

Senate Bill 382

Sponsored by Senators SCHRADER, WESTLUND, Representatives HASS, JENSON

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**.

Reduces personal income tax rates, including rates imposed on capital gains. Increases state earned income tax credit and makes earned income tax credit refundable.

Increases threshold level of estates of decedents that are not subject to Oregon inheritance tax.

Establishes principal residence property tax exemption for homesteads of seniors or persons with household income below threshold level. Increases elderly rental assistance program.

Enacts uniform sales and use tax administration provisions. Directs Department of Revenue to enter into Streamlined Sales and Use Tax Agreement. Imposes sales tax on sales of tangible personal property or services. Imposes use tax on use of tangible personal property purchased out-of-state.

Sales and use tax provisions become operative on January 1, 2006, and apply to transactions occurring on or after January 1, 2006, but do not become operative if Streamlined Sales and Use Tax Agreement is not executed prior to January 1, 2006.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to taxation; creating new provisions; amending ORS 305.130, 305.140, 305.265, 305.270, 305.280, 305.565, 305.850, 305.895, 310.635, 310.692, 315.266, 316.037, 316.045, 316.502, 731.840, 801.040, 802.110 and 803.585; 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:

INCOME TAX REDUCTIONS

SECTION 1. ORS 316.037 is amended to read:

316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$2,000	[5%] 2% of taxable income
Over \$2,000 but not over \$5,000	[\$100 plus 7%] \$40 plus 4% of the excess over \$2,000

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 Over \$5,000 [310 plus 9%]
 2 \$160 plus 6%
 3 of the excess
 4 over \$5,000

6
 7 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a
 8 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

9 (A) The minimum and maximum dollar amounts for each rate bracket for which a tax is imposed
 10 shall be increased by the cost-of-living adjustment for the calendar year.

11 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-
 12 graph shall not be changed.

13 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the
 14 rate brackets, shall be adjusted.

15 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-
 16 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer
 17 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the
 18 monthly averaged index for the second quarter of the calendar year 1992.

19 (d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City
 20 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
 21 Labor Statistics of the United States Department of Labor.

22 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,
 23 the increase shall be rounded to the next lower multiple of \$50.

24 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year
 25 resident of this state. The amount of the tax shall be computed under subsection (1) of this section
 26 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided
 27 under ORS 316.117 to determine the tax on income derived from sources within this state.

28 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident
 29 that is derived from sources within this state. The amount of the tax shall be determined in ac-
 30 cordance with the table set forth in subsection (1) of this section.

31 **(4) Notwithstanding subsections (1) to (3) of this section, net capital gain that is included**
 32 **in taxable income for Oregon tax purposes shall be taxed at the rate of four percent.**

33 **SECTION 2.** ORS 316.045 is amended to read:

34 316.045. (1) As used in this section:

35 (a) "Farming" means:

36 (A) Raising, harvesting and selling crops;

37 (B) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees
 38 or the produce thereof;

39 (C) Dairying and selling dairy products;

40 (D) Stabling or training equines, including but not limited to providing riding lessons, training
 41 clinics and schooling shows;

42 (E) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal
 43 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

44 (F) On-site constructing and maintaining equipment and facilities used for the activities de-
 45 scribed in this subsection;

1 (G) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products
2 raised for human or animal use on land employed in activities described in this subsection; or

3 (H) Any other agricultural or horticultural activity or animal husbandry, or any combination
4 of these activities, except that “farming” does not include growing and harvesting trees of a
5 marketable species other than growing and harvesting cultured Christmas trees or certain hardwood
6 timber described in ORS 321.267 (3) or 321.824 (3).

7 (b) “Section 1231 gain” has the meaning given that term in section 1231 of the Internal Revenue
8 Code.

9 (2) Notwithstanding ORS 316.037, taxable income that consists of net long-term capital gain shall
10 be subject to tax under this chapter at a rate of [*five*] **four** percent if all of the following conditions
11 apply:

12 (a) The gain is:

13 (A) Derived from the sale or exchange of capital assets consisting of ownership interests in a
14 corporation, partnership or other entity in which, prior to the sale or exchange, the taxpayer owned
15 at least a 10 percent ownership interest; or

16 (B) Section 1231 gain.

17 (b) The property that was sold or exchanged consisted of:

18 (A) Ownership interests in a corporation, partnership or other entity that is engaged in the
19 trade or business of farming; or

20 (B) Property that is predominantly used in the trade or business of farming.

21 (c) The sale or exchange is to a person who is not related to the taxpayer under section 267 of
22 the Internal Revenue Code.

23 (d) The sale or exchange constitutes a substantially complete termination of all of the taxpayer’s
24 ownership interests in a trade or business that is engaged in farming or a substantially complete
25 termination of all of the taxpayer’s ownership interests in property that is employed in the trade
26 or business of farming. Ownership of a farm dwelling or farm homesite does not constitute owner-
27 ship of property employed in the trade or business of farming.

28 (3) If the taxpayer has net long-term capital gain derived in part from the sale or exchange of
29 property described in subsection (2)(b) of this section and in part from the sale or exchange of all
30 other property, the net long-term capital gain that is subject to tax under this section shall be de-
31 termined as follows:

32 (a) Compute the net long-term capital gain derived from all property described in subsection
33 (2)(b) of this section that was sold or exchanged during the tax year.

34 (b) Compute the net capital gain or loss from the sale or exchange of all other property during
35 the tax year.

36 (c) If the amount determined under paragraph (b) of this subsection is a net capital gain, the
37 gain that is subject to tax under subsection (2) of this section shall be the amount determined under
38 paragraph (a) of this subsection.

39 (d) If the amount determined under paragraph (b) of this subsection is a net capital loss, the gain
40 that is subject to tax under subsection (2) of this section shall be the amount determined under
41 paragraph (a) of this subsection minus the amount determined under paragraph (b) of this subsection.

42 **SECTION 3.** ORS 315.266 is amended to read:

43 315.266. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible
44 resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316
45 for the tax year in an amount equal to [*five*] **25** percent of the earned income credit allowable to the

1 individual for the same tax year under section 32 of the Internal Revenue Code.

2 (2) An eligible nonresident individual shall be allowed the credit computed in the same manner
3 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.
4 However, the credit shall be prorated using the proportion provided in ORS 316.117.

5 (3) If a change in the [taxable] **tax** year of a taxpayer occurs as described in ORS 314.085, or
6 if the Department of Revenue terminates the taxpayer's [taxable] **tax** year under ORS 314.440, the
7 credit allowed by this section shall be prorated or computed in a manner consistent with ORS
8 314.085.

9 (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
10 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
11 ORS 316.117.

12 *[(5) The credit allowed under this section may not exceed the tax liability of the taxpayer and may
13 not be carried forward to a succeeding tax year.]*

14 **(5) If the amount allowable as a credit under this section, when added to the sum of the
15 amounts allowable as payments of tax under ORS 316.187 and 316.583, other tax prepayment
16 amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters
17 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes
18 of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the
19 taxpayer as provided in ORS 316.502.**

20 (6) The Department of Revenue may adopt rules for purposes of this section, including but not
21 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal
22 earned income credit claimed by the taxpayer for the tax year.

23 (7) Refunds attributable to the earned income credit allowed under this section [shall] **may** not
24 bear interest.

25 **SECTION 4.** ORS 316.502 is amended to read:

26 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
27 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
28 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

29 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
30 tained for the payment of refunds, but [such] **the** working balance [shall] **may** not at the close of
31 any fiscal year exceed the sum of \$1 million.

32 (3) Moneys are continuously appropriated to the Department of Revenue to make:

33 (a) The refunds authorized under subsection (2) of this section; and

34 (b) The refund payments in excess of tax liability authorized under ORS 315.262 **and 315.266.**

35 **SECTION 5. The amendments to ORS 315.266, 316.037, 316.045 and 316.502 by sections 1
36 to 4 of this 2005 Act apply to tax years beginning on or after January 1, 2005.**

37 38 INHERITANCE TAX EXEMPTIONS

39
40 **SECTION 6. Section 7 of this 2005 Act is added to and made a part of ORS 118.005 to
41 118.840.**

42 **SECTION 7. Notwithstanding any other provision of ORS 118.005 to 118.840:**

43 **(1) In the case of decedents dying on or after January 1, 2005, and before January 1, 2006,
44 a return under ORS 118.005 to 118.840 is not required and no tax is due under ORS 118.005
45 to 118.840 if the taxable estate of the decedent is \$1.5 million or less.**

1 (2) In the case of decedents dying on or after January 1, 2006, and before January 1, 2009,
 2 a return under ORS 118.005 to 118.840 is not required and no tax is due under ORS 118.005
 3 to 118.840 if the taxable estate of the decedent is \$2 million or less.

4 (3) In the case of decedents dying on or after January 1, 2009, and before January 1, 2010,
 5 a return under ORS 118.005 to 118.840 is not required and no tax is due under ORS 118.005
 6 to 118.840 if the taxable estate of the decedent is \$3.5 million or less.

7
 8 **PRINCIPAL RESIDENCE PROPERTY TAX EXEMPTION**

9
 10 **SECTION 8.** As used in sections 8 to 18 of this 2005 Act:

11 (1) "Assessed value" means the value of property as determined under ORS 308.146.

12 (2) "Dwelling unit":

13 (a) Means a structure or part of a structure providing complete, independent living fa-
 14 cilities for one or more persons, including permanent provisions for sleeping, eating, cooking
 15 and sanitation and the land underneath the structure, and may be further defined by rule
 16 by the Department of Revenue.

17 (b) Includes, if the residence is located in a multiunit building, the portion of the building
 18 actually used as the principal place of abode and a percentage of the true cash value of the
 19 common elements and of the true cash value of the tax lot upon which the multiunit building
 20 is built, as determined by the county assessor. The percentage of the value of the common
 21 elements and tax lot that is added to the value of the residence unit shall be computed by
 22 dividing the value of the residence unit by the total value of the building exclusive of the
 23 common elements, if any.

24 (c) Includes, if the residence is a part of a group of associated single family units on one
 25 tax lot, the single unit and the portion of the common tax lot allocated to it on the basis of
 26 the relative value of each unit.

27 (3) "Family" has the meaning given that term in section 267(c)(4) of the Internal Revenue
 28 Code (definition of related taxpayer).

29 (4) "Household" means the taxpayer and the taxpayer's family occupying the principal
 30 residence during all or any part of the calendar year immediately preceding the calendar year
 31 in which an application described under section 10 of this 2005 Act is filed.

32 (5) "Household income" has the meaning given that term in ORS 310.630, and includes the
 33 income of all of the taxpayer's family that is occupying the taxpayer's principal residence.

34 (6) "Income" has the meaning given that term in ORS 310.630 (8).

35 (7) "Occupy":

36 (a) Means to live or dwell in or on the property.

37 (b) Includes temporary absences of limited duration. If a taxpayer is temporarily absent
 38 from the principal residence, or if the taxpayer is absent from the principal residence due
 39 to illness, the taxpayer shall nevertheless be considered an occupant of the property. A tax-
 40 payer who has entered a long term care facility for the purpose of receiving long term care
 41 may not be considered an occupant of the property. "Temporarily absent" and "long term
 42 care" may be further defined by the department.

43 (8) "Own" means:

44 (a) To hold of record, either alone or with another or others, a fee simple estate, a life
 45 estate or the right to possession under a trust instrument or a contract of sale.

1 (b) If the property is a manufactured dwelling or floating home, to be the registered
 2 owner, either alone or with another or others.

