

House Bill 2114

Sponsored by Representative RESCHKE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes the corporate minimum tax not law. (Flesch Readability Score: 75.5).
Repeals the corporate minimum tax. Applies to tax years beginning on or after January 1, 2026.
Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to repeal of the corporate minimum tax; creating new provisions; amending ORS 314.762,
3 315.133, 315.518, 315.519, 317.070, 317.151 and 317.635; repealing ORS 317.090; and prescribing
4 an effective date.

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

6 **SECTION 1.** ORS 314.762 is amended to read:

7 314.762. (1) Except as otherwise provided in ORS 314.766[,] **and** 314.767 [*and 317.090*], an S cor-
8 poration [*shall not be*] **is not** subject to the taxes imposed by ORS chapter 316, 317 or 318.

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

12 (b) Except as otherwise provided under this chapter and ORS chapter 316, 317 or 318, and except
13 as inconsistent with ORS 314.761 to 314.772, subchapter C, chapter 1, Internal Revenue Code, shall
14 apply to an S corporation and its shareholders for Oregon tax purposes. For Oregon tax purposes,
15 the provisions of section 1371 of the Internal Revenue Code shall apply, subject to the modifications,
16 additions and subtractions under this chapter or ORS chapter 316, 317 or 318 and any provisions to
17 the contrary in this chapter or ORS chapter 316, 317 or 318.

18 (c) Notwithstanding ORS 317.476, 317.478 or 317.479, no carryforward, arising for a taxable year
19 for which a corporation is a C corporation, may be carried to a taxable year for which such cor-
20 poration is an S corporation.

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

23 **SECTION 2.** ORS 317.070 is amended to read:

24 317.070. Every centrally assessed corporation, the property of which is assessed by the Depart-
25 ment of Revenue under ORS 308.505 to 308.674, and every mercantile, manufacturing and business
26 corporation and every financial institution doing business within this state, except as provided in
27 ORS 317.080 [*and 317.090*], shall annually pay to this state, for the privilege of carrying on or doing
28 business by it within this state, an excise tax according to or measured by its Oregon taxable in-
29 come, to be computed in the manner provided by this chapter, at the rate provided in ORS 317.061.

30 **SECTION 3.** ORS 317.151 is amended to read:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 317.151. (1) A credit is allowed against the taxes otherwise due under this chapter. The amount
2 of the credit shall equal 10 percent of the fair market value of certain qualified charitable contri-
3 butions, as described in this section.

4 (2) To qualify for the credit allowed under subsection (1) of this section, the charitable contri-
5 bution must:

6 (a) Be a charitable contribution of tangible personal property described in section 1221(a)(1) of
7 the Internal Revenue Code that has as its original use, use by the donee for education of students
8 in this state, and that is a computer or other scientific equipment or apparatus; and

9 (b) Be a charitable contribution made during the tax year for which the credit is claimed to an
10 educational organization that is located in this state and that is:

11 (A) An institution of higher education described in section 170 (b)(1)(A)(ii) of the Internal Re-
12 venue Code; or

13 (B) A public educational institution offering instruction in prekindergarten through grade 12 or
14 any portion of that instruction.

15 (3) Notwithstanding subsection (2) of this section, a charitable contribution shall qualify for the
16 credit allowed under subsection (1) of this section, if:

17 (a) The charitable contribution would otherwise qualify for the credit under subsection (2) of
18 this section except that the charitable contribution is of a contract or agreement for the mainte-
19 nance of the computer or other scientific equipment or apparatus; or

20 (b) The charitable contribution is a contribution of moneys made under a contract or agreement
21 during the tax year for scientific or engineering research to an educational organization that is lo-
22 cated in this state and that is:

23 (A) An institution of higher education described in section 170 (b)(1)(A)(ii) of the Internal Re-
24 venue Code; or

25 (B) A public educational institution offering instruction in prekindergarten through grade 12 or
26 any portion of that instruction.

27 (4) The credit allowed under this section is in lieu of any deduction otherwise allowable under
28 this chapter. No deduction shall be allowed under this chapter for any amount upon which the credit
29 allowed under this section is based. However, nothing in this section shall affect the basis of the
30 property in the hands of the donee or any other taxpayer. The basis of the property in the hands
31 of the donee or other person shall be determined as if this section did not exist.

32 (5)(a) Except as provided in paragraph (b) of this subsection, the credit allowed under this sec-
33 tion [*shall*] **may** not exceed the tax liability of the taxpayer [*and shall not be allowed against the tax*
34 *imposed under ORS 317.090*]. To qualify for a credit under this section, the charitable contribution
35 must be made without consideration and be accepted by the donee institution or school.

