

D R A F T

SUMMARY

Modifies methods for calculating numerator used in apportionment of business income for purposes of corporate excise taxation. Requires sales of all members of unitary group of corporations to be included in numerator of Oregon apportionment percentage if any member is taxable in state.

Applies to tax years beginning on or after January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to apportionment of corporate income; creating new provisions;
3 amending ORS 317.715; and prescribing an effective date.

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

5 **SECTION 1.** ORS 317.715 is amended to read:

6 317.715. (1) If a corporation required to make a return under this chapter
7 is a member of an affiliated group of corporations making a consolidated
8 federal return under sections 1501 to 1505 of the Internal Revenue Code, the
9 corporation's Oregon taxable income shall be determined beginning with
10 federal consolidated taxable income of the affiliated group as provided in this
11 section.

12 (2) If the affiliated group, of which the corporation subject to taxation
13 under this chapter is a member, consists of more than one unitary group or
14 includes any alien, domestic or foreign insurer, as defined in ORS 731.082,
15 that is excluded from the consolidated state return under ORS 317.710 (5) or
16 (7), before the additions, subtractions, adjustments and modifications to fed-
17 eral taxable income provided for in this chapter are made, and before allo-
18 cation and apportionment as provided in ORS 317.010 (10), if any, modified

1 federal consolidated taxable income shall be computed. Modified federal
2 consolidated taxable income shall be determined by eliminating from the
3 federal consolidated taxable income of the affiliated group the separate tax-
4 able income, as determined under Treasury Regulations adopted under sec-
5 tion 1502 of the Internal Revenue Code, and any deductions or additions or
6 items of income, expense, gain or loss for which consolidated treatment is
7 prescribed under Treasury Regulations adopted under section 1502 of the
8 Internal Revenue Code, attributable to the member or members of any
9 unitary group of which the corporation is not a member or to insurers ex-
10 cluded from the consolidated state return under ORS 317.710 (5) or (7).

11 (3)(a) After modified federal consolidated taxable income is determined
12 under subsection (2) of this section, the additions, subtractions, adjustments
13 and modifications prescribed by this chapter shall be made to the modified
14 federal consolidated taxable income of the remaining members of the affil-
15 iated group, where applicable, as if all such members were subject to taxa-
16 tion under this chapter. After those modifications are made, Oregon taxable
17 income or loss shall be determined as provided in ORS 317.010 (10)(a) to (c),
18 if necessary.

19 (b) In the computation of the Oregon apportionment percentage for a
20 corporation that is a member of an affiliated group filing a consolidated
21 federal return, there shall be taken into consideration only the property,
22 payroll, sales or other factors of those members of the affiliated group whose
23 items of income, expense, gain or loss remain in modified federal consol-
24 idated taxable income after the eliminations required under subsection (2)
25 of this section. *[Those members of an affiliated group making a consolidated*
26 *federal return or a consolidated state return may not be treated as one*
27 *taxpayer]* For purposes of determining whether any member of *[the]* **an af-**
28 **filiated** group is taxable in this state or any other state with respect to
29 questions of jurisdiction to tax or the composition of the apportionment
30 factors used to attribute income to this state under ORS 314.280 or 314.605
31 to 314.675[.], **those members of an affiliated group making a consol-**

1 **idated federal return or a consolidated state return may not be treated**
2 **as one taxpayer, but the property, payroll, sales or other factors of all**
3 **members of a unitary group shall be included in the numerator of the**
4 **Oregon apportionment percentage if any member of the group is tax-**
5 **able in this state.**

6 **SECTION 2. The amendments to ORS 317.715 by section 1 of this**
7 **2019 Act apply to tax years beginning on or after January 1, 2020.**

8 **SECTION 3. This 2019 Act takes effect on the 91st day after the date**
9 **on which the 2019 regular session of the Eightieth Legislative Assem-**
10 **bly adjourns sine die.**

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