3 (9) "Principal residence":

4 (a) Means real or personal property, subject to property taxation and located in Oregon,
 5 that is owned and occupied by a taxpayer as a dwelling unit. Unless inconsistent with
 6 sections 8 to 18 of this 2005 Act, the determination of whether or not a dwelling unit is a
 7 principal residence shall be made under principles similar to those used to determine if a
 8 dwelling unit is a principal residence under section 121 of the Internal Revenue Code.

9 (b) Does not include that portion of a dwelling unit that is rented to another person.

10 (10) "Property tax imposed":

11 (a) Means property tax within the meaning of section 11b, Article XI, Oregon Constitu-
 12 tion, and:

13 (A) In the case of one or more tax lots constituting a single dwelling unit, the entire
 14 property tax imposed.

15 (B) In the case of one or more tax lots constituting two or more dwelling units, the en-
 16 tire property tax imposed divided by the number of dwelling units.

17 (C) In the case of an apartment or unit owned or leased by a cooperative housing cor-
 18 poration, the tenant-stockholder's proportionate share of the property tax imposed.

19 (b) Does not include:

20 (A) Property tax imposed on land that is specially assessed under ORS 308A.050 to
 21 308A.128, 308A.300 to 308A.330, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 or,
 22 if so determined by the department by rule, property tax imposed on any other land that is
 23 not valued at real market value but is specially valued for ad valorem property tax purposes.

24 (B) Property tax imposed on land area in excess of one acre, or the minimum land area
 25 by zoning, whichever is greater, or if there is no specific minimum land area upon which a
 26 residence may be constructed provided in the zoning ordinance, property tax imposed against
 27 land area in excess of one acre.

28 (11) "Senior citizen" means any person who is at least 65 years of age on or before July
 29 1 of the year for which application is made for a principal residence property tax exemption
 30 under sections 8 to 18 of this 2005 Act.

31 (12) "Taxpayer" means a person whose homestead is the subject of property tax levied
 32 by this state or a political subdivision of this state.

33 (13) "Tenant-stockholder" and "cooperative housing corporation" have the meanings
 34 given those terms under section 216 of the Internal Revenue Code.

35 (14) "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer
 36 Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Sta-
 37 tistics of the United States Department of Labor.

38 **SECTION 9.** (1) Upon compliance with sections 8 to 18 of this 2005 Act, and subject to
 39 sections 8 to 18 of this 2005 Act, the Department of Revenue shall pay a portion of the
 40 property tax imposed on the principal residence of a taxpayer who:

41 (a) Is a senior citizen; or

42 (b) Has household income that does not exceed \$____ for the calendar year preceding the
 43 year for which the application described under section 10 of this 2005 Act is filed.

44 (2) The amount paid shall be the lesser of:

45 (a) The property tax imposed on the property; or

1 (b) The property tax attributable to \$25,000 in assessed value of the principal residence.

2 (3) Payment shall be made by the department from the suspense account referred to in
 3 ORS 310.692, as prescribed under section 11 of this 2005 Act.

4 (4) The department shall make only one payment under this section for any principal
 5 residence for any tax year.

6 (5) Notwithstanding subsection (2)(b) of this section, for each tax year beginning on or
 7 after July 1, 2007, the maximum amount of assessed value for which the department will pay
 8 attributed property tax shall increase by three percent.

9 **SECTION 10.** (1) A taxpayer may apply for a principal residence property tax exemption
 10 by filing an application with the Department of Revenue on or before July 1 of the calendar
 11 year within which begins the tax year to which the application relates.

12 (2) The application shall be on such form as the department shall prescribe, and shall
 13 contain the following:

14 (a) The name of the applicant as it appears on the applicant's Social Security card.

15 (b) The Social Security number of the applicant.

16 (c) The date of birth of the applicant.

17 (d) One of the following:

18 (A) The tax lot number or numbers or other identification for the applicant's principal
 19 residence.

20 (B) The name and appropriate address for a cooperative housing corporation and a
 21 statement from the appropriate officer of the corporation or the applicant that contains the
 22 tax information needed to determine the amount of the payment the department shall make
 23 under section 9 of this 2005 Act.

24 (3) If the basis of the application is the household income of the taxpayer, the application
 25 shall contain the following additional information:

26 (a) The names and Social Security numbers of all family members of the taxpayer resid-
 27 ing at the taxpayer's principal residence.

28 (b) The total household income of the taxpayer and the taxpayer's family residing at the
 29 taxpayer's principal residence.

30 (4) If the principal residence is a dwelling unit owned or leased by a cooperative housing
 31 corporation, and the statement required under subsection (2)(d)(B) of this section cannot be
 32 obtained, upon request of the department or the applicant and upon payment by the applicant
 33 of the fee described under subsection (6) of this section, the county assessor shall determine
 34 the amount of property tax imposed, and shall inform the department of the amount so de-
 35 termined. No appeal shall be taken from a determination made under this subsection.

36 (5) The department may require such other information as the department determines
 37 is necessary to process applications under this section.

38 (6) The department may require that an applicant under this section file with the de-
 39 partment a statement from the appropriate county assessor stating for the principal resi-
 40 dence referred to in subsection (1) of this section the amount of property tax imposed on the
 41 principal residence and the year for which the property tax was imposed. At the request of
 42 the applicant, and upon payment of a uniform fee to defray the expense as determined by the
 43 county governing body, the county assessor shall assist the applicant in identifying the
 44 principal residence of the taxpayer.

45 **SECTION 11.** (1) An application for a principal residence property tax exemption filed

1 under section 10 of this 2005 Act shall be approved or disapproved by the Department of
2 Revenue on or before August 1 of the tax year to which the application relates.

3 (2) Upon approval of the application, the department shall forward the following infor-
4 mation to the county assessor of the county within which the principal residence of the
5 taxpayer is located:

6 (a) The name and Social Security number of the taxpayer.

7 (b) The tax lot number or other identification of the property.

8 (3)(a) Upon receipt of the information described under subsection (2) of this section, the
9 county assessor shall identify the property on the assessment and tax roll.

10 (b) For the property so identified, the county assessor shall compute the amount that is
11 to be paid by the department under section 9 of this 2005 Act and shall certify the amount
12 to the department.

13 (c) The county assessor shall reduce the total amount of taxes otherwise billed for the
14 property by the amount to be paid by the department under section 9 of this 2005 Act.

15 (d) In addition to the other items required under ORS 311.250 to appear on the tax
16 statement for the property, the tax statement shall contain the total amount of the current
17 taxes due that are paid or to be paid by the department under section 9 of this 2005 Act.

18 (4) Upon receipt of the certification under subsection (3) of this section, the department
19 shall notify the county assessor of the amount paid and shall pay to the county treasurer
20 of the county from which the certification was issued the amount so certified. The amount
21 so paid shall be deposited by the county treasurer to the unsegregated tax collections ac-
22 count established under ORS 311.385 and shall be distributed to the taxing units of the county
23 in the same manner as the other property tax collections are distributed under ORS 311.390.
24 Payment under this subsection shall be made by the department from the suspense account
25 referred to in ORS 310.692.

26 (5) The department shall pay the total amount certified to the county treasurer without
27 the discount allowed under ORS 311.505 in three approximately equal installments in No-
28 vember, February and May.

29 (6) The payments received by the county treasurer from the department shall be dis-
30 tributed to the taxing units of the county using the schedule of percentages determined un-
31 der ORS 311.390 then in effect.

32 **SECTION 12.** (1) An application filed under section 10 of this 2005 Act shall be disap-
33 proved by the Department of Revenue if the department has reason to believe that the
34 household income information or other information contained in the application is inaccur-
35 ate. Appeal of the disapproval may be made to the Director of the Department of Revenue
36 in the manner provided under ORS 305.275, and shall be made within 90 days after the notice
37 of disapproval is mailed.

38 (2) If an application contains information that is determined to be false and provided with
39 intent to evade taxation, the department shall disapprove the application and direct the
40 county assessor of the county within which the property is located to add to the property
41 taxes imposed on the property for the tax year an amount equal to 120 percent of the amount
42 of the taxes so imposed on the property for the tax year.

43 (3) If the sole issue on appeal under subsection (1) of this section is the failure to timely
44 file the application described under section 10 of this 2005 Act, the appeal must be made
45 within the time and in the manner provided under ORS 307.475. No further appeal shall be

1 made from an order on an appeal under this subsection.

2 (4) If an appeal results in a refund, the refund shall be made in the manner provided
3 under section 15 of this 2005 Act.

4 **SECTION 13.** (1) A cooperative housing corporation is entitled to the principal residence
5 property tax exemption granted under sections 8 to 18 of this 2005 Act for those dwelling
6 units and common elements owned, being purchased or leased by the corporation and occu-
7 pied by one or more eligible taxpayers if an application for the exemption is filed as provided
8 in subsection (2) of this section. Except as otherwise provided in this section, and unless the
9 context requires otherwise, sections 8 to 18 of this 2005 Act shall govern the exemption
10 granted by this section.

11 (2)(a) Each corporation shall annually aid each resident who could qualify for the prop-
12 erty tax exemption under sections 8 to 18 of this 2005 Act, if the dwelling unit occupied by
13 the resident were owned by the resident as a principal residence, by preparing applications
14 for the exemption on behalf of the corporation.

15 (b) The corporation shall determine the amount of assessed value for each resident of a
16 multiunit building who could have qualified for exemption under sections 8 to 18 of this 2005
17 Act if the dwelling unit of the resident were owned by the resident as a principal residence.
18 The application shall be signed by the resident, or the resident's authorized representative,
19 and filed with the Department of Revenue in the same manner as other applications are filed
20 under sections 8 to 18 of this 2005 Act.

21 (c) The department shall process each application filed under this subsection in the same
22 manner as other applications for exemption under section 10 of this 2005 Act are processed,
23 except for the requirement of owning or purchasing a principal residence.

24 (3)(a) Not later than January 15 of each year, a corporation that has received a property
25 tax reduction for a dwelling unit and the unit's share of the common elements shall credit
26 to the account of the resident an amount equal to the excess of the resident's share of
27 property taxes that would have been assessed against the corporation for the tax year if the
28 reduction for the dwelling unit and the unit's share of the common elements had not been
29 granted over the resident's share of property taxes actually paid by the corporation.

30 (b) Prior to March 1 of each year, the corporation shall satisfy the department that the
31 crediting has taken place. If the crediting has not taken place, the department shall notify
32 the county assessor and no property tax reduction under sections 8 to 18 of this 2005 Act
33 shall be granted for property of the corporation for the next tax year, beginning July 1.

34 **SECTION 14.** (1) If taxes are required to be prepaid as provided under ORS 311.370 or a
35 similar law, the amount of taxes that are required to be prepaid for the principal residence
36 shall be computed and paid without regard to sections 8 to 18 of this 2005 Act as provided
37 under subsection (2) of this section.

38 (2) Following extension of the taxes under ORS 311.370 (1)(b), or a similar provision, and
39 at the time for making the adjustments under ORS 311.370 (4), or a similar provision, the tax
40 collector shall notify the county treasurer of the amount the state is obligated to pay under
41 section 9 of this 2005 Act and the identity of the taxpayer who made the prepayment.
42 Thereafter, the payment shall be made by the county treasurer to the taxpayer and the state
43 shall reimburse the county treasurer in the manner provided in section 11 (4) of this 2005
44 Act.

