

Corporate Excise/Income Tax Orientation

House Committee On Revenue

State of Oregon
Legislative Revenue Office

January 19, 2023



- Context
- Which businesses owe Corporate Excise/Income Tax
- Overview of Corporate Excise/Income Tax Calculation
- Statistics for Tax Year 2020

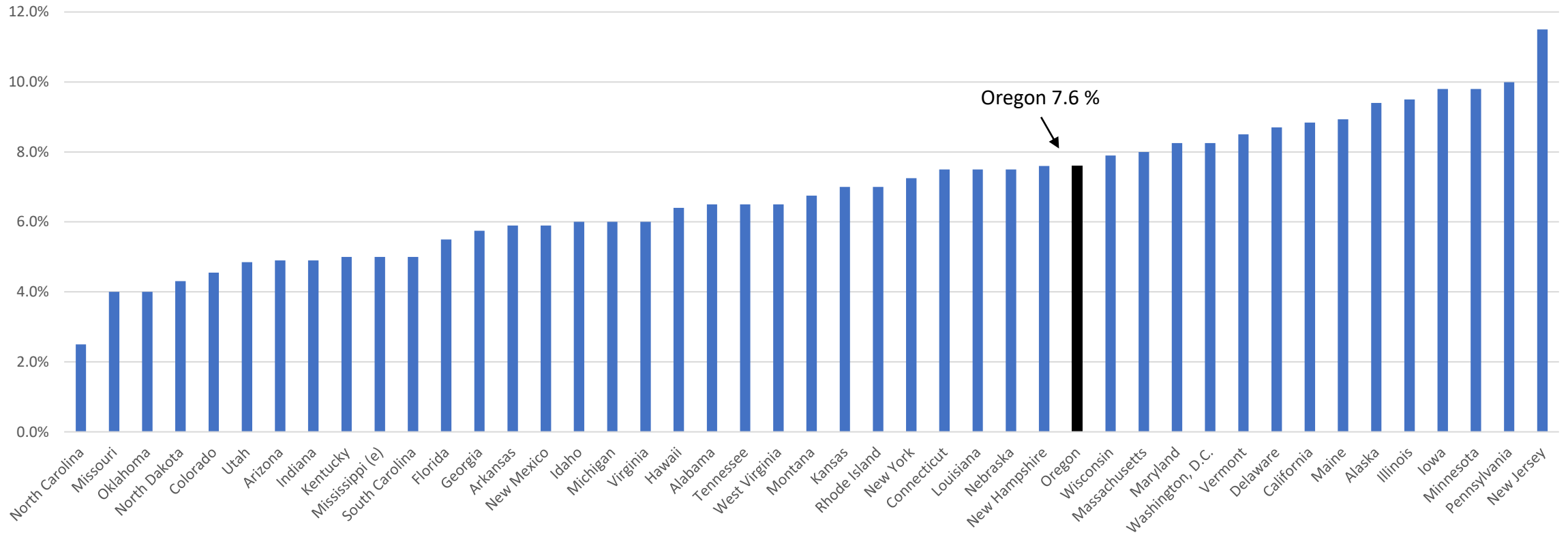
Tax return data throughout this presentation comes from Dept. of Revenue, Research Section (www.Oregon.gov/DOR/Stats)





Comparing State Tax Rates

State Corporate Tax Top Rates (July 1, 2022)



Source: [Tax Foundation](#)

