

House Bill 2147

Introduced and printed pursuant to House Rule 12.00. 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**.

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; amending ORS 317.715; and
3 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 is a member of an
7 affiliated group of corporations making a consolidated federal return under sections 1501 to 1505
8 of the Internal Revenue Code, the corporation's Oregon taxable income shall be determined begin-
9 ning with federal consolidated taxable income of the affiliated group as provided in this section.

10 (2) If the affiliated group, of which the corporation subject to taxation under this chapter is a
11 member, consists of more than one unitary group or includes any alien, domestic or foreign insurer,
12 as defined in ORS 731.082, that is excluded from the consolidated state return under ORS 317.710
13 (5) or (7), before the additions, subtractions, adjustments and modifications to federal taxable income
14 provided for in this chapter are made, and before allocation and apportionment as provided in ORS
15 317.010 (10), if any, modified federal consolidated taxable income shall be computed. Modified federal
16 consolidated taxable income shall be determined by eliminating from the federal consolidated taxable
17 income of the affiliated group the separate taxable income, as determined under Treasury Regu-
18 lations adopted under section 1502 of the Internal Revenue Code, and any deductions or additions
19 or items of income, expense, gain or loss for which consolidated treatment is prescribed under
20 Treasury Regulations adopted under section 1502 of the Internal Revenue Code, attributable to the
21 member or members of any unitary group of which the corporation is not a member or to insurers
22 excluded from the consolidated state return under ORS 317.710 (5) or (7).

23 (3)(a) After modified federal consolidated taxable income is determined under subsection (2) of
24 this section, the additions, subtractions, adjustments and modifications prescribed by this chapter
25 shall be made to the modified federal consolidated taxable income of the remaining members of the
26 affiliated group, where applicable, as if all such members were subject to taxation under this chap-
27 ter. After those modifications are made, Oregon taxable income or loss shall be determined as pro-
28 vided in ORS 317.010 (10)(a) to (c), if necessary.

29 (b) In the computation of the Oregon apportionment percentage for a corporation that is a

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 member of an affiliated group filing a consolidated federal return, there shall be taken into consid-
 2 eration only the property, payroll, sales or other factors of those members of the affiliated group
 3 whose items of income, expense, gain or loss remain in modified federal consolidated taxable income
 4 after the eliminations required under subsection (2) of this section. [*Those members of an affiliated*
 5 *group making a consolidated federal return or a consolidated state return may not be treated as one*
 6 *taxpayer*] For purposes of determining whether any member of [*the*] **an affiliated** group is taxable
 7 in this state or any other state with respect to questions of jurisdiction to tax or the composition
 8 of the apportionment factors used to attribute income to this state under ORS 314.280 or 314.605 to
 9 314.675[.], **those members of an affiliated group making a consolidated federal return or a**
 10 **consolidated state return may not be treated as one taxpayer, but the property, payroll, sales**
 11 **or other factors of all members of a unitary group shall be included in the numerator of the**
 12 **Oregon apportionment percentage if any member of the group is taxable in this state.**

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

15 **SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019**
 16 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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