45 **SECTION 15.** (1) If, for any reason, the Department of Revenue makes a payment under

1 sections 8 to 18 of this 2005 Act and that payment should not have been made, subject to
2 ORS 311.235 the amount of the payment shall be added to the assessment and tax roll as an
3 error correction under ORS 311.205 and shall be due and payable, with or without interest,
4 as provided in ORS 311.206.

5 (2) If a correction as described in subsection (1) of this section does not become a lien
6 under ORS 311.235, the amount of the correction is a debt due and owing from the person
7 who received payment or the benefit of the payment and may be collected under any of the
8 provisions of the law relating to the collection of personal property taxes.

9 (3) Any payment made by the department under sections 8 to 18 of this 2005 Act, and any
10 amount added to the assessment and tax roll under subsection (1) of this section shall be
11 processed under the rules adopted by the department.

12 (4) If any correction results in a refund to any person, the refund shall be made by the
13 appropriate officer from the unsegregated tax collections account established under ORS
14 311.385. If any correction results in an additional amount due from any person to the county,
15 the funds, when collected, shall be deposited in the unsegregated tax collections account es-
16 tablished under ORS 311.385.

17 (5) For each county there is established a special adjustment account. The account shall
18 reflect all roll corrections in connection with sections 8 to 18 of this 2005 Act. Any net bal-
19 ance due, as reflected by the account as of June 30 of each year, shall be certified to the
20 county assessor for inclusion in the next certification under section 11 of this 2005 Act. In-
21 terest paid or collected on account of any adjustment in payment under sections 8 to 18 of
22 this 2005 Act may not be included in the adjustment account. The net balance as of June 30
23 shall be a net increase or decrease in the funds available in the suspense account referred
24 to in ORS 310.692.

25 (6) Interest may not accrue to or be paid by the state or the county on any balance in
26 the special adjustment account established in subsection (5) of this section or the suspense
27 account referred to in ORS 310.692 on account of sections 8 to 18 of this 2005 Act.

28 **SECTION 16.** (1) On or before December 15 of each year, the Department of Revenue
29 shall send a notice to each taxpayer who has claimed a principal residence property tax ex-
30 emption for the current tax year. The notice shall:

31 (a) Inform the taxpayer that the property has or has not qualified for the principal resi-
32 dence property tax exemption for the current tax year.

33 (b) Inform the taxpayer that the taxpayer must file an application for the exemption
34 under section 10 of this 2005 Act on or before July 1 of the next year in order for the prop-
35 erty to receive the principal residence property tax exemption for the next tax year.

36 (c) Contain any other information that the department considers necessary to facilitate
37 administration of the principal residence property tax exemption.

38 (2) The department shall give the notice required under subsection (1) of this section by
39 an unsealed postcard or other form of mail sent to the residence address of the taxpayer as
40 shown in the application for the exemption or as otherwise determined by the department
41 to be the correct address of the taxpayer.

42 **SECTION 17.** For property tax years beginning on or after July 1, 2007, the Department
43 of Revenue shall recompute the maximum amount of household income a taxpayer may re-
44 ceive in a preceding calendar year in order to be eligible for the principal residence property
45 tax exemption. The computation shall be as follows:

1 (1) Divide the U.S. City Average Consumer Price Index for the average of the first six
2 months of the previous calendar year by the U.S. City Average Consumer Price Index for the
3 average of the first six months of 2005 to calculate an indexing ratio for the current taxable
4 year.

5 (2) Multiply the maximum household income provided in section 9 of this 2005 Act by the
6 current taxable year indexing ratio, computed as provided in subsection (1) of this section.

7 **SECTION 18.** (1) The county assessor and the Department of Revenue shall cooperate in
8 carrying out the purposes of sections 8 to 18 of this 2005 Act, including but not limited to
9 developing procedures to ensure compliance with the household income standards for eligi-
10 bility for the principal residence property tax exemption under section 9 of this 2005 Act.

11 (2) The department may make rules, including the defining of terms, to carry out the
12 purposes of sections 8 to 18 of this 2005 Act.

13 **SECTION 19.** Sections 8 to 18 of this 2005 Act apply to property tax years beginning on
14 or after July 1, 2006.

15
16 **ELDERLY RENTAL ASSISTANCE**

17
18 **SECTION 20.** ORS 310.635 is amended to read:

19 310.635. (1) A taxpayer who is eligible for elderly rental assistance shall be granted the rental
20 assistance [*either*] in the amount determined under subsection (2) of this section [*or by using the*
21 *schedule for renters set forth in subsection (3) of this section, whichever is greater*]. A taxpayer is eli-
22 gible for elderly rental assistance under this section if:

23 (a) The taxpayer is 58 years of age or older before the close of the calendar year immediately
24 preceding the year in which the rental assistance is claimed;

25 (b) The household income of the taxpayer is less than \$10,000;

26 (c) The gross rent of the taxpayer is in excess of [20] **five** percent of household income; and

27 (d) The taxpayer files a claim with the Department of Revenue as required by ORS 310.657.

28 (2)(a) **If the gross rent of the taxpayer is in excess of 20 percent of household income,** a
29 taxpayer eligible for elderly rental assistance under this section shall be paid by the Department
30 of Revenue an amount equal to the positive difference between the taxpayer's gross rent, not to
31 exceed \$2,100, and 20 percent of household income.

32 (b) **If the gross rent of the taxpayer is in excess of 10 percent of household income, a**
33 **taxpayer eligible for elderly rental assistance under this section shall be paid by the De-**
34 **partment of Revenue an amount equal to the positive difference between the taxpayer's gross**
35 **rent, not to exceed \$_____, and 10 percent of household income.**

36 (c) **If the gross rent of the taxpayer is in excess of five percent of household income, a**
37 **taxpayer eligible for elderly rental assistance under this section shall be paid by the De-**
38 **partment of Revenue an amount equal to the positive difference between the taxpayer's gross**
39 **rent, not to exceed \$_____, and five percent of household income.**

40 [(3) *The schedule for renters referred to in subsection (1) of this section is:*]

41 [_____]

42
43 *Maximum*
44 *Refundable*
45 *Rent*

<i>Household</i>	<i>Constituting</i>
<i>Income</i>	<i>Property Tax</i>
\$ 0 - 499	\$ 250
500 - 999	245
1,000 - 1,499	238
1,500 - 1,999	228
2,000 - 2,499	217
2,500 - 2,999	205
3,000 - 3,499	192
3,500 - 3,999	179
4,000 - 4,499	165
4,500 - 4,999	151
5,000 - 5,499	136
5,500 - 5,999	121
6,000 - 6,499	106
6,500 - 6,999	91
7,000 - 7,499	77
7,500 - 7,999	63
8,000 - 8,499	50
8,500 - 8,999	38
9,000 - 9,499	27
9,500 - 9,999	18

[_____]

[(4)] (3) The elderly rental assistance payments required by subsection (2) of this section shall be made by the Department of Revenue during the month of October.

[(5)] (4) The elderly rental assistance granted under this section applies to gross rent paid in the calendar year for which the claim is filed.

[(6)] (5) The Department of Revenue may not grant elderly rental assistance under this section:

(a) To a person who is, as of December 31 of the year for which elderly rental assistance is claimed, a tenant-stockholder of a cooperative housing corporation or a resident of a nonprofit home for the elderly owned or being purchased by a corporation described in ORS 307.375.

(b) For less than \$1, after offsets for all amounts owed to the state.

(c) For any period during which the taxpayer's needs were included in a payment made by the Department of Human Services pursuant to ORS 418.172. However, if it is determined that the taxpayer's needs were included in a payment made by the Department of Human Services under ORS 418.172 and the taxpayer is eligible for the period for elderly rental assistance in an amount greater than the payment, the Department of Revenue shall grant elderly rental assistance in the amount of the difference.

[(7)] (6) Elderly rental assistance allowed pursuant to this section is not subject to garnishment under ORS 18.600 to 18.850, except by a government entity.

SECTION 21. The amendments to ORS 310.635 by section 20 of this 2005 Act apply to elderly rental assistance payments for which claims are filed on or after January 1, 2006.

PRINCIPAL RESIDENCE EXEMPTION AND ELDERLY

RENTAL ASSISTANCE FUNDING

SECTION 22. ORS 310.692 is amended to read:

310.692. (1) Amounts necessary to make the payments authorized by ORS 307.244 and 310.635 **and section 11 of this 2005 Act** shall be transferred to a suspense account established under ORS 293.445 from the appropriation made by the Legislative Assembly to fund the elderly rental assistance *[program]* **and principal residence exemption programs**. Moneys in the suspense account are continuously appropriated to the Department of Revenue to carry out the purposes of the elderly rental assistance *[program]* **and principal residence exemption programs**.

(2) If any portion of the tax liability for which the refund payments described in subsection (1) of this section are authorized are offset against the refund, the Department of Revenue shall transfer from the suspense account referred to in subsection (1) of this section to the General Fund an amount equal to the income tax liability.

(3) Of the total amount transferred to the suspense account referred to in subsection (1) of this section for the biennium, the department shall allocate a portion to each fiscal year. The allocation shall be the department's best estimate of the most efficient use of the moneys in the suspense account so as to minimize any reductions in the payments required under ORS 307.244 and 310.635 **and section 11 of this 2005 Act** for each fiscal year.

(4) On or before November 1 of each fiscal year of each biennium, the Department of Revenue shall determine the amount of money needed to make the payments under ORS 307.244 and 310.635 **and section 11 of this 2005 Act** for that fiscal year. If the sum of the obligations is greater than the amounts credited to the suspense account referred to in subsection (1) of this section and allocated to that fiscal year for those obligations under subsection (3) of this section, the payments required under ORS 307.244 and 310.635 **and section 11 of this 2005 Act** shall be proportionally reduced so that the state does not accrue a debt in excess of the amount credited. A claim for payment may not accrue to a taxpayer under ORS 310.635 or to a county under ORS 307.244 **or section 11 of this 2005 Act** in excess of the amount determined under this subsection.

(5) If the amount allocated to the first fiscal year of a biennium under subsection (3) of this section exceeds the amount of actual payments made under ORS 307.244 or 310.635, the excess amount shall be available for payments under ORS 307.244 or 310.635 **or section 11 of this 2005 Act** in the second fiscal year of the biennium.

SECTION 23. The amendments to ORS 310.692 by section 22 of this 2005 Act applies to fiscal years beginning on or after July 1, 2006.

**UNIFORM SALES AND USE TAX
ADMINISTRATION ACT**

SECTION 24. Title. Sections 24 to 32 of this 2005 Act shall be known and may be cited as the Uniform Sales and Use Tax Administration Act.

SECTION 25. Definitions. As used in sections 24 to 32 of this 2005 Act:

(1) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted by the Streamlined Sales Tax Project on November 12, 2002.

(2) "Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record

1 of the transaction.

2 (3) "Certified service provider" means an agent certified jointly by the states that are
3 signatories to the agreement to perform all of the seller's sales tax functions.

4 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability
5 company, limited liability partnership, corporation or any other legal entity.

6 (5) "Sales Tax" means the tax levied under sections 57 to 65 of this 2005 Act.

7 (6) "Seller" means any person making sales, leases or rentals of personal property or
8 services.

9 (7) "State" means any state of the United States and the District of Columbia.

10 (8) "Use Tax" means the tax levied under sections 66 to 74 of this 2005 Act.

11 **SECTION 26. Findings and declarations.** The Legislative Assembly finds and declares that
12 entering into the Streamlined Sales and Use Tax Agreement with one or more states to
13 simplify and modernize sales and use tax administration will substantially reduce the burden
14 of tax compliance for all sellers and for all types of commerce.