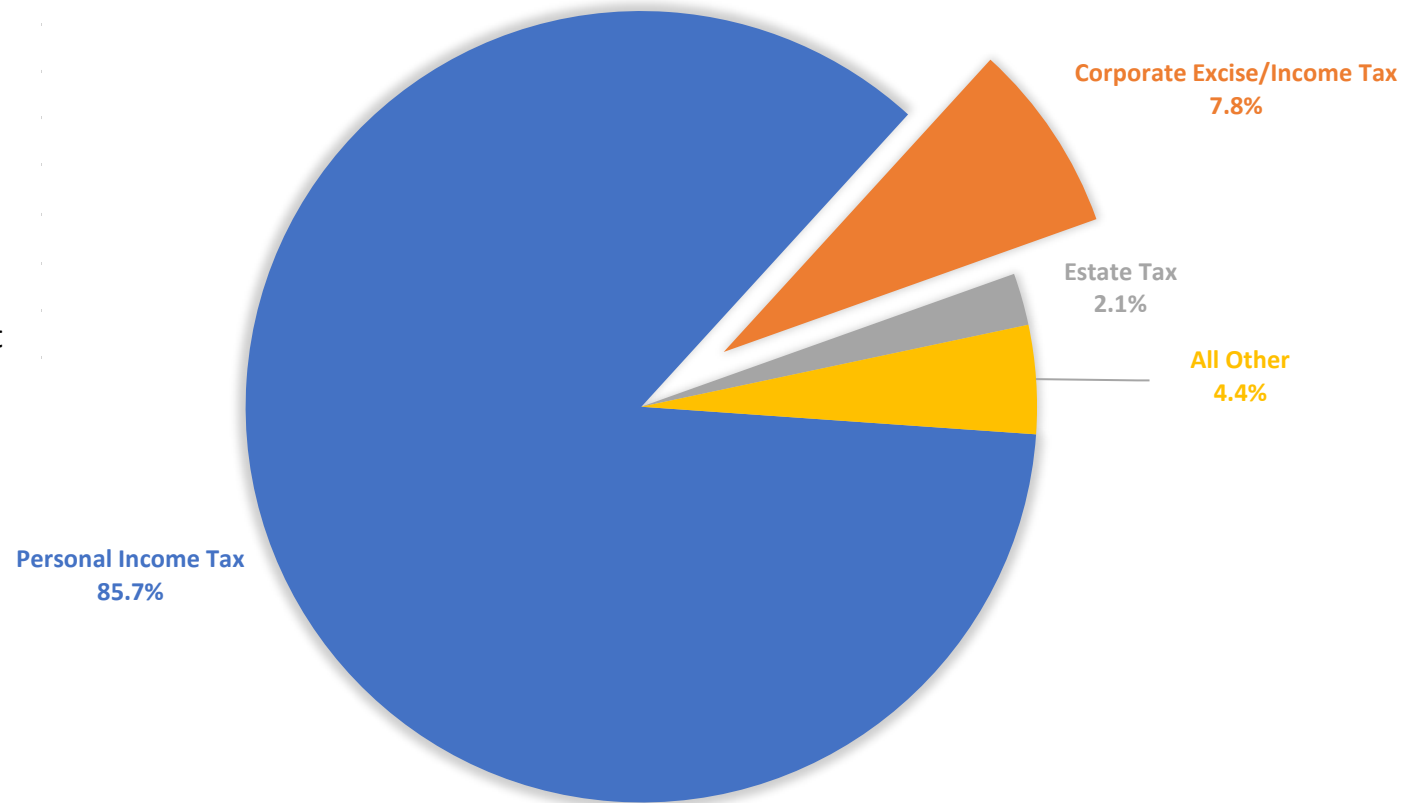




Corporate Tax Share of General Fund 2023-25

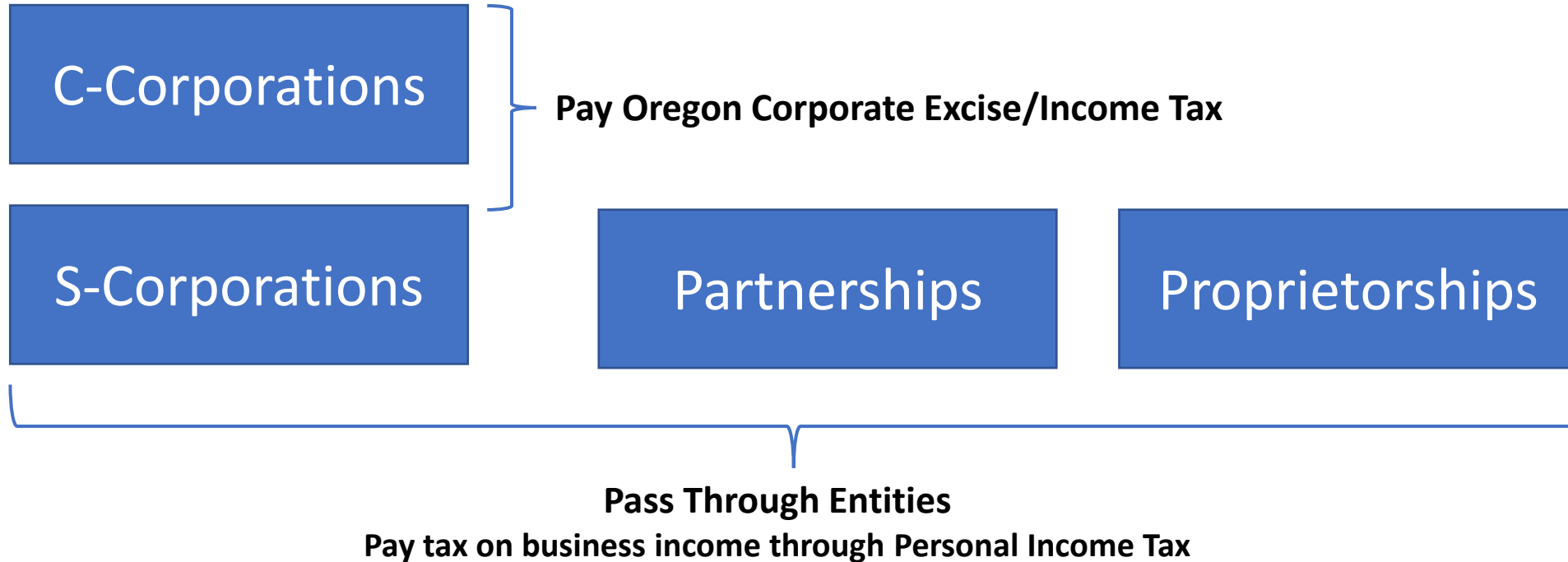
2023-25 Biennium	\$Million
Personal Income Tax	\$21,540.1
Corporate Excise/Income Tax	\$1,955.9
Estate Tax	\$534.6
All Other	\$1,115.1
Gross General Fund	\$25,145.7

