

# D R A F T

## SUMMARY

Modifies administrative provisions of corporate activity tax. Specifies that taxpayer is required to register one time only. Provides that returns and allowances are allowed as offset against commercial activity in year commercial activity is received. Provides for commercial activity ratio for apportionment of subtraction. Establishes penalties for failure to file annual return or failure to pay tax by due date of annual return. 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 corporate activity tax; creating new provisions; amending ORS  
3 317A.100, 317A.116, 317A.119, 317A.131 and 317A.161 and section 78, chap-  
4 ter 122, Oregon Laws 2019; and prescribing an effective date.

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

6 **SECTION 1.** ORS 317A.100 is amended to read:

7 317A.100. As used in ORS 317A.100 to 317A.158:

8 (1)(a) "Commercial activity" means:

9 (A) The total amount realized by a person, arising from transactions and  
10 activity in the regular course of the person's trade or business, without de-  
11 duction for expenses incurred by the trade or business;

12 (B) If received by a financial institution:

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

15 (ii) If the reporting person for a financial institution is a bank organiza-  
16 tion, all items of income reported on the call report filed by the bank or-  
17 ganization; and

1 (iii) If the reporting person for a financial institution is a nonbank fi-  
2 nancial organization, all items of income reported in accordance with gen-  
3 erally accepted accounting principles; and

4 (C)(i) If received by an insurer, as reported on the statement of premiums  
5 accompanying the annual statement required under ORS 731.574 to be filed  
6 with the Director of the Department of Consumer and Business Services, all  
7 gross direct life insurance premiums, gross direct accident and health insur-  
8 ance premiums and gross direct property and casualty insurance premiums;  
9 and

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

12 (b) "Commercial activity" does not include:

13 (A) Interest income except:

14 (i) Interest on credit sales; or

15 (ii) Interest income, including service charges, received by financial in-  
16 stitutions;

17 (B) Receipts from the sale, exchange or other disposition of an asset de-  
18 scribed in section 1221 or 1231 of the Internal Revenue Code, without regard  
19 to the length of time the person held the asset;

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

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

29 (E) Proceeds received attributable to the repayment, maturity or redemp-  
30 tion of the principal of a loan, bond, mutual fund, certificate of deposit or  
31 marketable instrument;

1 (F) The principal amount received under a repurchase agreement or on  
2 account of any transaction properly characterized as a loan to the person;

3 (G) Contributions received by a trust, plan or other arrangement, any of  
4 which is described in section 501(a) of the Internal Revenue Code, or to  
5 which title 26, subtitle A, chapter 1, subchapter (D) of the Internal Revenue  
6 Code applies;

7 (H) Compensation, whether current or deferred, and whether in cash or  
8 in kind, received or to be received by an employee, a former employee or the  
9 employee's legal successor for services rendered to or for an employer, in-  
10 cluding reimbursements received by or for an individual for medical or edu-  
11 cation expenses, health insurance premiums or employee expenses or on  
12 account of a dependent care spending account, legal services plan, any cafe-  
13 teria plan described in section 125 of the Internal Revenue Code or any  
14 similar employee reimbursement;

15 (I) Proceeds received from the issuance of the taxpayer's own stock,  
16 options, warrants, puts or calls, or from the sale of the taxpayer's treasury  
17 stock;

18 (J) Proceeds received on the account of payments from insurance policies  
19 owned by the taxpayer, except those proceeds received for the loss of busi-  
20 ness revenue;

21 (K) Gifts or charitable contributions received, membership dues received  
22 by trade, professional, homeowners' or condominium associations, payments  
23 received for educational courses, meetings or meals, or similar payments to  
24 a trade, professional or other similar association, and fundraising receipts  
25 received by any person when any excess receipts are donated or used exclu-  
26 sively for charitable purposes;

27 (L) Damages received as the result of litigation in excess of amounts that,  
28 if received without litigation, would be treated as commercial activity;

29 (M) Property, money and other amounts received or acquired by an agent  
30 on behalf of another in excess of the agent's commission, fee or other  
31 remuneration;