15 **SECTION 27. Authority to enter agreement.** (1) The Department of Revenue is authorized
16 and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more
17 states to simplify and modernize sales and use tax administration in order to substantially
18 reduce the burden of tax compliance for all sellers and for all types of commerce. In
19 furtherance of the agreement, the department is authorized to act jointly with other states
20 that are members of the agreement to establish standards for certification of a certified
21 service provider and certified automated system, and to establish performance standards for
22 multistate sellers.

23 (2) The department is further authorized to take other actions reasonably required to
24 implement the provisions set forth in sections 24 to 32 of this 2005 Act. Other actions au-
25 thorized by this section include, but are not limited to, the adoption of rules and the joint
26 procurement, with other member states, of goods and services in furtherance of the agree-
27 ment.

28 (3) The department or the designee of the department is authorized to represent this
29 state before the other states that are signatories to the agreement.

30 **SECTION 28. Relationship to state law.** No provision of the Streamlined Sales and Use
31 Tax Agreement authorized by sections 24 to 32 of this 2005 Act in whole or part invalidates
32 or amends any provision of the law of this state. Adoption of the agreement by this state
33 does not amend or modify any law of this state. Implementation of any condition of the
34 agreement in this state, whether adopted before, at the time of or after membership of this
35 state in the agreement, must be by the action of this state.

36 **SECTION 29. Agreement requirements.** The Department of Revenue may not enter into
37 the Streamlined Sales and Use Tax Agreement unless the agreement requires each signatory
38 state to abide by all of the following requirements:

39 (1) The agreement must set restrictions to achieve more uniform state rates through the
40 following:

41 (a) Limiting the number of state rates;

42 (b) Eliminating maximums on the amount of state tax that is due on a transaction; and

43 (c) Eliminating thresholds on the application of state tax.

44 (2) The agreement must establish uniform standards for the following:

45 (a) The sourcing of transactions to taxing jurisdictions;

- 1 **(b) The administration of exempt sales;**
2 **(c) The allowances a seller can take for bad debts; and**
3 **(d) Sales and use tax returns and remittances.**

4 **(3) The agreement must require states to develop and adopt uniform definitions of sales**
5 **and use tax terms. The definitions must enable a state to preserve its ability to make policy**
6 **choices not inconsistent with the uniform definitions.**

7 **(4) The agreement must provide a central, electronic registration system that allows a**
8 **seller to register to collect and remit sales and use taxes for all signatory states.**

9 **(5) The agreement must provide that registration with the central registration system**
10 **and the collection of sales and use taxes in the signatory states will not be used as a factor**
11 **in determining whether the seller has nexus with a state for any tax.**

12 **(6) The agreement must provide for reduction of the burdens of complying with local**
13 **sales and use taxes through the following:**

14 **(a) Eliminating variances between the state and local tax bases;**

15 **(b) Requiring states to administer any sales and use taxes levied by local jurisdictions**
16 **within the state so that sellers collecting and remitting these taxes will not have to register**
17 **or file returns with, remit funds to or be subject to independent audits from local taxing**
18 **jurisdictions;**

19 **(c) Restricting the frequency of changes in the local sales and use tax rates and setting**
20 **effective dates for the application of local jurisdictional boundary changes to local sales and**
21 **use taxes; and**

22 **(d) Providing notice of changes in local sales and use tax rates and of changes in the**
23 **boundaries of local taxing jurisdictions.**

24 **(7) The agreement must outline any monetary allowances that are to be provided by the**
25 **states to sellers or certified service providers.**

26 **(8) The agreement must require each state to certify compliance with the terms of the**
27 **agreement prior to joining and to maintain compliance, under the laws of the member state,**
28 **with all provisions of the agreement while a member.**

29 **(9) The agreement must require each state to adopt a uniform policy for certified service**
30 **providers that protects the privacy of consumers and maintains the confidentiality of tax**
31 **information.**

32 **(10) The agreement must provide for the appointment of an advisory council of private**
33 **sector representatives and an advisory council of nonmember state representatives to con-**
34 **sult with in the administration of the agreement.**

35 **SECTION 30. Cooperating states. The Streamlined Sales and Use Tax Agreement au-**
36 **thorized by sections 24 to 32 of this 2005 Act is to be an accord among individual states in**
37 **furtherance of their governmental functions. The agreement shall provide a mechanism**
38 **among the member states to establish and maintain a cooperative, simplified system for the**
39 **application and administration of sales and use taxes under the laws of each member state.**

40 **SECTION 31. Effect of agreement. (1) The Streamlined Sales and Use Tax Agreement**
41 **authorized by sections 24 to 32 of this 2005 Act binds and inures only to the benefit of this**
42 **state and the other member states. No person, other than a member state, is an intended**
43 **beneficiary of the agreement. Any benefit to a person other than a state is established by**
44 **the law of this state and the other member states and not by the terms of the agreement.**

45 **(2) A person may not have any cause of action or defense under the agreement or by**

1 virtue of the approval by this state of the agreement. A person may not challenge, in any
 2 action brought under any provision of law, any action or inaction by any department, agency
 3 or other instrumentality of this state, or any political subdivision of this state, on the ground
 4 that the action or inaction is inconsistent with the agreement.

5 (3) No law of this state, or the application thereof, may be declared invalid as to any
 6 person or circumstance on the ground that the provision or application is inconsistent with
 7 the agreement.

8 **SECTION 32. Seller and third-party liability.** (1) A certified service provider is the agent
 9 of a seller, with whom the certified service provider has contracted, for the collection and
 10 remittance of sales and use taxes pursuant to the Streamlined Sales and Use Tax Agreement
 11 authorized by sections 24 to 32 of this 2005 Act. As the seller's agent, the certified service
 12 provider is liable for sales and use tax due each member state on all sales transactions the
 13 certified service provider processes for the seller except as set out in this section.

14 (2)(a) A seller that contracts with a certified service provider is not liable to this state
 15 for sales or use tax due on transactions processed by the certified service provider unless
 16 the seller misrepresented the type of items the seller sells or committed fraud. In the ab-
 17 sence of probable cause to believe that the seller has committed fraud or made a material
 18 misrepresentation, the seller is not subject to audit on transactions processed by a certified
 19 service provider. A seller is subject to audit for transactions not processed by a certified
 20 service provider.

21 (b) Member states acting jointly may perform a system check of the seller and review
 22 the seller's procedures to determine if a certified service provider's system is functioning
 23 properly and the extent to which the seller's transactions are being processed by the certi-
 24 fied service provider.

25 (3) A person that provides a certified automated system is responsible for the proper
 26 functioning of that system and is liable to the state for underpayments of tax attributable
 27 to errors in the functioning of the certified automated system. A seller that uses a certified
 28 automated system remains responsible and is liable to the state for reporting and remitting
 29 tax.

30 (4) A seller that has a proprietary system for determining the amount of tax due on
 31 transactions and has signed an agreement establishing a performance standard for that
 32 system is liable for the failure of the system to meet the performance standard.

33 SALES AND USE TAX

34
 35
 36 **SECTION 33. Construction.** Unless the context requires otherwise, the definitions in
 37 sections 34 to 54 of this 2005 Act govern the construction of sections 33 to 148 of this 2005
 38 Act.

39 (Definitions)

40
 41
 42 **SECTION 34. Business.** "Business" includes any activity engaged in by any person or
 43 caused to be engaged in by a person with the object of gain, benefit or advantage, either di-
 44 rect or indirect.

45 **SECTION 35. Delivery charge.** "Delivery charge" means a charge by the seller of personal

1 property or services for preparation and delivery to a location designated by the purchaser
 2 of personal property or services.

3 **SECTION 36. Department; director.** “Department” means the Department of Revenue,
 4 and “director” means the Director of the Department of Revenue.

5 **SECTION 37. Floating home.** “Floating home” has the meaning given that term in ORS
 6 830.700.

7 **SECTION 38. Gross receipts.** (1) “Gross receipts” means the total amount of consider-
 8 ation, including cash, credit, property and services, for which personal property or services
 9 are sold, leased or rented, without any deduction for the following:

10 (a) The seller’s cost of the property that is being sold;

11 (b) The cost of materials, labor, interest, losses, transportation to the seller, taxes im-
 12 posed on the seller or other expense of the seller;

13 (c) Charges by the seller for any services necessary to complete the sale, other than de-
 14 livery and installation charges;

15 (d) Delivery charges;

16 (e) Installation charges;

17 (f) The value of exempt personal property given to the purchaser, if taxable and exempt
 18 personal property have been sold by the seller as a single product; or

19 (g) Credit for a trade-in of property.

20 (2) “Gross receipts” means the consideration described in subsection (1) of this section
 21 that is valued in money, whether the consideration is received in money or otherwise.

22 (3) “Gross receipts” does not include:

23 (a) Discounts, including cash, term or coupons that are not reimbursed by a third party,
 24 that are allowed by a seller and taken by a purchaser on a sale;

25 (b) Interest, financing or carrying charges from credit extended on the sale of personal
 26 property or services, if the amount is separately stated on the invoice; or

27 (c) Taxes that are legally imposed directly on the purchaser and that are separately
 28 stated on the invoice, bill of sale or similar document given to the purchaser.

29 **SECTION 39. In this state.** “In this state” or “within this state” means within the exte-
 30 rior limits of the State of Oregon and includes all territory within these limits owned by or
 31 ceded to the United States of America.

32 **SECTION 40. Internal Revenue Code.** “Internal Revenue Code” means the federal Inter-
 33 nal Revenue Code, as amended and in effect on December 31, 2004.

34 **SECTION 41. Lease.** (1) “Lease” means a transfer of possession or control of tangible
 35 personal property for a fixed or indeterminate term for consideration, or a future option to
 36 purchase or extend the possession or control of tangible personal property.

37 (2) “Lease” does not include:

38 (a) A transfer of possession or control of property under a security agreement or de-
 39 ferred payment plan that requires the transfer of title upon completion of the required pay-
 40 ments;

41 (b) A transfer of possession or control of property under an agreement that requires the
 42 transfer of title upon completion of required payments and payment of an option price that
 43 does not exceed the greater of \$100 or one percent of the total of required payments;

44 (c) The provision of tangible personal property and an operator of the tangible personal
 45 property for a fixed or indeterminate period of time, if the operator is required for the

1 equipment to perform as designed. For purposes of this paragraph, an operator must do more
2 than maintain, inspect or set up the tangible personal property;

3 (d) An agreement covering the rental of a motor vehicle, if the rental agreement contains
4 a terminal rental adjustment clause as defined in section 7701(h)(3) of the Internal Revenue
5 Code; or

6 (e) A rental agreement that was executed prior to the date the Department of Revenue
7 enters into the Streamlined Sales and Use Tax Agreement.

8 **SECTION 42. Manufactured structure.** “Manufactured structure” has the meaning given
9 that term in ORS 801.333.

10 **SECTION 43. Motor vehicle or vehicle.** (1) “Motor vehicle” means a vehicle as defined in
11 ORS 801.360.

12 (2) “Vehicle” has the meaning given that term in ORS 801.590.

13 **SECTION 44. Nonresident.** (1) “Nonresident” means an individual who is not a resident
14 of this state.

