

A-Engrossed
House Bill 3144

Ordered by the House May 3
Including House Amendments dated May 3

Sponsored by Representative BRUUN; Representatives ANDERSON, BERGER, BOQUIST, BUTLER, DALLUM, ESQUIVEL, FARR, FLORES, NELSON, RILEY, SCHAUFLER, THATCHER

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.

Permits corporations operating emerging businesses to defer corporate excise and income taxes. Establishes maximum amount and duration of deferred taxes.

Permits partnerships, S corporations and other entities treated as partnerships for income tax purposes that operate emerging businesses to defer reporting of income to owners. Establishes maximum duration for deferral of income reporting. **Exempts owner from any liability for income taxes or corporate excise taxes due and for which income reporting was deferred until year in which income is reported to owner.**

Applies to tax years beginning on or after January 1, 2006.

A BILL FOR AN ACT

1
2 Relating to tax deferrals for emerging businesses.

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

4 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 317.**

5 **SECTION 2. (1) A corporation is eligible to defer the taxes otherwise due under this**
6 **section if:**

7 (a) **The corporation has total annual revenue of less than \$3.5 million;**

8 (b) **The corporation has at least two employees; and**

9 (c) **The business operations of the corporation have existed for less than five years.**

10 (2) **A corporation meeting the requirements of subsection (1) of this section and seeking**
11 **deferral shall file an application for the deferral with the Department of Revenue at the time**
12 **the corporation files the corporation's tax return for the tax year for which deferral is**
13 **sought.**

14 (3) **Deferral may be granted under this section only if the corporation:**

15 (a) **Has timely filed the corporation's tax return for the tax year; and**

16 (b) **Has paid the amount of tax that is not eligible for deferral under subsection (4) of this**
17 **section for the tax year.**

18 (4) **The amount of tax that may be deferred under this section shall equal the lesser of:**

19 (a) **Eighty percent of the tax liability of the taxpayer; or**

20 (b) **\$200,000.**

21 (5) **If the corporation meets the requirements for deferral under this section, the de-**
22 **partment shall grant the deferral. Upon granting the deferral, the department shall have a**
23 **lien against all real and personal property of the corporation in the amount of the deferred**
24 **tax. The deferred tax liens shall have the same priority as other tax liens. A lien may be**

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 foreclosed by the department as if the lien were a purchase money mortgage under ORS
2 chapter 88.

3 (6)(a) Deferred taxes shall accrue interest at the primary discount rate.

4 (b) As used in this subsection, "primary discount rate" means the primary credit rate
5 of the discount window program of the United States Federal Reserve System, as of January
6 1 of the year for which the interest is being accrued.

7 (7)(a) Taxes imposed under this chapter may be deferred only for a maximum period of
8 two years. Following the end of the deferral period, the deferred taxes must be paid, together
9 with accrued interest, in quarterly payments over a four-year period.

10 (b) Payments made in any quarter may exceed the minimum payment amount described
11 in paragraph (a) of this subsection.

12 **SECTION 3.** Section 4 of this 2005 Act is added to and made a part of ORS chapter 314.

13 **SECTION 4.** (1) A partnership, S corporation or other entity treated as a partnership for
14 tax purposes may defer reporting income to the owners of the entity if:

15 (a) The entity has total annual revenue of less than \$3.5 million;

16 (b) The entity has at least two employees; and

17 (c) The business operations of the entity have existed for less than five years.

18 (2) An entity meeting the requirements of subsection (1) of this section and seeking
19 deferral shall file an application for the deferral with the Department of Revenue at a time
20 prescribed by the department.

21 (3) If the entity meets the requirements for deferral under this section, the department
22 shall grant the deferral. Upon granting the deferral, the department shall have a lien against
23 all real and personal property of the entity in an amount equal to the amount of taxes the
24 department estimates is deferred as the result of the deferral of the reporting of income.
25 The liens shall have the same priority as other tax liens. A lien may be foreclosed by the
26 department as if the lien were a purchase money mortgage under ORS chapter 88.

27 (4) The reporting of income to owners may be deferred only for a maximum period of two
28 years. Following the end of the deferral period, the deferred income must be reported to
29 owners in equal annual increments over a four-year period.

30 (5) An owner is exempt from liability for any tax due under ORS chapter 316, 317 or 318
31 and for which reporting is deferred under this section until the year for which the income
32 is reported to the owner.

33 **SECTION 5.** Sections 2 and 4 of this 2005 Act apply to tax years beginning on or after
34 January 1, 2006.

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