Source: Office of Economic Analysis, Dec '22 Forecast





Which Businesses Pay?



S-Corporation excise tax filers pay \$150 minimum tax, and may pay tax on “built-in gains” or “excess passive income”

S-Corporations owed 1% of corporate tax for tax year 2020, with 98% paying the minimum tax.

Partnerships file “return of income” and pay \$150 minimum tax if they have income in Oregon or a resident owner

Proprietorships file and pay under Personal Income Tax





Excise Tax and Income Tax are one System

Oregon's "Corporate Income Tax" is a single system

- **Excise Tax** (*ORS Chapter 317, 1929*)
Measured by net income for the privilege of doing business in Oregon
- **Income Tax** (*ORS Chapter 318, 1955*)
On net income from sources in Oregon not already subject to Excise Tax
 - *The minimum tax does not apply to Chapter 318 Income Tax payers*
- *Bulk of Tax Liability is the Excise Tax (99.8% in TY 2020)*





Nexus

- To impose tax on a business, the taxpayer must have some connection with Oregon(“nexus”), such as:
 - Vehicles used in Oregon
 - Property in Oregon
 - Employees in Oregon
 - Contractors in Oregon acting on behalf of business
- Federal law limits this for tangible personal property, prohibiting imposition of income tax on out-of-state companies if their only activity in the state is soliciting orders (Public Law 86-272 – 1959; not applicable to services or taxes not measured by income)





International Business Income

- Water's Edge (1984)
Only income reported in U.S. is taxed
- Listed Jurisdictions (2014-17)
Include income reported in specified foreign countries
- GILTI (Global Intangible Low Taxed Income) (2018)
Include income that exceeds specified return on investment in foreign countries, Oregon treats as a dividend received with 80% deduction





