

# House Bill 2560

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

## 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**.

Provides that Department of Revenue may transfer liability for transit taxes or other payroll taxes to reorganized business entity.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax collection; amending ORS 305.330; and prescribing an effective date.

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

4 **SECTION 1.** ORS 305.330 is amended to read:

5 305.330. (1) As used in this section, "reorganized business entity":

6 (a) Means a business entity that, while operating substantially the same business as another  
7 entity that incurred a liability for taxes, interest or penalties [*administered by the Department of*  
8 *Revenue*], has been converted to a different form of business entity from that of the entity that in-  
9 curred the liability or has changed ownership from that of the entity that incurred the liability; and

10 (b) Does not include a business entity that is converted to a different form or that has changed  
11 ownership solely because of a transfer of assets or because of a transfer of an interest of an investor  
12 who has no right to manage the business entity, including, but not limited to, the interest of:

13 (A) A person that is solely a minority shareholder in a corporation;

14 (B) A member of a manager-managed limited liability company; or

15 (C) A limited partner of a limited partnership that does not participate in the control of the  
16 business of the limited partnership.

17 (2) The Department of **Revenue** may transfer the liability for taxes, interest or penalties [*that*  
18 *are administered and collected by the department*] from the business entity that incurred the liability  
19 to a reorganized business entity and may assess those amounts against the reorganized business  
20 entity. **Liabilities that may be transferred under this section include the following taxes and**  
21 **any associated interest or penalties:**

22 (a) **Taxes that are administered and collected by the department.**

23 (b) **Any tax imposed under ORS 267.385 or other payroll tax.**

24 (3) Factors the department may consider when determining if a business entity is a reorganized  
25 business entity include, but are not limited to, whether the business entity:

26 (a) Operates from the same physical location as did the taxpayer owing the debt.

27 (b) Provides the same services or manufactures the same products as did the taxpayer owing the  
28 debt.

29 (c) Has one or more of the same:

30 (A) Corporate directors or officers as did the taxpayer owing the debt.

**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 (B) Owners or holders of a direct or indirect interest in the business entity as did the taxpayer  
2 owing the debt.

3 (4) Following the determination to transfer a liability to a reorganized business entity under  
4 subsections (2) and (3) of this section and notwithstanding ORS 314.835, 314.840 or 314.991, the de-  
5 partment shall send a notice of liability to the reorganized business entity stating the amount owed  
6 by the reorganized business entity.

7 (5) Within 30 days from the date of notice of liability given under subsection (4) of this section,  
8 the reorganized business entity shall:

9 (a) Pay the liability stated in the notice and any other penalty or interest related to that li-  
10 ability; or

11 (b) Advise the department in writing of objections to the notice of liability and, if desired, re-  
12 quest a conference. A conference requested under this paragraph shall be governed by those pro-  
13 visions of ORS 305.265 that govern a conference requested from a notice of deficiency under ORS  
14 305.265. Notwithstanding ORS 314.835, 314.840 or 314.991, the department may disclose any infor-  
15 mation to the reorganized business entity that the department would be authorized to disclose to the  
16 business entity that incurred the liability.

17 (6) After a determination of the issues raised in written objections made under subsection (5)  
18 of this section or after a conference, if a conference was requested, the department shall mail the  
19 reorganized business entity a letter affirming, canceling or adjusting the notice of liability. If the  
20 entity remains liable for an outstanding amount under this section, the letter shall be considered a  
21 notice of assessment and, within 90 days from the date the letter is mailed, the entity shall:

22 (a) Pay the amount set forth in the notice of assessment; or

23 (b) Appeal to the Oregon Tax Court in the manner provided for an appeal from a notice of as-  
24 sessment.

25 (7) If neither payment nor written objections to the notice of liability sent under subsection (4)  
26 of this section is received by the department within 30 days after the date of the notice of liability,  
27 the notice of liability becomes final. The reorganized business entity may appeal the notice to the  
28 tax court within 90 days after the date the notice became final, in the manner provided for an appeal  
29 from a notice of assessment.

30 **SECTION 2. This 2011 Act takes effect on the 91st day after the date on which the 2011**  
31 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

32