subject to the annual corporate activity tax for  
16 doing business during any portion of such calendar year.

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

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

20 **“(b)** Holds a certificate of existence or authorization issued by the Sec-  
21 retary of State authorizing the person to do business in this state.

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

23 **“(d)** Otherwise has nexus with this state to an extent that the person can  
24 be required to remit the tax imposed under sections 58 to 76, **chapter 122,**  
25 **Oregon Laws 2019 (Enrolled House Bill 3427),** [of this 2019 Act] under the  
26 United States Constitution.

27 **“(3)** A person has bright-line presence in this state for the calendar year  
28 if any of the following applies. The person:

29 **“(a)** Owns at any time during the calendar year property in this state with  
30 an aggregate value of at least \$50,000. For purposes of this paragraph, owned

1 property is valued at original cost and rented property is valued at eight  
2 times the net annual rental charge.

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

5 “(A) Any amount subject to withholding by the person under ORS 316.167  
6 and 316.172;

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

10 “(C) Any amount the person pays for services performed in this state on  
11 the person’s behalf by another.

12 “(c) Has during the calendar year commercial activity, sourced to this  
13 state under section 66, **chapter 122, Oregon Laws 2019 (Enrolled House**  
14 **Bill 3427)** [*of this 2019 Act*], of at least \$750,000.

15 “(d) Has at any time during the calendar year within this state at least  
16 25 percent of the person’s total property, total payroll or total commercial  
17 activity.

18 “(e) Is a resident of this state or is domiciled in this state for corporate,  
19 commercial or other business purposes.

20 “(4) **Notwithstanding subsection (1) of this section, a vehicle dealer**  
21 **may collect from the purchaser of a motor vehicle the estimated por-**  
22 **tion of the tax imposed under this section that is attributable to**  
23 **commercial activity from the sale of the vehicle.**

24 “**SECTION 3.** Section 64, chapter 122, Oregon Laws 2019 (Enrolled House  
25 Bill 3427), is amended to read:

26 “**Sec. 64.** (1) A taxpayer shall subtract from commercial activity sourced  
27 to this state 35 percent of the greater of the following amounts paid or in-  
28 curred by the taxpayer in the tax year:

29 “(a) The amount of cost inputs; or

30 “(b) The taxpayer’s labor costs.

1 “(2) The amounts in subsection (1)(a) or (b) of this section shall be ap-  
2 portioned to this state in the manner required for apportionment of income  
3 under ORS 314.605 to 314.675.

4 **“(3) A subtraction under this section is not allowed for any amount**  
5 **of:**

6 **“(a) Receipts from transactions among members of a group, as ex-**  
7 **cluded under section 60, chapter 122, Oregon Laws 2019 (Enrolled House**  
8 **Bill 3427); or**

9 **“(b) Cost inputs or labor costs that are attributable to a person’s**  
10 **receipts from an item that is not commercial activity.**

11 “[3] (4) Notwithstanding subsection (1) of this section, the subtraction  
12 under this section may not exceed 95 percent of the taxpayer’s commercial  
13 activity in this state.

14 **“SECTION 4.** Section 67, chapter 122, Oregon Laws 2019 (Enrolled House  
15 Bill 3427), is amended to read:

16 **“Sec. 67.** (1) Except as expressly authorized by this section, the authority  
17 to impose, in this state, a tax upon the commercial activity of an entity is  
18 vested solely in the Legislative Assembly. A city, county, district or other  
19 political subdivision or municipal corporation of this state may not impose,  
20 by ordinance or other law, a tax upon commercial activity or upon receipts  
21 from grocery sales.

22 “(2) Subsection (1) of this section does not apply:

23 “(a) To any tax, or to subsequent amendments of the provisions of any  
24 tax, if the ordinance or other law imposing the tax is in effect and operative  
25 on April 1, 2019, or is adopted by initiative or referendum petition at an  
26 election held prior to March 1, 2019; or

27 “(b) To the imposition of franchise fees [*or franchise taxes*], **right-of-way**  
28 **fees or privilege taxes not measured by commercial activity.**

29 **“SECTION 5.** The amendments to sections 58, 63, 64 and 67, chapter  
30 **122, Oregon Laws 2019 (Enrolled House Bill 3427), by sections 1 to 4 of**

1 **this 2019 Act apply to tax years beginning on or after January 1, 2020.**

2 **“SECTION 6. This 2019 Act takes effect on the 91st day after the**  
3 **date on which the 2019 regular session of the Eightieth Legislative**  
4 **Assembly adjourns sine die.”.**

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