

SB 727-1  
(LC 3269)  
3/17/21 (CMT/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO  
SENATE BILL 727**

1 In line 2 of the printed bill, after “taxation;” insert “creating new pro-  
2 visions; amending ORS 316.502;”.

3 Delete lines 4 through 18 and insert:

4 **“SECTION 1. Sections 2 to 6 of this 2021 Act are added to and made  
5 a part of ORS chapter 314.**

6 **“SECTION 2. As used in sections 2 to 6 of this 2021 Act:**

7 **“(1) ‘Distributive proceeds’ means the net income, dividends, roy-  
8 alties, interest, rents, guaranteed payments and gains of a pass-  
9 through entity, derived from or connected with sources within this  
10 state.**

11 **“(2) ‘Member’ means a shareholder of an S corporation, a partner  
12 in a general, limited or limited liability partnership or a member of a  
13 limited liability company.**

14 **“(3) ‘Partnership’ means a syndicate, group, pool, joint venture or  
15 other unincorporated organization, through or by means of which any  
16 business, financial operation or venture is carried on in this state.**

17 **“(4) ‘Pass-through entity’ means a partnership, an S corporation  
18 or a limited liability company.**

19 **“(5) ‘Share of distributive proceeds’ means the portion of distribu-  
20 tive proceeds attributable to a member of a pass-through entity in a  
21 tax year.**

1       **“SECTION 3. (1) A pass-through entity may elect to be liable for**  
2 **and pay a pass-through business alternative income tax if the pass-**  
3 **through entity has at least one member who is liable under ORS**  
4 **chapter 316 for personal income tax on that member’s share of dis-**  
5 **tributive proceeds of the pass-through entity.**

6       **“(2) The election to pay the pass-through business alternative in-**  
7 **come tax is available if consent is made by each member of the elect-**  
8 **ing pass-through entity who is a member at the time the election is**  
9 **filed or by any officer, manager or member of the electing pass-**  
10 **through entity who is authorized, under law or the entity’s organiza-**  
11 **tional documents, to make the election and who represents to having**  
12 **such authorization under penalties of perjury. The election shall be**  
13 **made annually on or before the due date of the pass-through entity’s**  
14 **return, in the form and manner prescribed by the Department of**  
15 **Revenue. The election may not be made retroactively. The members**  
16 **of a pass-through entity may revoke an election under this section for**  
17 **a tax year only on or before the due date of the pass-through entity’s**  
18 **return for that tax year.**

19       **“(3) Each pass-through entity that makes an election for a tax year**  
20 **pursuant to this section shall annually report to each of its members,**  
21 **for the tax year, the member’s share of distributive proceeds.**

22       **“(4) The tax imposed on a pass-through entity pursuant to this**  
23 **section shall be determined with respect to the sum of each member’s**  
24 **share of distributive proceeds attributable to the pass-through entity**  
25 **for the tax year in accordance with the following table:**

26       **“** \_\_\_\_\_  
27 **If the sum of each member’s**  
28 **share of distributive**  
29 **proceeds attributable**  
30 **to the pass-through**

1	<b>entity is:</b>	<b>The tax is:</b>
2		
3	<b>Not over \$250,000</b>	<b>5.675 percent of the sum</b>
4		<b>of distributive proceeds</b>
5		
6	<b>Over \$250,000 but not</b>	
7	<b>over \$1,000,000</b>	<b>\$14,187.50 plus 6.52 percent</b>
8		<b>of the excess of the sum</b>
9		<b>of distributive proceeds</b>
10		<b>over \$250,000</b>
11		
12	<b>Over \$1,000,000 but not</b>	
13	<b>over \$5,000,000</b>	<b>\$63,087.50 plus 9.12 percent</b>
14		<b>of the excess of the sum</b>
15		<b>of distributive proceeds</b>
16		<b>over \$1,000,000</b>
17		
18	<b>Over \$5,000,000</b>	<b>\$427,887.50 plus 10.9 percent</b>
19		<b>of the excess of the sum</b>
20		<b>of distributive proceeds</b>
21		<b>over \$5,000,000</b>

22 “ \_\_\_\_\_

23 **“(5) The amount of pass-through business alternative income tax**

24 **due from a pass-through entity in a tax year shall be exclusive of any**

25 **amount of tax due and paid by the pass-through entity under ORS**

26 **chapter 317 or 318, except as otherwise provided in sections 2 to 6 of**

27 **this 2021 Act.**

28 **“(6) Pass-through entities that have made an election under this**

29 **section shall file an entity tax return. The return shall be accompanied**

30 **by payment and shall be due on the date applicable to returns due**

1 under ORS chapter 316, as provided in ORS 314.385.