36 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
37 particular year may be carried forward and offset against the taxpayer's tax liability for the next
38 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
39 forward and used in the second succeeding tax year, and likewise any credit not used in that second
40 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
41 credit not used in that third succeeding tax year may be carried forward and used in the fourth
42 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
43 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
44 thereafter.

45 (6) For purposes of this section, "fair market value" shall be determined at the time the property

1 or services are contributed and shall be substantiated by whatever information the Department of
 2 Revenue requires. A requirement for substantiation may be waived partially, conditionally or abso-
 3 lutely, as provided under ORS 315.063.

4 **SECTION 4.** ORS 317.635 is amended to read:

5 317.635. *[(1)]* Except as provided in ORS 317.283, a domestic international sales corporation,
 6 commonly referred to as “DISC,” as defined in section 992 of the Internal Revenue Code, shall be
 7 taxed in the manner provided for other corporations under this chapter and without regard to
 8 sections 991 to 996 of the Internal Revenue Code.

9 *[(2) An interest charge DISC formed on or before January 1, 2014, is exempt from the tax imposed*
 10 *under ORS 317.090.]*

11 **SECTION 5.** ORS 315.133 is amended to read:

12 315.133. (1) As used in this section and ORS 315.135 and 315.136:

13 (a) “Agricultural worker” has the meaning given that term in ORS 653.271.

14 (b) “Eligible employer” means an employer doing business in 2017 North American Industry
 15 Classification System code 111, crop production, or code 112, animal production and aquaculture.

16 (c) “Full-time equivalent employee” means an employee or a combination of employees that
 17 perform at least 2,080 hours of work for an employer in a calendar year.

18 (2)(a) A credit against taxes that are otherwise due under ORS chapter 316 or, if the taxpayer
 19 is a corporation, under ORS chapter 317 or 318 is allowed for overtime compensation required under
 20 ORS 653.272 to be paid, for work performed in Oregon, by an eligible employer to agricultural
 21 workers on an hourly basis. The amount of the credit shall equal a percentage of the actual excess
 22 paid to agricultural workers during the calendar year in which the tax year begins, as determined
 23 under ORS 315.135.

24 (b) A labor contractor licensed under ORS 658.410 may not claim a credit under this section.
 25 An eligible employer may claim a credit under this section for wages paid to workers recruited,
 26 solicited, supplied or employed by a labor contractor on behalf of the eligible employer.

27 *[(c) Notwithstanding ORS 317.090 (3), a credit under this section is allowed against the tax im-*
 28 *posed under ORS 317.090.]*

29 *[(d)]* (c) A credit is not allowed under this section for any overtime wages paid to an employee
 30 who is exempt from the provisions of ORS 653.272 as a member of the immediate family of the em-
 31 ployer.

32 (3) Prior to claiming the credit allowed under this section, a taxpayer is required to receive a
 33 notice of acknowledgment from the Department of Revenue, as provided in ORS 315.136, stating the
 34 maximum amount of credit that the taxpayer may claim for the calendar year.

35 (4) If the amount allowable:

36 (a) As a credit under this section against taxes imposed under ORS chapter 316, when added to
 37 the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax pre-
 38 payment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters
 39 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes
 40 of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as
 41 provided in ORS 316.502.

42 (b) As a credit under this section against taxes imposed under ORS chapter 317 or 318, when
 43 added to the sum of the amount of estimated tax paid under ORS 314.515 and any other tax pre-
 44 payment amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year (reduced
 45 by any nonrefundable credits allowable for purposes of ORS chapter 317 for the tax year), the

1 amount of the excess shall be refunded to the taxpayer as provided in ORS 314.415.

2 (5) Any amount that is refunded to the taxpayer under this section and that is in excess of the
3 tax liability of the taxpayer does not bear interest.

4 (6) A nonresident shall be allowed the credit under this section. The credit shall be computed
5 in the same manner and be subject to the same limitations as the credit granted to a resident.
6 However, the credit shall be prorated using the proportion provided in ORS 316.117.

7 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the
8 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
9 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

10 (8) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
11 resident occurs, the credit allowed under this section shall be determined in a manner consistent
12 with ORS 316.117.

13 (9) The Department of Revenue shall adopt rules for the purposes of ORS 315.133 to 315.137,
14 including policies and procedures for providing notice to taxpayers regarding the credit allowed
15 under this section as required in ORS 315.136.

16 **SECTION 6.** ORS 315.518 is amended to read:

17 315.518. (1) As used in this section, "qualified semiconductor company" means an entity whose
18 primary business is the research, design, development, fabrication, assembly, testing, packaging or
19 validation of semiconductors, or an entity whose primary business is the creation of semiconductor
20 manufacturing equipment, semiconductor core intellectual property or electronic design automation
21 software that is primarily intended for use in the semiconductor industry.