15 (2) “Resident” means:

16 (a) An individual who is domiciled in this state, unless the individual maintains no per-
17 manent place of abode in this state, does maintain a permanent place of abode elsewhere and
18 spends in the aggregate not more than 30 days of the tax year in this state; or

19 (b) An individual who is not domiciled in this state but maintains a permanent place of
20 abode in this state and spends in the aggregate more than 200 days of the tax year in this
21 state, unless the individual proves to the satisfaction of the Department of Revenue that the
22 individual’s presence in this state is only for a temporary or transitory purpose.

23 **SECTION 45. Occasional sale.** “Occasional sale” includes:

24 (1) A sale of property not held or used by a seller in the course of activities for which
25 the seller is required to hold a seller’s permit or permits or would be required to hold a
26 seller’s permit or permits if the activities were conducted in this state, but only if such sale
27 is not one of a series of sales sufficient in number, scope and character to constitute an
28 activity for which the seller is required to hold a seller’s permit or would be required to hold
29 a seller’s permit if the activity were conducted in this state; and

30 (2) Any transfer of 80 percent or more of the tangible personal property, in terms of its
31 selling price, held or used by a person in the course of an activity requiring the holding of
32 a seller’s permit if, after such transfer, the real or ultimate ownership of such property is
33 substantially similar to that which existed before such transfer. For the purposes of this
34 subsection, stockholders, bondholders, partners or other persons holding an interest in a
35 corporation or other entity are regarded as having the “real or ultimate ownership” of the
36 property of such corporation or other entity.

37 **SECTION 46. Purchase price; sales price.** “Purchase price” or “sales price” means the
38 total amount of gross receipts derived from the sale or lease of tangible personal property
39 or services.

40 **SECTION 47. Retail sale.** A “retail sale” or “sale at retail” means a sale or lease for any
41 purpose other than for resale, sublease or subrent.

42 **SECTION 48. Sales tax.** “Sales tax” means the tax imposed by sections 57 to 65 of this
43 2005 Act.

44 **SECTION 49. Services.** “Services” means all activities engaged in for the benefit of other
45 persons for a fee, retainer, commission or other monetary charge, if the activities predomi-

1 nantly involve the performance of a service as distinguished from selling property.

2 **SECTION 50. Seller.** “Seller” means a person who makes, leases or rents personal prop-
 3 erty or services.

4 **SECTION 51. Storage and use.** (1) “Storage” includes any keeping or retention in this
 5 state for any purpose except sale in the regular course of business or subsequent use solely
 6 outside this state of tangible personal property purchased from a retailer.

7 (2) “Use” includes the exercise of any right or power over tangible personal property in-
 8 cident to the ownership of that property, and also includes the possession of, or the exercise
 9 of any right or power over, tangible personal property by a lessee under a lease, except that
 10 “use” does not include the sale of that property in the regular course of business.

11 (3) “Storage” and “use” do not include the keeping, retaining or exercising of any right
 12 or power over tangible personal property for the purpose of subsequently transporting it
 13 outside this state for use thereafter solely outside this state, or for the purpose of being
 14 processed, fabricated or manufactured into, attached to or incorporated into, other tangible
 15 personal property to be transported outside this state and thereafter used solely outside this
 16 state.

17 **SECTION 52. Streamlined Sales and Use Tax Agreement.** “Streamlined Sales and Use
 18 Tax Agreement” means the agreement defined in section 25 of this 2005 Act.

19 **SECTION 53. Tangible personal property.** “Tangible personal property” means personal
 20 property that can be seen, weighed, measured, felt or touched, that is in any other manner
 21 perceptible to the senses or that is electricity, water, gas, steam or prewritten computer
 22 software.

23 **SECTION 54. Use tax.** “Use tax” means the tax imposed by sections 66 to 74 of this 2005
 24 Act.

25
 26 (Sourcing rules and definitional rules)
 27

28 **SECTION 55.** The Department of Revenue shall adopt rules for sourcing the retail sale
 29 of products or services. The rules shall conform to the sourcing provisions of the Stream-
 30 lined Sales and Use Tax Agreement.

31 **SECTION 56.** The Department of Revenue may adopt rules defining terms for purposes
 32 of imposing and administering the sales or use tax, including rules defining categories of
 33 products or services. The rules shall conform to definitions set forth in the Streamlined
 34 Sales and Use Tax Agreement.

35
 36 (Sales tax)
 37

38 **SECTION 57. Imposition of tax; rate.** In addition to all other taxes of every kind, for the
 39 privilege of selling tangible personal property or services at retail, a tax is imposed upon all
 40 retailers at the rate of five percent of the gross receipts of any retailer from the sale of all
 41 tangible personal property sold at retail in this state.

42 **SECTION 58. Reimbursement.** (1) The sales tax imposed by section 57 of this 2005 Act is
 43 a tax upon the gross receipts of retailers. Whether a retailer may add sales tax reimburse-
 44 ment to the sales price of the tangible personal property or services sold at retail to a pur-
 45 chaser depends solely upon the terms of the agreement of sale. It shall be presumed that the

1 parties agreed to the addition of sales tax reimbursement to the sales price of tangible per-
 2 sonal property sold at retail to a purchaser if:

3 (a) The agreement of sale expressly provides for such addition of sales tax reimburse-
 4 ment;

5 (b) Sales tax reimbursement is shown on the sales check or other proof of sale; or

6 (c) The retailer posts in the retailer's premises in a location visible to purchasers, or
 7 includes on a price tag or in an advertisement or other printed material directed to pur-
 8 chasers, a notice to the effect that reimbursement for sales tax will be added to the sales
 9 price of all items or certain items, whichever is applicable.

10 (2) It shall be presumed that the property or services, the gross receipts from the sale
 11 of which are subject to the sales tax, is sold at a price that includes tax reimbursement if
 12 the retailer posts in the premises or includes on a price tag or in an advertisement, which-
 13 ever is applicable, one of the following notices:

14 (a) "All prices of taxable items include sales tax reimbursement computed to the nearest
 15 mill."

16 (b) "The price of this item includes sales tax reimbursement computed to the nearest
 17 mill."

18 **SECTION 59. Collection schedule.** (1) The Department of Revenue shall prepare a sales
 19 tax collection schedule showing the total amount that shall be collected by the retailer from
 20 a consumer in reimbursement of the sales tax, computed on each sales price, from one cent
 21 to and including \$100, at the rate of five percent. The schedule shall be identical to the fol-
 22 lowing table up to the amounts specified:

Price	Tax
\$.01 to .09.....	\$.00
.10 to .29.....	.01
.30 to .49.....	.02
.50 to .69.....	.03
.70 to .89.....	.04
.90 to 1.09.....	.05

34 (2) Reimbursement on sales prices in excess of those shown in the schedules may be
 35 computed by applying the applicable tax rate to the sales price, rounded off to the nearest
 36 cent by eliminating any fraction less than one-half cent and increasing any fraction of one-
 37 half cent or more to the next higher cent.

38 (3) The sales tax collection schedule shall be made available for inspection and repro-
 39 duction.

40 (4) Each retailer who collects amounts from a consumer in reimbursement of the sales
 41 tax shall either:

42 (a) Use the schedule prepared by the department or the method provided under sub-
 43 section (2) of this section in computing the amount to be collected, based upon the sales price
 44 of the item sold if one item is sold, and if more than one item is sold in any one transaction,
 45 upon the sum of the sales prices of the items sold; or

1 (b) If authorized under rules adopted by the department, include in the sales price of each
2 item an amount of reimbursement computed to the nearest one-tenth of a cent at the ap-
3 plicable tax rate and post a notice in the retailer's premises stating that each posted or ad-
4 vertised price includes reimbursement so computed. When both taxable and nontaxable items
5 are included in the same transaction, the requirement of paragraph (a) of this subsection
6 regarding computation of tax reimbursement upon the sum of the aggregate sales prices
7 applies only if the purchaser requests at the time of the sale that the computation be made
8 in this way.

9 (5) Each retailer may retain from the taxes otherwise due under the Sales and Use Tax
10 Law, out of the remittances by the retailer under sections 123 and 124 of this 2005 Act, an
11 amount equal to 1.5 percent of the tax owed by such retailer for each reporting period. Such
12 amounts may be retained only if the remittances were paid when due as required by sections
13 123 and 124 of this 2005 Act.

14 **SECTION 60. Vending machines.** (1)(a) The Department of Revenue may authorize a
15 seller to pay the sales tax upon sales made through vending machines and similar devices,
16 or under conditions of business such as to render impracticable the collection of the tax as
17 a separate item, and waive collection of the tax from the purchaser.

18 (b) If sales are made by receipt of a coin or coins dropped into a receptacle that results
19 in delivery of the merchandise in single purchases of smaller value than the minimum sale
20 upon which a one cent tax may be collected from the purchaser, according to the schedule
21 prescribed under section 59 of this 2005 Act, and if the design of the device is such that
22 multiple sales of items are not possible or cannot be detected so as practicably to assess a
23 tax, then no tax shall be assessed or collected on the gross receipts from such sales if ade-
24 quate and complete records are kept by the vending machine operator, readily available for
25 inspection by the department. If such records are not maintained, the gross receipts for the
26 purposes of the sales tax are 50 percent of the gross receipts of the vending machine through
27 which such sales are made, determined by the department according to the best of its in-
28 formation and belief, using such records as are available.

29 (c) As used in this section, "adequate and complete records" means that the vending
30 machine operator regularly maintains records that would enable a department auditor to
31 accurately ascertain liability for sales taxes under section 57 of this 2005 Act, showing the
32 location or locations of each machine operated by the vending machine operator during each
33 reporting period, the serial number thereof, purchases and inventories of merchandise
34 bought for sale through all such machines and the gross receipts derived from the operation
35 at each location during each reporting period.

36 (2) No authority under subsection (1) of this section may be granted except upon appli-
37 cation to the department and unless the department finds that the conditions of the appli-
38 cant's business are such as to render impracticable the collection of the tax in the manner
39 otherwise provided. If required by the department, an applicant under this section must
40 furnish a proper bond sufficient to secure the payment of the tax. One permit is sufficient
41 for all machines of one operator. A statement shall be affixed upon each vending machine in
42 a conspicuous space by the operator thereof, stating the operator's name, place of business
43 and permit number.

44 **SECTION 61. Excess collection.** (1) When an amount represented by a person to a pur-
45 chaser as constituting reimbursement for taxes due under section 57 of this 2005 Act is

1 computed upon an amount that is not taxable or is in excess of the taxable amount and is
 2 actually paid by the purchaser to the person, the amount so paid shall be returned by the
 3 person to the purchaser upon notification by the Department of Revenue or by the purchaser
 4 that such excess has been ascertained. In the event of the person's failure or refusal to do
 5 so, the amount paid, if knowingly or mistakenly computed by the person upon an amount
 6 that is not taxable or is in excess of the taxable amount, shall be remitted by that person
 7 to this state. However, those amounts remitted to this state shall be credited by the de-
 8 partment on any amounts due and payable under section 57 of this 2005 Act on the same
 9 transaction from the person by whom it was paid to this state and the balance, if any, shall
 10 constitute an obligation due from the person to this state.

11 (2) Subsection (1) of this section does not apply to an amount computed by using a
 12 schedule designed to result in collection in an amount as nearly equivalent as practicable to
 13 the tax applicable to total taxable sales and to the average amount of individual taxable sales.