2 **“SECTION 4. Except as otherwise provided in sections 2 to 6 of this**  
3 **2021 Act or where the context requires otherwise, the provisions of**  
4 **ORS chapters 305 and 314 as to the audit and examination of returns,**  
5 **periods of limitation, determinations of and notices of deficiencies,**  
6 **assessments, collections, liens, delinquencies, claims for refund and**  
7 **refunds, conferences, appeals to the Oregon Tax Court, stays of col-**  
8 **lection pending appeal, confidentiality of returns and the related pen-**  
9 **alties, and the related procedures, apply to the determinations of**  
10 **taxes, penalties and interest under sections 2 to 6 of this 2021 Act.**

11 **“SECTION 5. (1) The Department of Revenue shall administer and**  
12 **enforce sections 2 to 6 of this 2021 Act.**

13 **“(2) The department may adopt or establish rules and procedures**  
14 **that the department considers necessary or appropriate for the imple-**  
15 **mentation, administration and enforcement of sections 2 to 6 of this**  
16 **2021 Act and that are consistent with sections 2 to 6 of this 2021 Act.**

17 **“SECTION 6. The net revenue from the tax imposed by sections 2**  
18 **to 6 of this 2021 Act, after deducting refunds, shall be paid over to the**  
19 **State Treasurer and held in the General Fund as miscellaneous re-**  
20 **ceipts available generally to meet any expense or obligation of the**  
21 **State of Oregon lawfully incurred.**

22 **“SECTION 7. Section 8 of this 2021 Act is added to and made a part**  
23 **of ORS chapter 315.**

24 **“SECTION 8. (1) If a pass-through entity, as defined in section 2 of**  
25 **this 2021 Act, elects to owe and pay the pass-through business alter-**  
26 **native income tax determined under section 3 of this 2021 Act, a tax-**  
27 **payer that is a member of the pass-through entity shall be allowed a**  
28 **credit against the taxes that are otherwise due under ORS chapter 316.**  
29 **For each pass-through entity of which the taxpayer is a member, the**  
30 **credit allowed under this section shall equal the member’s pro rata**

1 share of the tax paid for the tax year under section 3 of this 2021 Act.

2 “(2) If the amount allowable as a credit under this section, when  
3 added to the sum of the amounts allowable as payment of tax under  
4 ORS 316.187 or 316.583, other tax prepayment amounts and other  
5 refundable credit amounts, exceeds the taxes imposed by ORS chapters  
6 314 and 316 for the tax year after application of any nonrefundable  
7 credits allowable for purposes of ORS chapter 316 for the tax year, the  
8 amount of the excess shall be refunded to the taxpayer as provided in  
9 ORS 316.502.

10 “(3) In the case of a credit allowed under this section:

11 “(a) A nonresident shall be allowed the credit in the proportion  
12 provided in ORS 316.117.

13 “(b) If a change in the status of a taxpayer from resident to non-  
14 resident or from nonresident to resident occurs, the credit shall be  
15 determined in a manner consistent with ORS 316.117.

16 “(c) If a change in the tax year of a taxpayer occurs as described  
17 in ORS 314.085, or if the Department of Revenue terminates the  
18 taxpayer’s tax year under ORS 314.440, the credit shall be prorated or  
19 computed in a manner consistent with ORS 314.085.

20 “SECTION 9. ORS 316.502 is amended to read:

21 “316.502. (1) The net revenue from the tax imposed by this chapter, after  
22 deducting refunds and amounts described in ORS 285B.630 and 285C.635, shall  
23 be paid over to the State Treasurer and held in the General Fund as mis-  
24 cellaneous receipts available generally to meet any expense or obligation of  
25 the State of Oregon lawfully incurred.

26 “(2) A working balance of unreceipted revenue from the tax imposed by  
27 this chapter may be retained for the payment of refunds, but such working  
28 balance shall not at the close of any fiscal year exceed the sum of \$1 million.

29 “(3) Moneys are continuously appropriated to the Department of Revenue  
30 to make:

1       “(a) The refunds authorized under subsection (2) of this section; and  
2       “(b) The refund payments in excess of tax liability authorized under ORS  
3 315.174, 315.262, 315.264 and 315.266 and section 17, chapter 906, Oregon Laws  
4 2007, and section 3 of this 2021 Act.

5       “**SECTION 10. (1) Section 3 of this 2021 Act applies to tax years be-**  
6 **ginning on or after January 1, 2022.**

7       “(2) Notwithstanding ORS 315.037, section 8 of this 2021 Act applies  
8 to all tax years beginning on or after January 1, 2022.

9       “**SECTION 11. This 2021 Act takes effect on the 91st day after the**  
10 **date on which the 2021 regular session of the Eighty-first Legislative**  
11 **Assembly adjourns sine die.”.**

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