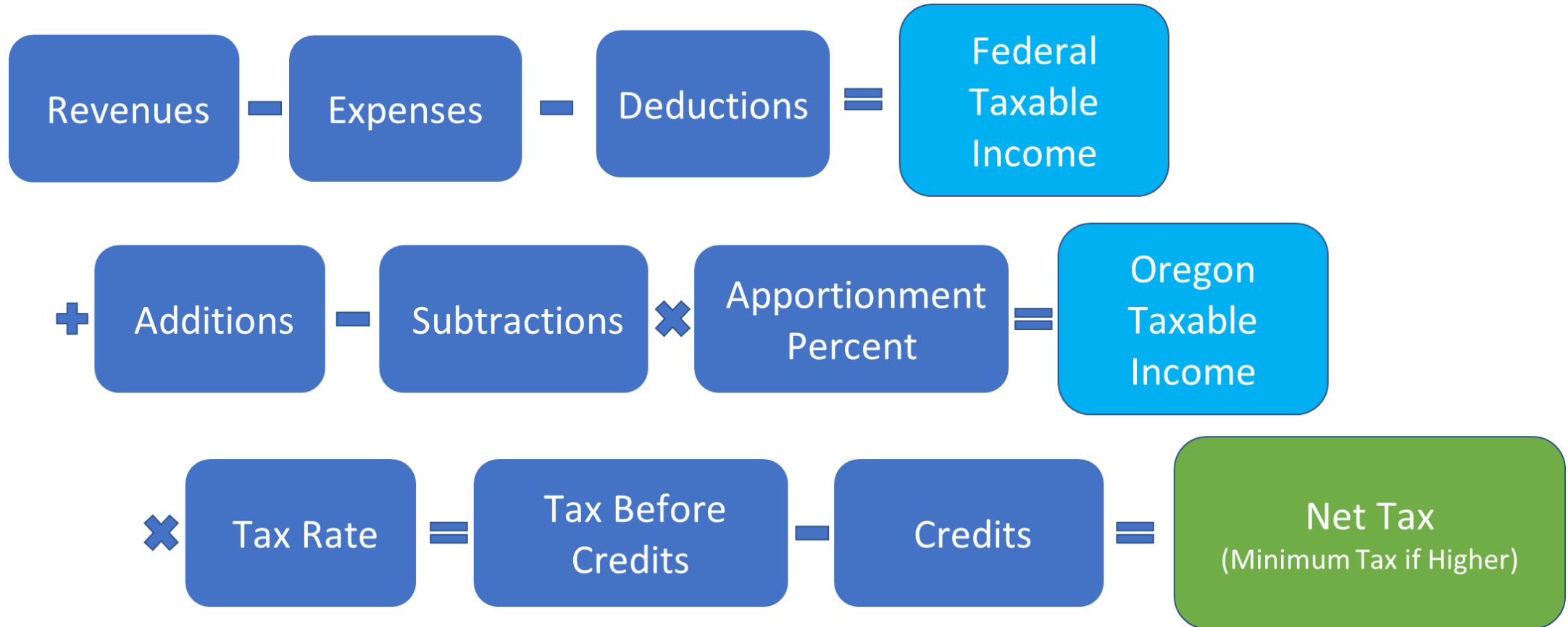
Combined Reporting

- Corporations that file a federal “consolidated return” that combines income from multiple related corporations are generally required to file consolidated returns for Oregon.
- The Oregon return contains “unitary” members
 - Unitary means the members share some flow of value between them, like common management, administration, or goods.





Calculation of Tax





Additions & Subtractions (Examples)

- Additions: Income Taxed by Oregon but not at Federal level
- Subtractions: Income Taxed at Federal level but not by Oregon

Examples:

- Difference in depreciation allowed by Oregon versus Federal law
- Federal deduction claimed as Oregon credit
- Oregon deduction claimed as Federal credit
- Deductions not allowed by Oregon
- State Taxes deducted from federal income





Apportionment and Allocation

- Income related to a corporation's business is shared across states
 - Uses a single-sales-factor formula (Since 2005)
 - $Apportionment\% = \frac{Oregon\ Sales}{Everywhere\ Sales}$
- If Income is not apportionable, it is allocated to a specific state
 - Possible Examples:
 - Capital Gains allocated where property is located
 - Interest and Dividends allocated to state of domicile





Focus is C-Corporation filers

TY 2020 Number of Tax Returns

	Excise Tax	Income Tax	Total
C-Corporations	31,595	1,546	33,141
S-Corporations	73,003	1,441	74,444
Total	104,598	2,987	107,585

TY 2020 Net Tax Liability (\$ millions)

	Excise Tax	Income Tax	Total
C-Corporations	\$1,029.3	\$2.3	\$1,031.5
S-Corporations	\$11.4	\$0.0	\$11.4
Total	\$1,040.7	\$2.3	\$1,042.9





Tax Rate & Minimum Tax

C corporation Tax Rate Schedule	
Taxable Income	Tax Before Credits
Not over \$1M	6.6% of taxable income
Over \$1M	\$66,000 + 7.6% of taxable income > \$1M

C-Corp. Minimum Tax Schedule	
Oregon Sales (\$)	Minimum Tax (\$)
< \$500,000	\$150
\$500,000 to \$1 Million	\$500
\$1 Million to \$2 Million	\$1,000
\$2 Million to \$3 Million	\$1,500
\$3 Million to \$5 Million	\$2,000
\$5 Million to \$7 Million	\$4,000
\$7 Million to \$10 Million	\$7,500
\$10 Million to \$25 Million	\$15,000
\$25 Million to \$50 Million	\$30,000
\$50 Million to \$75 Million	\$50,000
\$75 Million to \$100 Million	\$75,000
\$100 Million or more	\$100,000