14 **SECTION 62. Worthless accounts.** (1) A person is relieved from liability for sales tax or
 15 use tax insofar as the measure of the tax is represented by accounts that, for federal income
 16 tax purposes, constitute deductible bad debt under section 166 of the Internal Revenue Code,
 17 except that the amount of bad debt for which liability is relieved under this section shall be
 18 reduced by:

19 (a) Interest or other financing charges;

20 (b) Sales or use taxes charged on the sale of the property or services from which the bad
 21 debt is derived;

22 (c) Uncollectible amounts on property that remains in the possession of the seller until
 23 the full purchase price is paid;

24 (d) Expenses incurred in attempting to collect any debt; or

25 (e) The value of repossessed property.

26 (2) Any deduction allowed under this section for bad debt may not include interest.

27 (3) Bad debt may be deducted only on the sales or use tax return for the period during
 28 which the bad debt is written off as uncollectible in the books and records of the taxpayer
 29 and is eligible for deduction for federal tax purposes, or would be eligible for deduction if the
 30 sales or use taxpayer were required to file a federal income tax return.

31 (4) If bad debt that is deducted under subsection (1) of this section is subsequently col-
 32 lected, the amount collected shall be added to the sales tax liability of the taxpayer for the
 33 reporting period in which the amount is collected.

34 (5) If the amount of bad debt that may be deducted exceeds the sales or use tax liability
 35 of the taxpayer, the excess may be refunded to the taxpayer.

36 (6) The Department of Revenue shall adopt rules for the allocation of bad debt between
 37 Oregon and other states in cases where the amount of bad debt for federal income tax pur-
 38 poses is attributable to debt from both within and outside of Oregon.

39
 40 (Seller registration)

41
 42 **SECTION 63.** (1) The Department of Revenue shall design and implement an online sales
 43 tax registration system that complies with the Streamlined Sales and Use Tax Agreement.

44 (2) A registration fee may not be required in order to register for sales tax purposes.

45 (3) The department may adopt any rules necessary to implement the registration system

1 or facilitate registration or the operation of the registration system.

2 **SECTION 64.** (1) Each person seeking to conduct business in this state as a seller shall
3 register with the Department of Revenue through the online registration system described
4 in section 63 of this 2005 Act.

5 (2) A person acting as an agent of a seller may register on behalf of the seller.

6 (3) A person may not conduct business as a seller in this state without registering under
7 this section.

8 (4) Each officer of a corporation that conducts business in violation of subsection (3) of
9 this section is guilty of violating that subsection.

10
11 (Presumptions)

12
13 **SECTION 65.** For the purpose of the proper administration of the Sales and Use Tax Law
14 and to prevent evasion of the sales tax, all gross receipts are presumed subject to the tax
15 until the contrary is established. The burden of proving that a sale of tangible personal
16 property or services is not a sale at retail is upon the person who makes the sale.

17
18 (Use tax)

19
20 **SECTION 66. Imposition of tax; rate.** An excise tax is imposed on the storage, use or
21 other consumption in this state of tangible personal property purchased from any retailer
22 for storage, use or other consumption in this state, at the rate of five percent of the pur-
23 chase price of the property.

24 **SECTION 67. Liability for tax.** Every person storing, using or otherwise consuming in
25 this state tangible personal property purchased from a retailer is liable for the use tax. The
26 person's liability is not extinguished until the tax has been paid to this state, except that a
27 receipt from a retailer engaged in business in this state or from a retailer who is authorized
28 by the Department of Revenue, under such rules as it may adopt, to collect the tax and who,
29 for the purposes of the use tax, is regarded as a retailer engaged in business in this state,
30 given to the purchaser pursuant to section 68 of this 2005 Act, is sufficient to relieve the
31 purchaser from further liability for the tax to which the receipt refers.

32 **SECTION 68. Collection by retailer; tax as debt; itemization of tax.** (1) Except as provided
33 in section 92 of this 2005 Act, every retailer engaged in business in this state, every retailer
34 required to collect the use tax and every retailer to whom authorization to collect tax has
35 been granted by the Department of Revenue, who makes sales of tangible personal property
36 for storage, use or other consumption in this state, not exempt for purposes of the Sales and
37 Use Tax Law, at the time of making the sales or if the storage, use or other consumption
38 of the tangible personal property is not then taxable, at the time the storage, use or other
39 consumption becomes taxable, shall collect the tax from the purchaser and shall give to the
40 purchaser a receipt therefor in the manner and form prescribed by the Department of Re-
41 venue.

42 (2) The tax required to be collected under subsection (1) of this section by the retailer
43 and any amount unreturned to the purchaser that is not tax but was collected under repre-
44 sentation by the retailer that it was a tax constitutes a debt owed by the retailer to this
45 state.

1 (3) With respect to leases constituting sales of tangible personal property, the tax shall
2 be collected from the lessee at the time amounts are paid by the lessee under the lease.

3 (4) Unless the department otherwise provides under its rules, the use tax required to be
4 collected by the retailer from the purchaser under subsections (1) to (3) of this section shall
5 be displayed separately from the list price, the price advertised in the premises, the marked
6 price or other price on the sales check or other proof of sale.

7 **SECTION 69. Retailer engaged in business in this state.** As used for purposes of the use
8 tax, “retailer engaged in business in this state” means:

9 (1) Any retailer maintaining, occupying or using, permanently or temporarily, directly
10 or indirectly, or through a subsidiary or other agent, by whatever name called, an office,
11 place of distribution, sales or sample room or place, warehouse or storage place or other
12 place of business.

13 (2) Any retailer having any representative, agent, salesperson, canvasser or solicitor op-
14 erating in this state under the authority of the retailer or its subsidiary for the purpose of
15 selling, delivering or taking orders for any tangible personal property.

16 (3) With respect to a lease, any retailer deriving rentals from a lease of tangible personal
17 property situated in this state.

18 **SECTION 70. Registration of retailers.** Every retailer selling tangible personal property
19 for storage, use or consumption in this state shall register with the Department of Revenue
20 in the manner prescribed in section 64 of this 2005 Act.

21 **SECTION 71. Collection of tax by retailer maintaining or not maintaining place of busi-**
22 **ness in state.** The Director of the Department of Revenue may in the director’s discretion,
23 upon application of the retailer, authorize the collection of the use tax imposed by section
24 66 of this 2005 Act by any retailer who maintains or who does not maintain a place of busi-
25 ness within this state and who furnishes adequate security to ensure collection and payment
26 of the tax. The retailer shall be issued, without charge, a permit to collect the tax in the
27 manner and subject to the rules and agreements as the director shall prescribe or require.
28 When so authorized, it shall be the duty of the retailer to collect the tax upon all tangible
29 personal property sold by the retailer for use, storage or other consumption within this
30 state, in the same manner and subject to the same requirements as any other retailer. The
31 permit may be canceled if, at any time, the director considers the security inadequate or that
32 the tax can more effectively be collected from the person using the property in this state.

33 **SECTION 72. Excessive collections.** When an amount represented by a person to a pur-
34 chaser as constituting reimbursement for taxes due under section 66 of this 2005 Act is
35 computed upon an amount that is not taxable or is in excess of the taxable amount and is
36 actually paid by the purchaser to the person, the amount so paid shall be returned by the
37 person to the purchaser upon notification by the Department of Revenue or by the purchaser
38 that such excess has been ascertained. In the event of the person’s failure or refusal to do
39 so, the amount so paid, if knowingly or mistakenly computed by the person upon an amount
40 that is not taxable or is in excess of the taxable amount, shall be remitted by that person
41 to this state. However, those amounts remitted to this state shall be credited by the de-
42 partment on any amounts due and payable under section 66 of this 2005 Act on the same
43 transaction from the person by whom it was paid to this state and the balance, if any, shall
44 constitute an obligation due from the person to this state.

45 **SECTION 73. Presumptions.** For the purpose of the proper administration of the Sales

1 and Use Tax Law and to prevent evasion of the use tax and the duty to collect the use tax,
2 the following presumptions are established:

3 (1) Tangible personal property sold by any person for delivery in this state is sold for
4 storage, use or other consumption in this state unless the contrary is established. The bur-
5 den of proving the contrary is upon the person who makes the sale unless the person takes
6 from the purchaser a resale certificate to the effect that the property is purchased for re-
7 sale.

8 (2) Tangible personal property shipped or brought to this state by the purchaser was
9 purchased from a retailer on or after the operative date of this section for storage, use or
10 other consumption in this state.

11 (3) Tangible personal property delivered outside this state to a purchaser known by the
12 retailer to be a resident of this state was purchased from a retailer for storage, use or other
13 consumption in this state and stored, used or otherwise consumed in this state. This
14 presumption may be controverted by a statement in writing, signed by the purchaser or the
15 authorized representative, and retained by the vendor, that the property was purchased for
16 use at a designated point or points outside this state. This presumption may also be
17 controverted by other evidence satisfactory to the Department of Revenue that the property
18 was not purchased for storage, use or other consumption in this state.

19 (4) A motor vehicle purchased outside of this state that is brought into this state on or
20 before the 90th day after its purchase, was acquired for storage, use or other consumption
21 in this state. However, a member of the Armed Forces of the United States on active duty
22 who purchases a motor vehicle prior to the effective date of discharge of the member is not
23 subject to this presumption. The member is not considered to have purchased the motor
24 vehicle for storage, use or other consumption in this state unless at the time of purchase
25 the member intended to use it in this state, such intent resulting from the member's own
26 determination rather than from official orders received as a member of the Armed Forces
27 transferring the member to this state.

28 **SECTION 74. Credit for tax paid to another jurisdiction.** (1) A credit shall be allowed
29 against, but shall not exceed, the taxes imposed on any person by the Sales and Use Tax Law
30 by reason of the storage, use or other consumption of tangible personal property in this state
31 to the extent that the person has paid a general retail sales or use tax, or reimbursement
32 therefor, imposed with respect to that property by any other state or political subdivision
33 thereof prior to the storage, use or other consumption of that property in this state.

34 (2) A credit otherwise permitted under subsection (1) of this section shall not be allowed
35 against taxes that are measured by periodic payments made under a lease, to the extent that
36 the taxes imposed by any other state or political subdivision thereof were also measured by
37 periodic payments made under a lease for a period prior to the storage, use or other con-
38 sumption of the property in this state.

39 40 RESALE CERTIFICATES

41
42 **SECTION 75. Effect of certificate.** The resale certificate referred to in section 73 of this
43 2005 Act relieves the person selling the property from liability for sales tax or the duty to
44 collect use tax only if it is taken from a person who is engaged in the business of selling
45 tangible personal property or services and who is registered under section 64 or 71 of this

1 2005 Act.

2 **SECTION 76. Form of certificate.** The resale certificate must be signed by and bear the
 3 name and address of the purchaser, indicate the number of the permit issued to the pur-
 4 chaser and indicate the general character of the tangible personal property sold by the pur-
 5 chaser in the regular course of business. The resale certificate shall be substantially in such
 6 form as the Department of Revenue prescribes.

7 **SECTION 77. Retention, demonstration or display; liability of purchaser.** (1) If a pur-
 8 chaser who gives a resale certificate or purchases property for the purpose of reselling it
 9 makes any storage or use of the property other than retention, demonstration or display
 10 while holding it for sale in the regular course of business, the storage or use is taxable to
 11 the purchaser under section 66 of this 2005 Act as of the time the property is first so stored
 12 or used by the purchaser and, except as provided in subsections (2) and (3) of this section,
 13 the sales price of the property to the purchaser is the measure of the tax.

14 (2) If the use is limited to the loan of the property to customers as an accommodation
 15 while awaiting delivery of property purchased or leased from the lender or while property is
 16 being repaired for customers by the lender, the measure of the tax is the fair rental value
 17 of the property for the duration of each loan so made.

