

House Bill 3068

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HB 3068 By Representative ROSENBAUM; Representatives DINGFELDER, HANSEN, HOLVEY, MARCH, MERKLEY, SHIELDS -- Relating to the corporate minimum tax; prescribing an effective date; providing for revenue raising that requires approval by a three-fifths majority.

03/11 (H) First reading. Referred to Speaker's desk.

03/17 (H) Referred to Revenue.

08/05 (H) In committee upon adjournment.

73rd OREGON LEGISLATIVE ASSEMBLY--2005 Regular Session

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + } .

LC 2061

House Bill 3068

Sponsored by Representative ROSENBAUM; Representatives DINGFELDER, HANSEN, HOLVEY, MARCH, MERKLEY, SHIELDS

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.

Increases minimum tax imposed on corporations, including S corporations.

Applies to tax years beginning on or after January 1, 2005.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the corporate minimum tax; creating new provisions; amending ORS 314.732 and 317.090; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. ORS 317.090 is amended to read:

317.090. { + (1) As used in this section, 'Oregon sales' means:

(a) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes for the tax year, the total sales of the taxpayer in this state for purposes of ORS 314.665;

(b) If the corporation does not apportion business income for Oregon tax purposes, the total sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer was required to apportion business income for Oregon tax purposes; or

(c) If the corporation apportions business income using a method that is different than that prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.

(2) + } Each taxpayer named in ORS 317.056 or 317.070 shall pay annually to the state, for the privilege of carrying on or doing business { - by it - } within this state, a minimum tax { - of \$10. - } { + as follows:

(a) If the corporation has Oregon sales for the tax year of less than \$20,000, \$250.

(b) If the corporation has Oregon sales for the tax year of

\$20,000 or more but less than \$100,000, \$500.

(c) If the corporation has Oregon sales for the tax year of \$100,000 or more but less than \$2 million, \$1,000.

(d) If the corporation has Oregon sales for the tax year of \$2 million or more but less than \$5 million, \$2,000.

(e) If the corporation has Oregon sales for the tax year of \$5 million or more but less than \$15 million, \$3,000.

(f) If the corporation has Oregon sales for the tax year of \$15 million or more but less than \$25 million, \$4,000.

(g) If the corporation has Oregon sales for the tax year of \$25 million or more, \$5,000.

(3) + }The minimum tax { - shall not be - } { + is not + } apportionable { - (- } { + , + } except in the case of a change of accounting periods { - }, but shall be - } { + . The minimum tax is + } payable in full for any part of the year during which a corporation is subject to tax.

SECTION 2. { + The amendments to ORS 317.090 by section 1 of this 2005 Act apply to tax years beginning on or after January 1, 2005. + }

SECTION 3. ORS 314.732 is amended to read:

314.732. (1) Except as otherwise provided in ORS 314.740 { - , - } { + and + } 314.742 and { - 317.090 - } { + section 5 of this 2005 Act + }, an S corporation { - shall not be - } { + is not + } subject to the taxes imposed by ORS chapter 316, 317 or 318.

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

(b) Except as otherwise provided under this chapter and ORS chapter 316, 317 or 318, and except as inconsistent with ORS 314.730 to 314.752, subchapter C, chapter 1, Internal Revenue Code, shall apply to an S corporation and its shareholders for Oregon tax purposes. For Oregon tax purposes, the provisions of section 1371 of the Internal Revenue Code shall apply, subject to the modifications, additions and subtractions under this chapter or ORS chapter 316, 317 or 318 and any provisions to the contrary in this chapter or ORS chapter 316, 317 or 318.

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

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

SECTION 4. { + Section 5 of this 2005 Act is added to and made a part of ORS chapter 314. + }

SECTION 5. { + (1) As used in this section, 'Oregon sales ' means:

(a) If the S corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes for the tax year, the total sales of the taxpayer in this state for purposes of ORS 314.665;

(b) If the S corporation does not apportion business income for Oregon tax purposes, the total sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer was required to apportion business income for Oregon tax purposes; or

(c) If the S corporation apportions business income using a method that is different than that prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule.

(2) Every S corporation doing business in this state shall pay annually to the state, for the privilege of carrying on or doing business within this state, a minimum tax as follows:

(a) If the S corporation has Oregon sales for the tax year of less than \$1 million, \$250.

(b) If the S corporation has Oregon sales for the tax year of \$1 million or more, \$500.

(3) The minimum tax is not apportionable, except in the case of a change of accounting periods. The minimum tax is payable in full for any part of a year during which an S corporation conducts business in this state.

(4) The minimum tax shall be due and payable on or before the 15th day of the month following the close of the tax year, and shall be reported and paid in the manner prescribed by the Department of Revenue by rule.

(5) The minimum tax shall be considered a tax imposed on taxable income for all purposes of collection and enforcement. + }

SECTION 6. { + Section 5 of this 2005 Act and the amendments to ORS 314.732 by section 3 of this 2005 Act apply to tax years beginning on or after January 1, 2005. + }

SECTION 7. { + This 2005 Act takes effect on the 91st day after the date on which the regular session of the Seventy-third Legislative Assembly adjourns sine die. + }