C-Corporation Returns for Tax Year 2020

	# of Returns	Net Tax (\$ million)
Finance and Insurance	4,342	\$186.6
Management of Companies and Enterprises	2,180	\$177.3
Wholesale Trade	3,508	\$167.1
Retail Trade	1,817	\$130.7
Manufacturing	2,276	\$84.0
Professional, Scientific, and Technical Services	4,728	\$61.1
Information	2,061	\$50.7
Construction	2,009	\$38.8
All Other	10,220	\$135.1
Total	33,141	\$1,031.5

C-Corporations by Industry





Corporations Paying More than the Min. Tax*, by Tax Category, Tax Year 2020

Tax Category (Net Tax, \$)	Number of Returns	Percent of Total	Net Tax (\$M)	Percent of Total
\$0 - \$150	1,305	12.2%	\$0.0	0.0%
\$151 - \$500	1,101	10.3%	\$0.3	0.0%
\$501 - \$1,000	924	8.6%	\$0.7	0.1%
\$1,001 - \$1,500	644	6.0%	\$0.8	0.1%
\$1,501 - \$2,000	497	4.6%	\$0.9	0.1%
\$2,001 - \$4,000	1,200	11.2%	\$3.5	0.4%
\$4,001 - \$7,500	1,049	9.8%	\$5.8	0.6%
\$7,501 - \$15,000	1,017	9.5%	\$10.9	1.1%
\$15,001 - \$30,000	886	8.3%	\$18.7	1.9%
\$30,001 - \$50,000	527	4.9%	\$20.4	2.1%
\$50,001 - \$75,000	312	2.9%	\$19.1	1.9%
\$75,001 - \$100,000	183	1.7%	\$16.0	1.6%
\$100,000 - \$500,000	722	6.7%	\$159.3	16.3%
\$500,000 - \$1 Million	184	1.7%	\$130.2	13.3%
Greater than \$1 Million	174	1.6%	\$590.9	60.5%
Total	10,725	100.0%	\$977.4	100.0%

*See minimum tax schedule on slide #14. Corporations that reported minimum tax in 2020 owed \$54.1 million.

Concentration
in Tax Liability



For More Information

- LEGISLATIVE REVENUE OFFICE
- 503-986-1266
- <https://www.oregonlegislature.gov/lro>

Corporate Activity Tax Orientation

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Orientation Topics

- Which businesses owe Corporate Activity Tax (CAT)
- Overview of CAT Calculation
- Statistics for Tax Year 2020

Note that tax return data throughout this presentation comes from Dept. of Revenue, Research Section (www.Oregon.gov/DOR/Stats)





Commercial Activity Tax

- Applies to all business types
- Based on Commercial Activity in Oregon
 - “The total amount realized by a person arising from transactions and activity in the regular course of the person’s trade or business, without deduction for expenses incurred by the trade or business”
- Does not apply to exports (commercial activity outside Oregon)
- Threshold of \$1 million for filing and paying tax
- Allows 35% subtraction for Labor Costs or Cost of Goods Sold





Nexus (ORS 317A.116)

- Broad nexus standard with the following examples.
A business has nexus if it
 - Owns or uses capital in Oregon
 - Has a certificate from Secretary of State authorizing it to do business in Oregon
 - Has \$50,000 of property or payroll in Oregon including
 - Employees in Oregon
 - Contractors in Oregon acting on behalf of business
 - Has \$750,000 of Commercial Activity in Oregon
 - Has 25% of its property, payroll, or Commercial Activity in Oregon
 - Has Oregon domicile