1 (N) Tax refunds, other tax benefit recoveries and reimbursements for the  
2 tax imposed under ORS 317A.100 to 317A.158 made by entities that are part  
3 of the same unitary group as provided under ORS 317A.106, and reimburse-  
4 ments made by entities that are not members of a unitary group that are  
5 required to be made for economic parity among multiple owners of an entity  
6 whose tax obligation under ORS 317A.100 to 317A.158 is required to be re-  
7 ported and paid entirely by one owner, as provided in ORS 317A.106;

8 (O) Pension reversions;

9 (P) Contributions to capital;

10 (Q) Receipts from the sale, transfer, exchange or other disposition of mo-  
11 tor vehicle fuel or any other product used for the propulsion of motor vehi-  
12 cles;

13 (R) In the case of receipts from the sale of cigarettes or tobacco products  
14 by a wholesale dealer, retail dealer, distributor, manufacturer or seller, an  
15 amount equal to the federal and state excise taxes paid by any person on or  
16 for such cigarettes or tobacco products under subtitle E of the Internal  
17 Revenue Code or ORS chapter 323;

18 (S) In the case of receipts from the sale of malt beverages or wine, as  
19 defined in ORS 471.001, cider, as defined in ORS 471.023 or distilled liquor,  
20 as defined in ORS 471.001, by a person holding a license issued under ORS  
21 chapter 471, an amount equal to the federal and state excise taxes paid by  
22 any person on or for such malt beverages, wine or distilled liquor under  
23 subtitle E of the Internal Revenue Code or ORS chapter 471 or 473, and any  
24 amount paid to the Oregon Liquor Control Commission for sales of distilled  
25 spirits by an agent appointed under ORS 471.750;

26 (T) In the case of receipts from the sale of marijuana items, as defined in  
27 ORS 475B.015, by a person holding a license issued under ORS 475B.010 to  
28 475B.545, an amount equal to the federal and state excise taxes paid by any  
29 person on or for such marijuana items under subtitle E of the Internal Rev-  
30 enue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized  
31 under ORS 475B.491;

1 (U) Local taxes collected by a restaurant or other food establishment on  
2 sales of meals, prepared food or beverages;

3 (V) Tips or gratuities collected by a restaurant or other food establish-  
4 ment and passed on to employees;

5 (W) Receipts realized by a vehicle dealer certified under ORS 822.020 or  
6 a person described in ORS 320.400 (8)(a)(B) from the sale or other transfer  
7 of a motor vehicle, as defined in ORS 801.360, to another vehicle dealer for  
8 the purpose of resale by the transferee vehicle dealer, but only if the sale  
9 or other transfer was based upon the transferee's need to meet a specific  
10 customer's preference for a motor vehicle;

11 (X) Registration fees or taxes collected by a vehicle dealer certified under  
12 **ORS 822.020 or a person described in ORS 320.400 (8)(a)(B)** at the sale or  
13 other transfer of a motor vehicle, as defined in ORS 801.360, that are owed  
14 to a third party by the purchaser of the motor vehicle and passed to the third  
15 party by the dealer;

16 (Y) Receipts from a financial institution for services provided to the fi-  
17 nancial institution in connection with the issuance, processing, servicing and  
18 management of loans or credit accounts, if the financial institution and the  
19 recipient of the receipts have at least 50 percent of their ownership interests  
20 owned or controlled, directly or constructively through related interests, by  
21 common owners;

22 (Z) In the case of amounts retained as commissions by a holder of a li-  
23 cense under ORS chapter 462, an amount equal to the amounts specified un-  
24 der ORS chapter 462 that must be paid to or collected by the Department of  
25 Revenue as a tax and the amounts specified under ORS chapter 462 to be  
26 used as purse money;

27 (AA) Net revenue of residential care facilities as defined in ORS 443.400  
28 or in-home care agencies as defined in ORS 443.305, to the extent that the  
29 revenue is derived from or received as compensation for providing services  
30 to a medical assistance or Medicare recipient;

31 (BB) Dividends received;