18 (3) If the property is used frequently for purposes of demonstration or display while
 19 holding it for sale in the regular course of business and is used partly for other purposes,
 20 the measure of the tax is the fair rental value of the property for the period of such other
 21 use or uses.

22 **SECTION 78. Leases; election to pay use tax.** If a purchaser acquires property in a
 23 transaction described in section 45 (1) of this 2005 Act and leases such property, the pur-
 24 chaser may elect at the time the property is first leased, after the operative date of this
 25 section, to pay use tax measured by the purchase price of the property. For purposes of this
 26 section:

27 (1) "Purchaser" shall include a transferee who acquires property in a transaction that
 28 qualifies under the provisions of section 45 (2) of this 2005 Act; and

29 (2) The purchase price paid by the transferee shall be the same as that paid by the ori-
 30 ginal purchaser.

31 **SECTION 79. Resale certificate; fungible goods.** If a purchaser gives a resale certificate
 32 with respect to the purchase of fungible goods and thereafter commingles these goods with
 33 other fungible goods not so purchased but of such similarity that the identity of the con-
 34 stituent goods in the commingled mass cannot be determined, sales from the mass of
 35 commingled goods shall be deemed to be sales of the goods so purchased until a quantity of
 36 commingled goods equal to the quantity of purchased goods so commingled has been sold.

37 **SECTION 80. Improper use of certificate.** No person shall give, for the purpose of evading
 38 payment to the seller or other person selling the property of the amount of the tax applicable
 39 to the transaction, a resale certificate for property that the person knows, at the time of
 40 purchase, is not to be resold by the person in the regular course of business.

41
 42 (Direct Payment Permits)

43
 44 **SECTION 81. Direct payment permits.** (1) The Department of Revenue may authorize a
 45 purchaser of substantial amounts of tangible personal property or services to pay the tax

1 directly to the department and to waive the collection of the tax by the seller.

2 (2) The department shall design and implement a direct pay permit program that com-
3 plies with the requirements of the Streamlined Sales and Use Tax Agreement.

4 (3) In order to directly pay sales or use tax under subsection (1) of this section, a pur-
5 chaser shall obtain a direct pay permit from the department in the time and manner pre-
6 scribed by the department by rule.

7 (4)(a) The department may revoke a direct pay permit and the authority granted to a
8 purchaser under a direct pay permit for failure to comply with the conditions under which
9 the authority was granted or for other reasons constituting the misuse of the authority.

10 (b) Upon revocation, a purchaser shall give written notice to each seller with whom the
11 purchaser has transacted business using a direct pay permit, and shall supply the depart-
12 ment with evidence that the notice has been given. Notwithstanding section 140 of this 2005
13 Act, if the purchaser fails to notify a seller of the revocation, the department may give no-
14 tice of the revocation to the seller.

15 (c) Notwithstanding paragraphs (a) and (b) of this subsection, a direct pay permit may
16 be revoked only to the extent the revocation is allowable under the Streamlined Sales and
17 Use Tax Agreement.

18
19 (Absorption of tax by retailer)
20

21 **SECTION 82. Unlawful advertising.** Except as otherwise provided by law or rule of the
22 Department of Revenue, no retailer shall advertise, hold out or state to the public or to any
23 customer, directly or indirectly, that the sales tax on tangible personal property or the use
24 tax on tangible personal property or services or any part thereof:

- 25 (1) Will be assumed or absorbed by the retailer;
- 26 (2) Will not be added to the selling price of the property sold; or
- 27 (3) If added, the tax or any part thereof will be refunded.

28
29 **VEHICLES, VESSELS AND AIRCRAFT**
30

31 **SECTION 83. Definitions.** (1) As used in sections 83 to 94 of this 2005 Act, unless the
32 context requires otherwise:

33 (a) "Aircraft" means any powered contrivance used or designed for navigation of or flight
34 in the air, except a rocket or missile.

35 (b) "Vessel" means any boat, ship, barge, craft or floating object designed for navigation
36 in the water except:

- 37 (A) A seaplane;
- 38 (B) A watercraft specifically designed to operate on a permanently fixed course, the
39 movement of which is restricted to or guided on such permanently fixed course by means
40 of a mechanical device on a fixed track or arm to which the watercraft is attached or by
41 which the watercraft is controlled, or by means of a mechanical device attached to the
42 watercraft itself;
- 43 (C) A watercraft of a type designed to be propelled solely by oars or paddles;
- 44 (D) A watercraft of eight feet or less in length of a type designed to be propelled by sail;
- 45 (E) A floating home, as defined in ORS 830.700; or

1 (F) A boathouse, as defined in ORS 830.700.

2 (c) "Vehicle" means a vehicle or motor vehicle, as defined in section 43 of this 2005 Act,
 3 for which registration or a certificate of title is required under ORS 803.025 or 803.300, or
 4 would be required if the vehicle were not exempted from registration or certification re-
 5 quirements under ORS 801.026, 803.030 or 803.305. "Vehicle" does not include any of the fol-
 6 lowing:

7 (A) A manufactured structure, as defined in ORS 801.333.

8 (B) A snowmobile, as defined in ORS 801.490.

9 (C) A school bus, as defined in ORS 801.460.

10 (D) An ambulance, as defined in ORS 801.115, an emergency vehicle, as defined in ORS
 11 801.260, or other fire apparatus or fire engine.

12 (E) A bicycle, as defined in ORS 801.150.

13 (F) A farm tractor, as defined in ORS 801.265, or a farm trailer, as defined in ORS 801.270,
 14 or other implements of husbandry, as defined in ORS 801.310.

15 (G) Fixed load vehicles, as defined in ORS 801.285, that are subject to ad valorem property
 16 taxation.

17 (H) Golf carts, as defined in ORS 801.295, and similar vehicles described in ORS 803.030
 18 (13).

19 (I) Road rollers.

20 (J) A trolley.

21 (K) Well drilling machinery.

22 (L) Wheelchairs.

23 (2) A motor or other component part of a vessel, whether or not detachable, is considered
 24 to be a part of the vessel when sold therewith.

25 **SECTION 84. Persons that are retailers of vehicles, vessels or aircraft.** Every person
 26 making a retail sale of a vehicle, vessel or aircraft is a retailer of the vehicle, vessel or air-
 27 craft for purposes of the Sales and Use Tax Law, regardless of whether the person is a
 28 retailer by reason of other provisions of the Sales and Use Tax Law unless another person
 29 is the retailer, as provided in section 85 of this 2005 Act.

30 **SECTION 85. Sales through certified dealers or wreckers.** Every person holding a cer-
 31 tificate as a dealer or a wrecker under ORS chapter 822 is the retailer of a vehicle when a
 32 retail sale of the vehicle is made through the person and the person provides to the De-
 33 partment of Transportation a notice of transfer with respect to the vehicle. That person
 34 shall hold a seller's permit and remit tax to the Department of Revenue with respect to those
 35 sales in the same manner as a dealer or wrecker making sales on the dealer's or wrecker's
 36 own account. For purposes of this section, "sale" does not include a lease.

37 **SECTION 86. Sales tax; exemption if seller other than dealer or wrecker.** There are ex-
 38 empted from the computation of the amount of the sales tax the gross receipts from sales
 39 of vehicles required to be registered or titled by the Department of Transportation when the
 40 retailer is other than a person certified as a dealer or a wrecker under ORS chapter 822.
 41 However, this exemption does not extend to the rentals payable under a lease of tangible
 42 personal property.

43 **SECTION 87. Boat trailers.** Notwithstanding section 86 of this 2005 Act, the gross re-
 44 cepts from the sales of boat trailers by persons in the business of selling boats or boat
 45 trailers are not exempt from the computation of the amount of sales tax.

1 **SECTION 88. Vessels and aircraft; sellers.** There are exempted from the computation of
2 the amount of the sales tax the gross receipts from the sale of a vessel or aircraft when the
3 retailer is other than a person required to hold a seller's permit issued under the Sales and
4 Use Tax Law by reason of the number, scope and character of the sales by the person of
5 vessels or aircraft, as the case may be.

6 **SECTION 89. Seller's permit requirements.** If a person is engaged in the business of
7 selling vehicles, vessels or aircraft, the person is not excused from the requirements of the
8 Sales and Use Tax Law relating to seller's permits, collection and payment of sales tax or
9 any other provision of the Sales and Use Tax Law by reason of the exemptions provided in
10 sections 86 and 88 of this 2005 Act.

11 **SECTION 90. Family sales.** There are exempted from the taxes imposed by the Sales and
12 Use Tax Law the gross receipts from the sale of, and the storage, use or other consumption
13 in this state of, a vehicle, vessel or aircraft, when the person selling the property is either
14 by blood, marriage or adoption the parent, grandparent, child or spouse of the purchaser and
15 the person selling is not engaged in the business of selling the type of property for which the
16 exemption is claimed.

17 **SECTION 91. Substantially same ownership after transfer.** There are exempted from the
18 taxes imposed by the Sales and Use Tax Law the gross receipts from the sale of, and the
19 storage, use or other consumption in this state of, a vehicle, vessel or aircraft, when such
20 property is included in any transfer of 80 percent or more of the tangible personal property,
21 in terms of its selling price, held or used in the course of a business activity of the person
22 selling the property, and when after such transfer the real or ultimate ownership of such
23 property is substantially similar to that which existed before such transfer. For the purposes
24 of this section, stockholders, bondholders, partners or other persons holding an interest in
25 a corporation or other entity are regarded as having the "real or ultimate ownership" of the
26 property of such corporation or other entity.

27 **SECTION 92. Use tax; payment; interest and penalties.** (1) Notwithstanding section 123
28 or 124 of this 2005 Act, except when the sale is by lease, the use taxes imposed with respect
29 to the storage, use or other consumption in this state of vehicles, vessels and aircraft are
30 due and payable by the purchaser at the time the storage, use or other consumption of the
31 property first becomes taxable to the Department of Revenue or to the following, whichever
32 is applicable:

33 (a) In the case of a vehicle required to be titled or registered, to the Department of
34 Transportation before a certificate of title or registration may be issued to the purchaser
35 by the Department of Transportation.

36 (b) In the case of a boat that is subject to certification of title, or registration if no
37 certificate of title is to be issued, by the State Marine Board pursuant to ORS 830.700 to
38 830.870, to the Department of Revenue before it may be certified or registered by the State
39 Marine Board.

40 (c) In the case of aircraft subject to registration for the first time to the purchaser by
41 the Oregon Department of Aviation pursuant to ORS 837.040 to 837.070, to the Department
42 of Revenue before it may be registered by the Oregon Department of Aviation.

43 (2) If the purchaser of a vehicle, boat or aircraft mentioned in subsection (1) of this
44 section does not make application for registration or certification to the Department of
45 Transportation, the Oregon Department of Aviation or the State Marine Board, whichever

1 is applicable, within 30 days after the date of purchase of the vehicle, boat or aircraft, the
2 purchaser then becomes liable for a penalty as specified in section 125 (1) of this 2005 Act,
3 but no interest shall accrue. However, if the purchaser does not make application for cer-
4 tification or registration or does not pay the amount of use tax due within 90 days after the
5 date of purchase, or files a return with the Department of Revenue that is not timely, the
6 purchaser shall become fully liable for the penalties and interest as provided in section 125
7 of this 2005 Act, which shall be collectible by the Department of Revenue or the Department
8 of Transportation in the same manner and subject to the same procedures as for other de-
9 linquent sales and use taxes. The Department of Transportation shall collect delinquent use
10 tax, penalties and interest as provided in this section and section 94 of this 2005 Act with
11 respect to any delinquent application for certification of title or registration of a vehicle.