22 (2) A credit against taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corpo-
23 ration, under ORS chapter 317 shall be allowed to eligible taxpayers for increases in qualified re-
24 search expenses and basic research payments. The credit shall be determined in accordance with
25 section 41 of the Internal Revenue Code, except as follows:

26 (a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be
27 15 percent.

28 (b) "Qualified research" and "basic research" shall consist only of research conducted in Oregon
29 by a qualified semiconductor company, in support of a trade or business directly related to semi-
30 conductors.

31 (c) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit)
32 does not apply to the credit allowable under this section.

33 (3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority
34 of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by
35 this section or as provided in rules adopted by the Department of Revenue.

36 (4) The maximum credit under this section may not exceed \$4 million for any taxpayer.

37 (5) Prior to claiming a credit under this section, a taxpayer must obtain from the Oregon Busi-
38 ness Development Department:

39 (a) If applicable, approval from the Oregon Business Development Department as provided in
40 section 5, chapter 298, Oregon Laws 2023.

41 (b) Certification as provided in ORS 315.522.

42 (6) The Oregon Business Development Department shall provide information to the Department
43 of Revenue about all certifications issued under ORS 315.522, if required by ORS 315.058.

44 (7) The Director of the Oregon Business Development Department may order the suspension or
45 revocation of a credit allowed under this section, as provided in ORS 315.061.

1 (8) A deduction may not be taken for the portion of expenses or payments, otherwise allowable
 2 as a deduction, that is equal to the amount of the credit claimed under this section.

3 [(9) *Notwithstanding ORS 317.090 (3), the refundable portion of a credit under this section is al-*
 4 *lowed against the tax imposed under ORS 317.090 and may reduce the tax imposed under ORS 317.090*
 5 *to zero. Any remaining amount of credit above the minimum shall be refunded as provided in ORS*
 6 *315.519.*]

7 [(10)] (9) Any tax credit that is otherwise allowable under this section and that is not used by
 8 the taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for
 9 the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may
 10 be carried forward and used in the second succeeding tax year, and likewise any credit not used in
 11 that second succeeding tax year may be carried forward and used in the third succeeding tax year,
 12 and any credit not used in that third succeeding tax year may be carried forward and used in the
 13 fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be car-
 14 ried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax
 15 year thereafter.

16 **SECTION 7.** ORS 315.519 is amended to read:

17 315.519. (1)(a) If the amount allowable as a credit under ORS 315.518, after any reduction ap-
 18 plicable under subsection (2) of this section, when added to the sum of the amount of estimated tax
 19 paid under ORS 314.515 and any other tax prepayment amounts, exceeds the taxes imposed by ORS
 20 chapters 314 and 317 for the tax year after application of any nonrefundable credits allowable for
 21 purposes of ORS chapter 317 for the tax year, the amount of the excess determined under this sub-
 22 section shall be refunded to the taxpayer as provided in ORS 314.415.

23 (b) If the amount allowable as a credit under ORS 315.518, after any reduction applicable under
 24 subsection (2) of this section, when added to the sum of the amounts allowable as payment of tax
 25 under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts,
 26 exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any
 27 nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the
 28 excess shall be refunded to the taxpayer as provided in ORS 316.502.

29 (2) If the taxpayer employs, in Oregon:

30 (a) Fewer than 150 employees at the close of the tax year, the amount of credit used in the
 31 calculation in subsection (1) of this section shall be reduced by 25 percent.

32 (b) At least 150 employees but fewer than 500 employees at the close of the tax year, the amount
 33 of credit used in the calculation in subsection (1) of this section shall be reduced by 50 percent.

34 (c) At least 500 employees but fewer than 3,000 employees at the close of the tax year, the
 35 amount of credit used in the calculation in subsection (1) of this section shall be reduced by 75
 36 percent.

37 (3) Any amount not available for refund due to subsection (2) of this section may be carried
 38 forward as provided in ORS 315.518 [(10)] (9).

39 (4) This section applies only to taxpayers with fewer than 3,000 employees who are employed in
 40 Oregon at the close of the tax year.

41 **SECTION 8.** ORS 317.090 is repealed.

42 **SECTION 9.** The amendments to ORS 314.762, 315.133, 315.518, 315.519, 317.070, 317.151 and
 43 317.635 by sections 1 to 7 of this 2025 Act and the repeal of ORS 317.090 by section 8 of this
 44 2025 Act apply to tax years beginning on or after January 1, 2026.

45 **SECTION 10.** This 2025 Act takes effect on the 91st day after the date on which the 2025

1 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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