- 1 (CC) Distributive income received from a pass-through entity;
- 2 (DD) Receipts from sales to a wholesaler in this state, if the seller re-  
3 ceives certification at the time of sale from the wholesaler that the whole-  
4 saler will sell the purchased property outside this state;
- 5 (EE) Receipts from the wholesale or retail sale of groceries;
- 6 (FF) Receipts from transactions among members of a unitary group;
- 7 (GG) Moneys, including public purpose charge moneys collected under  
8 ORS 757.612 and costs of funding or implementing cost-effective energy con-  
9 servation measures collected under ORS 757.689, that are collected from  
10 customers, passed to a utility and approved by the Public Utility Commission  
11 and that support energy conservation, renewable resource acquisition and  
12 low-income assistance programs;
- 13 (HH) Moneys collected by a utility from customers for the payment of  
14 loans through on-bill financing;
- 15 (II) Surcharges collected under ORS 757.736;
- 16 (JJ) Moneys passed to a utility by the Bonneville Power Administration  
17 for the purpose of effectuating the Regional Power Act Exchange credits or  
18 pursuant to any settlement associated with the exchange credit;
- 19 (KK) Moneys collected or recovered, by entities listed in ORS 756.310,  
20 cable operators as defined in 47 U.S.C. 522(5), telecommunications carriers  
21 as defined in 47 U.S.C. 153(51) and providers of information services as de-  
22 fined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-way  
23 fees, franchise fees, privilege taxes, federal taxes and local taxes;
- 24 (LL) Charges paid to the Residential Service Protection Fund required  
25 by chapter 290, Oregon Laws 1987;
- 26 (MM) Universal service surcharge moneys collected or recovered and paid  
27 into the universal service fund established in ORS 759.425;
- 28 (NN) Moneys collected for public purpose funding as described in ORS  
29 759.430;
- 30 (OO) Moneys collected or recovered and paid into the federal universal  
31 service fund as determined by the Federal Communications Commission;

1 (PP) In the case of a seller or provider of telecommunications services,  
2 the amount of tax imposed under ORS 403.200 for access to the emergency  
3 communications system that is collected from subscribers or consumers;

4 (QQ) In the case of a transient lodging tax collector, the amount of tax  
5 imposed under ORS 320.305 and of any local transient lodging tax imposed  
6 upon the occupancy of transit lodging;

7 (RR) In the case of a seller of bicycles, the amount of tax imposed under  
8 ORS 320.415 upon retail sales of bicycles;

9 (SS) In the case of a qualified heavy equipment provider, the amount of  
10 tax imposed under ORS 307.872 upon the rental price of heavy equipment;

11 (TT) Farmer sales to an agricultural cooperative in this state that is a  
12 cooperative organization described in section 1381 of the Internal Revenue  
13 Code; and

14 (UU) Revenue received by a business entity that is mandated by contract  
15 or subcontract to be distributed to another person or entity if the revenue  
16 constitutes sales commissions that are paid to a person who is not an em-  
17 ployee of the business entity, including, without limitation, a split-fee real  
18 estate commission.

19 (2) "Cost inputs" means the cost of goods sold as calculated in arriving  
20 at federal taxable income under the Internal Revenue Code.

21 (3) "Doing business" means engaging in any activity, whether legal or il-  
22 legal, that is conducted for, or results in, the receipt of commercial activity  
23 at any time during a calendar year.

24 (4) "Excluded person" means any of the following:

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

28 (b) Organizations described in section 501(d) of the Internal Revenue  
29 Code, unless the exemption is denied under section 502 or 503 of the Internal  
30 Revenue Code.

31 (c) Organizations described in section 501(e) of the Internal Revenue

1 Code.

2 (d) Organizations described in section 501(f) of the Internal Revenue Code.

3 (e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.  
4

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

6 (g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.  
7

8 (h) Foreign or alien insurance companies, but only with respect to the  
9 underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828.  
10

11 (i) Governmental entities.

12 (j) Any person with commercial activity that does not exceed \$750,000 for  
13 the calendar year, other than a person that is part of a unitary group as  
14 provided in ORS 317A.106 with commercial activity in excess of \$750,000.

15 (k) Hospitals subject to assessment under ORS 414.855, long term care  
16 facilities subject to assessment under ORS 409.801 or any entity subject to  
17 assessment under ORS 414.880 or section 3 or 5, chapter 538, Oregon Laws  
18 2017.

19 (5) "Financial institution" has the meaning given that term in ORS  
20 314.610, except that "financial institution" does not include a credit union.