- CAT is not subject to Public Law 86-272





Combined Reporting

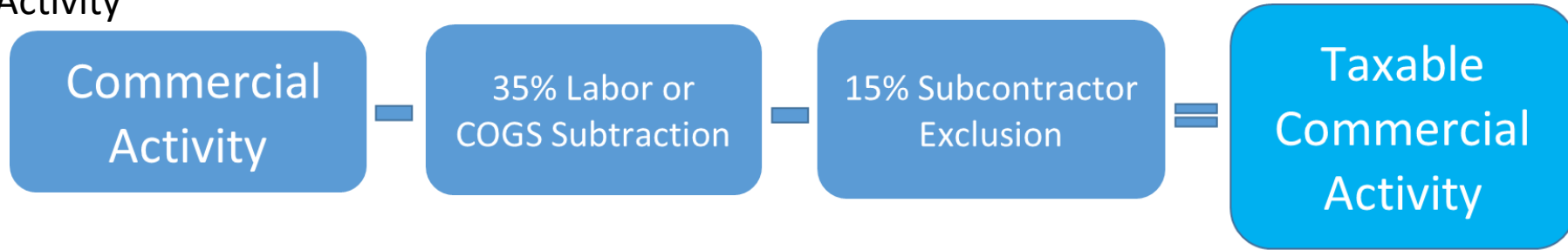
- A Unitary Group pays as a single taxpayer
 - Unitary means the members share some flow of value between them, like common management, administration, or goods
 - The filing/tax threshold combines commercial activity of all members
 - Excludes transactions among members
- Commercial Activity from group members counts toward \$1 million threshold





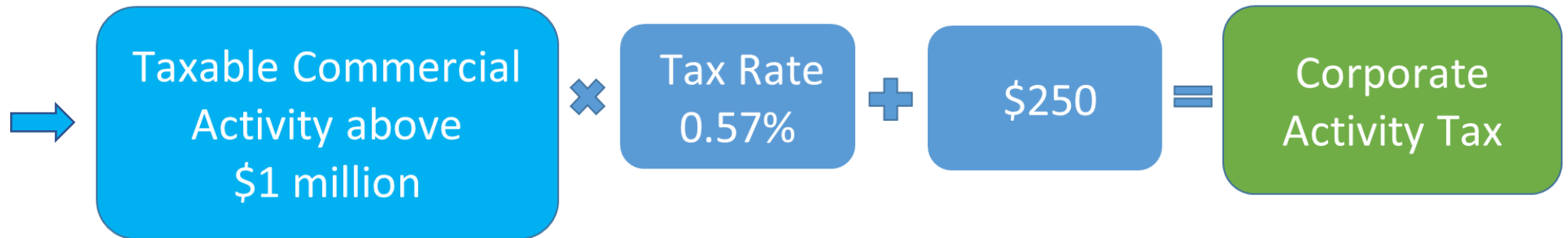
CAT Calculation

Filing Threshold at \$1 million
Commercial Activity



Tax Threshold at \$1 million
Taxable Commercial Activity

If Taxable
Commercial
Activity
greater than
\$1 million





Exclusions

- Excluded entities (examples)
 - Nonprofit organizations
 - Farmers cooperatives exempt from federal tax
 - Hospitals and long-term care facilities subject to medical provider taxes
- Commercial Activity does not include (examples)
 - Motor vehicle fuel
 - Groceries for home consumption eligible for purchase with SNAP benefits
 - Milk sold by dairy farmers that are not members of agricultural co-op
- 15% of subcontractor labor costs for single-family residential construction





CAT Tax Liability by Industry, Tax Year 2020

(\$ millions)

Retail Trade	\$165.5
Manufacturing	\$125.0
Management of Companies and Enterprises	\$120.4
Wholesale Trade	\$105.2
Construction	\$94.7
Finance and Insurance	\$78.2
Information	\$73.5
Real Estate, Rental, and Leasing	\$42.2
Professional, Scientific, and Technical Services	\$39.2
Health Care and Social Assistance	\$29.1
All Others	\$107.7
Total	\$980.5





CAT Tax Liability by Oregon Commercial Activity, TY 2020

Oregon Commercial Activity	# of Returns	% of Total Returns	Net Tax (\$ millions)	% of Total Net Tax
Less than \$1 million	1,339	6.5%	\$0.0	0.0%
\$1 million to \$1.5 million	4,658	22.4%	\$2.6	0.3%
\$1.5 million to \$2 million	2,883	13.9%	\$7.5	0.8%
\$2 million to \$3 million	3,203	15.4%	\$18.5	1.9%
\$3 million to \$5 million	2,871	13.8%	\$34.8	3.5%
\$5 million to \$7 million	1,341	6.5%	\$28.9	2.9%
\$7 million to \$10 million	1,149	5.5%	\$37.0	3.8%
\$10 million to \$15 million	958	4.6%	\$47.5	4.8%
\$15 million to \$25 million	847	4.1%	\$68.4	7.0%
\$25 million to \$50 million	771	3.7%	\$115.0	11.7%
\$50 million to \$100 million	379	1.8%	\$116.3	11.9%
Over \$100 million	355	1.7%	\$504.1	51.4%
Total	20,754	100%	\$980.5	100%

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