21 (6)(a) "FR Y-9" means the consolidated or parent-only financial statements that a holding company is required to file with the Federal Reserve  
22 Board pursuant to 12 U.S.C. 1844.  
23

24 (b) In the case of a holding company required to file both consolidated  
25 and parent-only financial statements, "FR Y-9" means the consolidated financial statements that the holding company is required to file.  
26

27 (7) "Governmental entity" means:

28 (a) The United States and any of its unincorporated agencies and instrumentalities.  
29

30 (b) Any incorporated agency or instrumentality of the United States  
31 wholly owned by the United States or by a corporation wholly owned by the

1 United States.

2 (c) The State of Oregon and any of its unincorporated agencies and in-  
3 strumentalities.

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

5 (e) A special government body as defined in ORS 174.117.

6 (f) A federally recognized Indian tribe.

7 (8) "Groceries" means food as defined in 7 U.S.C. 2012(k), but does not  
8 include cannabinoid edibles or marijuana seeds.

9 (9)(a) "Hedging transaction" means a hedging transaction as defined in  
10 section 1221 of the Internal Revenue Code or a transaction accorded hedge  
11 accounting treatment under Financial Accounting Standards Board State-  
12 ment No. 133.

13 (b) "Hedging transaction" does not include a transaction in which an ac-  
14 tual transfer of title of real or tangible property to another entity occurs.

15 (10) "Insurer" has the meaning given that term in ORS 317.010.

16 (11) "Internal Revenue Code," except where the Legislative Assembly has  
17 provided otherwise, refers to the laws of the United States or to the Internal  
18 Revenue Code as they are amended and in effect on December 31, 2018.

19 (12) "Labor costs" means total compensation of all employees, not to in-  
20 clude compensation paid to any single employee in excess of \$500,000.

21 (13)(a) "Motor vehicle fuel or any other product used for the propulsion  
22 of motor vehicles" means:

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

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

26 (b) "Motor vehicle fuel or any other product used for the propulsion of  
27 motor vehicles" does not mean:

28 (A) Electricity; or

29 (B) Electric batteries or any other mechanical or physical component or  
30 accessory of a motor vehicle.

31 (14) "Person" includes individuals, combinations of individuals of any

1 form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-  
2 stock companies, business trusts, estates, partnerships, limited liability  
3 partnerships, limited liability companies, associations, joint ventures, clubs,  
4 societies, entities organized as for-profit corporations under ORS chapter 60,  
5 C corporations, S corporations, qualified subchapter S subsidiaries, qualified  
6 subchapter S trusts, trusts, entities that are disregarded for federal income  
7 tax purposes and any other entities.

8 (15) “Retailer” means a person doing business by selling tangible personal  
9 property to a purchaser for a purpose other than:

10 (a) Resale by the purchaser of the property as tangible personal property  
11 in the regular course of business;

12 (b) Incorporation by the purchaser of the property in the course of regular  
13 business as an ingredient or component of real or personal property; or

14 (c) Consumption by the purchaser of the property in the production for  
15 sale of a new article of tangible personal property.

16 (16) “Taxable commercial activity” means commercial activity sourced to  
17 this state under ORS 317A.128, less any subtraction pursuant to ORS  
18 317A.119.

19 (17)(a) “Taxpayer” means any person or unitary group required to regis-  
20 ter, file or pay tax under ORS 317A.100 to 317A.158.

21 (b) “Taxpayer” does not include excluded persons, except to the extent  
22 that a tax-exempt entity has unrelated business income that is taxable under  
23 the Internal Revenue Code.

24 (18)(a) “Unitary business” means a business enterprise in which there  
25 exists directly or indirectly between the members or parts of the enterprise  
26 a sharing or exchange of value as demonstrated by:

27 (A) Centralized management or a common executive force;

28 (B) Centralized administrative services or functions resulting in econo-  
29 mies of scale; or

30 (C) Flow of goods, capital resources or services demonstrating functional  
31 integration.

1 (b) “Unitary business” may include a business enterprise the activities  
2 of which:

3 (A) Are in the same general line of business, such as manufacturing,  
4 wholesaling or retailing; or

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

8 (19) “Unitary group” means a group of persons with more than 50 percent  
9 common ownership, either direct or indirect, that is engaged in business ac-  
10 tivities that constitute a unitary business.

11 (20) “Wholesaler” means a person primarily doing business by merchant  
12 distribution of tangible personal property to retailers or to other whole-  
13 salers.

14 **SECTION 2.** ORS 317A.116 is amended to read:

15 317A.116. (1) A corporate activity tax is imposed on each person with  
16 taxable commercial activity for the privilege of doing business in this state.  
17 The tax is imposed upon persons with substantial nexus with this state. The  
18 tax imposed under this section is not a transactional tax and is not subject  
19 to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed under this  
20 section is in addition to any other taxes or fees imposed under the tax laws  
21 of this state. The tax imposed under this section is imposed on the person  
22 with the commercial activity and is not a tax imposed directly on a pur-  
23 chaser. The tax imposed under this section is an annual privilege tax for the  
24 calendar year and shall be remitted quarterly to the Department of Revenue.  
25 A taxpayer is subject to the annual corporate activity tax for doing business  
26 during any portion of such calendar year.

27 **(2) Returns and allowances, as those terms are applicable to section**  
28 **448 of the Internal Revenue Code, are allowed as an offset against**  
29 **commercial activity in the year that the commercial activity is re-**  
30 **ceived.**

31 [(2)] **(3)** A person has substantial nexus with this state if any of the fol-

1    lowing applies. The person:

2       (a) Owns or uses a part or all of its capital in this state.

3       (b) Holds a certificate of existence or authorization issued by the Secre-  
4    tary of State authorizing the person to do business in this state.

5       (c) Has bright-line presence in this state.

6       (d) Otherwise has nexus with this state to an extent that the person can  
7    be required to remit the tax imposed under ORS 317A.100 to 317A.158 under  
8    the United States Constitution.

9       [(3)] (4) A person has bright-line presence in this state for the calendar  
10   year if any of the following applies. The person:

11       (a) Owns at any time during the calendar year property in this state with  
12   an aggregate value of at least \$50,000. For purposes of this paragraph, owned  
13   property is valued at original cost and rented property is valued at eight  
14   times the net annual rental charge.

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

17       (A) Any amount subject to withholding by the person under ORS 316.167  
18   and 316.172;

19       (B) Any other amount the person pays as compensation to an individual  
20   under the supervision or control of the person for work done in this state;  
21   and

22       (C) Any amount the person pays for services performed in this state on  
23   the person's behalf by another.

24       (c) Has during the calendar year commercial activity, sourced to this  
25   state under ORS 317A.128, of at least \$750,000.

26       (d) Has at any time during the calendar year within this state at least  
27   25 percent of the person's total property, total payroll or total commercial  
28   activity.

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

31       [(4)] (5) Notwithstanding subsection (1) of this section, a vehicle dealer

1 may collect from the purchaser of a motor vehicle the estimated portion of  
2 the tax imposed under this section that is attributable to commercial activity  
3 from the sale of the vehicle.

4 **SECTION 3.** ORS 317A.119 is amended to read:

5 317A.119. (1) A taxpayer shall subtract from commercial activity sourced  
6 to this state 35 percent of the greater of the following amounts paid or in-  
7 curred by the taxpayer in the tax year:

8 (a) The amount of cost inputs; or

9 (b) The taxpayer's labor costs.

10 (2) The amounts in subsection (1)(a) or (b) of this section shall be appor-  
11 tioned to this state [*in the manner required for apportionment of income under*  
12 *ORS 314.605 to 314.675*] **using a ratio, the numerator of which is com-**  
13 **mercial activity in this state and the denominator of which is com-**  
14 **mercial activity in the United States. The amounts in subsection (1)(a)**  
15 **or (b) of this section shall be multiplied by this ratio.**

16 (3) A subtraction under this section is not allowed for any amount of:

17 (a) Expenses from transactions among members of a group, as excluded  
18 under ORS 317A.106; or

19 (b) Cost inputs or labor costs that are attributable to a person's receipts  
20 from an item that is not commercial activity.

21 (4) Notwithstanding subsection (1) of this section, the subtraction under  
22 this section may not exceed 95 percent of the taxpayer's commercial activity  
23 in this state.

24 **SECTION 4.** ORS 317A.131 is amended to read:

25 317A.131. (1)(a) Any person or unitary group with commercial activity in  
26 excess of \$750,000 in [*the*] a tax year shall register with the Department of  
27 Revenue.

28 (b) **Except as provided in paragraph (c) of this subsection, a person**  
29 **or unitary group shall be required to register only once and shall**  
30 **register in the year in which the person or unitary group first exceeds**  
31 **\$750,000 in commercial activity.**

1 (c) If a person or unitary group that has registered under this sec-  
2 tion subsequently undergoes a merger or other reorganization, the  
3 department may require the person or unitary group or any successor  
4 to register at a later date.

5 (2) The department by rule may establish the information pertaining to  
6 the person or unitary group that must be submitted to the department ac-  
7 companying the registration and the time and manner for issuance of regis-  
8 trations under this section.

9 (3) The department may impose a penalty for failing to register as re-  
10 quired under this section, not to exceed \$100 per month that a person or  
11 unitary group has failed to register or a total of \$1,000 in a calendar year.  
12 The penalty under this subsection may be imposed not earlier than 30 days  
13 after the date on which the commercial activity of the person or unitary  
14 group exceeds \$750,000 for the tax year.

15 **SECTION 5.** ORS 317A.161 is amended to read:

16 317A.161. (1) The Department of Revenue may not impose any interest  
17 [*or penalty*] that would otherwise apply to taxes due if the interest [*or*  
18 *penalty*] is based on underpayment or underreporting that results solely from  
19 the operation of ORS 317A.100 to 317A.158.

20 (2) A taxpayer shall pay at least 80 percent of the balance due for any  
21 quarter or the department may impose, **for any quarter that this threshold**  
22 **is not met**, a penalty [*as provided in ORS 314.400 (3)*] **of 20 percent of the**  
23 **underpayment amount.**

24 (3) **The provisions of ORS 314.400 (1) and (2) apply to a taxpayer that**  
25 **fails to file an annual return as required under ORS 317A.137 or that**  
26 **fails to pay the tax imposed under ORS 317A.100 to 317A.158 by the due**  
27 **date of the annual return.**

28 **SECTION 6.** ORS 317A.161, as amended by section 5 of this 2020 Act, is  
29 amended to read:

30 317A.161. [*(1) The Department of Revenue may not impose any interest that*  
31 *would otherwise apply to taxes due if the interest is based on underpayment*

1 *or underreporting that results solely from the operation of ORS 317A.100 to*  
2 *317A.158.]*

3 [(2)] (1) A taxpayer shall pay at least [80] **90** percent of the balance due  
4 for any quarter or the Department of **Revenue** may impose, for any quarter  
5 that this threshold is not met, a penalty of 20 percent of the underpayment  
6 amount.

7 [(3)] (2) The provisions of ORS 314.400 (1) and (2) apply to a taxpayer that  
8 fails to file an annual return as required under ORS 317A.137 or that fails  
9 to pay the tax imposed under ORS 317A.100 to 317A.158 by the due date of  
10 the annual return.

11 **SECTION 7. The amendments to ORS 317A.100, 317A.116, 317A.119**  
12 **and 317A.131 by sections 1 to 4 of this 2020 Act apply to tax years be-**  
13 **ginning on or after January 1, 2020.**

14 **SECTION 8.** Section 78, chapter 122, Oregon Laws 2019, is amended to  
15 read:

16 **Sec. 78. (1)** [*Section 77 of this 2019 Act applies*] **The amendments to**  
17 **ORS 317A.161 by section 5 of this 2020 Act apply** to tax years beginning  
18 on or after January 1, 2020, and before January 1, 2021, and to returns filed  
19 on or before April 15, 2021.

20 **(2) The amendments to ORS 317A.161 by section 6 of this 2020 Act**  
21 **apply to tax years beginning on or after January 1, 2021, and to returns**  
22 **filed after April 15, 2021.**

23 **SECTION 9. This 2020 Act takes effect on the 91st day after the date**  
24 **on which the 2020 regular session of the Eightieth Legislative Assem-**  
25 **bly adjourns sine die.**

26