12 (3) Application to the Department of Transportation for certification of title or registra-
13 tion of a vehicle accompanied by payment of the use tax by the purchaser relieves the pur-
14 chaser of the obligation to file a separate return with the Department of Revenue under
15 section 124 of this 2005 Act.

16 SECTION 93. Presumption on sale to lessee. There shall be a presumption that a transfer
17 of a vehicle to a lessee by a lessor was a sale for resale if the lessee transfers title and reg-
18 istration to a third party within 10 days from the date the lessee acquired title from the
19 lessor at the expiration or termination of a lease. The presumption may be rebutted by evi-
20 dence that the sale was not for resale prior to use.

21 SECTION 94. Use tax; collection by Department of Transportation; disposition of pro-
22 ceeds. (1) Except when the sale is by lease, in the collection of the use tax on motor vehicles
23 for which a certificate of title or registration is required, the Department of Transportation
24 shall act as collecting agent. The Department of Transportation shall collect the use tax, and
25 any penalty or interest that may be due, at the time an applicant applies for the registration
26 of, or certification or transfer of title to, the motor vehicle, unless:

27 (a) The applicant exhibits a retailer's receipt showing that the retail sales tax has been
28 collected by the retailer;

29 (b) The application is for the renewal of registration;

30 (c) The applicant presents an exemption certificate provided by the Department of Re-
31 venue under section 122 of this 2005 Act; or

32 (d) The applicant presents satisfactory evidence showing that the sales tax or the use tax
33 has been paid on the vehicle in question.

34 (2) Every applicant for registration or issuance or transfer of certificate of title who is
35 subject to payment of the use tax shall declare the value of the vehicle for which application
36 is made, which shall consist of the consideration paid or contracted to be paid therefor. No
37 person wilfully shall misrepresent or fail to declare such value.

38 (3) The moneys collected by the Department of Transportation under this section shall
39 be deposited promptly in the suspense account created under ORS 802.100 (1). So much as is
40 necessary of the moneys so collected is appropriated continuously to the Department of
41 Transportation to pay the administrative expenses of the Department of Transportation in
42 collecting the use tax under this section. All moneys in excess of these administrative ex-
43 penses shall be transferred monthly to the Sales Tax Fund established under section 145 of
44 this 2005 Act. At least once each month the Department of Transportation shall account to
45 the Department of Revenue for all use tax moneys collected and administrative expenses

1 retained under this section. The Department of Transportation shall turn over to the De-
 2 partment of Revenue all reports, applications and other information required by the De-
 3 partment of Revenue that have been obtained in the collection and administration of the use
 4 tax on motor vehicles.

5 (4) An applicant who has paid a use tax under this section may apply to the Department
 6 of Revenue for a refund within the time and in the manner provided under ORS 305.270 if the
 7 applicant has reason to believe the use tax was not due and owing.

8 (5) The provisions of this section are in addition to any other methods prescribed in the
 9 Sales and Use Tax Law for the collection of the use tax.

10
 11 (Exemptions Generally)

12
 13 **SECTION 95. Exemptions must be specific.** Notwithstanding any other provision of law,
 14 no exemption may be made from the sales tax or use tax unless such exemption is provided
 15 in the Sales and Use Tax Law.

16 **SECTION 96. Exempted from the taxes imposed by the Sales and Use Tax Law.** “Ex-
 17 empted from the taxes imposed by the Sales and Use Tax Law,” as used in sections 90, 91
 18 and 97 to 122 of this 2005 Act, means, in the case of the sales tax, exempted from the com-
 19 putation of the amount of tax imposed.

20 **SECTION 97. Constitutional exemptions; Indians.** (1) There are exempted from the taxes
 21 imposed by the Sales and Use Tax Law those transactions that this state is prohibited from
 22 taxing under the laws or Constitution of the United States or under the Oregon Constitution,
 23 including but not limited to gross receipts derived from contracts in existence prior to the
 24 effective date of this 2005 Act.

25 (2) There are exempted from the taxes imposed by the Sales and Use Tax Law the gross
 26 receipts from the sale, storage, use or consumption of tangible personal property to an In-
 27 dian tribe or Indian enterprise within an Indian reservation.

28 **SECTION 98. Water.** There are exempted from the taxes imposed by the Sales and Use
 29 Tax Law the gross receipts from the sales, furnishing or service of and the storage, use or
 30 other consumption in this state of water. As used in this section, “water” does not include
 31 ice.

32 **SECTION 99. Food products.** (1) There are exempted from the taxes imposed by the Sales
 33 and Use Tax Law the gross receipts from the sale of and the storage, use or other con-
 34 sumption in this state of food and food ingredients.

35 (2) The exemption under this section does not apply to prepared food.

36 **SECTION 100. Alcoholic beverages taxable.** Notwithstanding ORS 471.725, 471.730 or
 37 471.745 or any other provision of law to the contrary, the taxes imposed by sections 57 and
 38 66 of this 2005 Act apply to the gross receipts from the sale of, or the storage, use or other
 39 consumption of alcoholic beverages.

40 **SECTION 101. Manufacturing machinery and equipment.** There are exempted from the
 41 taxes imposed by the Sales and Use Tax Law the gross receipts from the sale or use of ma-
 42 chinery and equipment used in manufacturing.

43 **SECTION 102. Drugs and medical devices.** There are exempted from the taxes imposed
 44 by the Sales and Use Tax Law the gross receipts from the sale of or the storage, use or other
 45 consumption in this state of drugs, durable medical equipment for home use, mobility en-

1 hancing equipment and prosthetic devices.

2 **SECTION 103. Animals; feed; seed; fertilizer; farm machinery and equipment.** There are
3 exempted from the taxes imposed by the Sales and Use Tax Law the gross receipts from sales
4 of and the storage, use or other consumption of:

5 (1) Animals, feed, seed, plants, fertilizer and pesticides that, or the products of which,
6 are ordinarily used or for use in commercial, agricultural, horticultural or silvicultural ac-
7 tivities.

8 (2) Equipment, machinery and implements for use in conducting a farming activity.

9 **SECTION 104. Tobacco.** There are exempted from the taxes imposed by the Sales and Use
10 Tax Law the gross receipts from the sale of, and the storage, use or other consumption in
11 this state of, tobacco.

12 **SECTION 105. Motor vehicle and aircraft fuel.** (1) There are exempted from the taxes
13 imposed by the Sales and Use Tax Law the gross receipts from the sale or distribution and
14 the storage, use or other consumption in this state of motor vehicle fuel, fuel or aircraft
15 fuel, the sale, use or other consumption of which in this state is:

16 (a) Subject to tax under ORS 319.010 to 319.430 or 319.510 to 319.880, and not subject to
17 refund; or

18 (b) Exempt from the tax imposed under ORS 319.510 to 319.880 by ORS 825.484 (2).

19 (2) The Department of Transportation shall collect the sales tax upon sales of motor ve-
20 hicle fuel, fuel and aircraft fuel that are subject to tax and refund under ORS chapter 319.
21 Collection may be accomplished by way of deduction from refunds otherwise allowable under
22 ORS chapter 319. For the purpose of establishing gross receipts upon which the sales tax is
23 computed, the Department of Transportation shall use estimated average fuel sales prices.
24 At the request of a refund claimant, the Department of Transportation may adjust the sales
25 tax so computed upon presentation by the claimant of information showing the exact amount
26 paid for the fuel upon which refund is claimed. The Department of Transportation shall
27 transfer the amount of the sales tax deductions from the appropriate General Fund account
28 from which refunds are made under ORS chapter 319. The moneys transferred by the De-
29 partment of Transportation under this subsection shall be deposited promptly in the sus-
30 pense account created under ORS 802.100 (1). As much as is necessary of the moneys so
31 collected is appropriated continuously to the Department of Transportation to pay the ad-
32 ministrative expenses and refunds of the Department of Transportation in collecting the
33 sales tax under this subsection. All moneys in excess of these administrative expenses and
34 refunds shall be transferred monthly to the State Highway Fund. At least once each month
35 the Department of Transportation shall account to the Department of Revenue for all sales
36 tax moneys collected under this subsection.

37 (3) In accordance with joint rules of the Department of Revenue, the Public Utility
38 Commission and the Department of Transportation:

39 (a) Sales taxes collected on fuel exempt from the tax imposed under ORS 319.510 to
40 319.880 by ORS 825.484 (2) may be offset against taxes imposed under ORS chapter 825 in
41 returns made under that chapter. On the 15th day of each month, the Public Utility Com-
42 mission shall certify to the Department of Revenue and the State Treasurer the amount so
43 offset and the State Treasurer shall cause that amount to be transferred from the Sales Tax
44 Fund to the Motor Carrier Account in the General Fund.

45 (b) Sales tax collected on fuel subject to tax under ORS 319.010 to 319.430 or 319.510 to

1 319.880, and not subject to refund, may be offset against taxes imposed under ORS 319.010
 2 to 319.430 or 319.510 to 319.880 in returns made under those statutes. On the 15th day of each
 3 month, the Department of Transportation shall certify to the Department of Revenue and
 4 the State Treasurer the amount so offset and the State Treasurer shall cause that amount
 5 to be transferred from the Sales Tax Fund to the State Highway Fund.

6 **SECTION 106. Fuel oil and natural gas, electricity, firewood, coal, nuclear fuel and other**
 7 **fuel products and waste byproducts.** (1) There are exempted from the taxes imposed by the
 8 Sales and Use Tax Law the gross receipts from the sales, furnishing or service of and the
 9 storage, use or other consumption in this state of:

10 (a) Fuel oil, natural gas, liquefied petroleum gas, electricity or geothermal resources
 11 when delivered to consumers through mains, lines, pipes or by tank truck or for purposes
 12 of residential heating and of exhaust steam, waste steam, heat or resultant energy, produced
 13 in connection with cogeneration technology.

14 (b) Coal.

15 (c) Firewood.

16 (d) Organic products grown expressly for fuel purposes.

17 (e) Waste byproducts from agricultural or forest products operations, municipal refuse
 18 or manufacturing that are delivered in bulk and are used in an industrial facility as a fuel
 19 source in lieu of the use of either oil, natural gas or coal.

20 (f) Nuclear fuel. For purposes of this paragraph, "nuclear fuel" means special nuclear
 21 material and source material used for fueling or refueling nuclear reactors.

22 (2) As used in this section, "cogeneration" means the sequential use of energy for the
 23 production of electrical and useful thermal energy. The sequence can be thermal use followed
 24 by power production or the reverse, subject to the following standards:

25 (a) At least five percent of the cogeneration project's total annual energy output shall
 26 be in the form of useful thermal energy.

27 (b) Where useful thermal energy follows power production, the useful annual power out-
 28 put plus one-half of the useful annual thermal energy output equals not less than 42.5 per-
 29 cent of any natural gas or oil energy input.

30 **SECTION 107. Manufactured structures and floating homes.** There are exempted from
 31 the taxes imposed by the Sales and Use Tax Law the gross receipts from the sale, lease or
 32 rental of, and the storage, use or other consumption in this state of, any manufactured
 33 structure or any floating home.

34
 35 (Exemptions from Sales Tax)

36
 37 **SECTION 108. United States Government and instrumentalities.** (1) There are exempted
 38 from the computation of the amount of the sales tax imposed under section 57 of this 2005
 39 Act the gross receipts from the sale of any tangible personal property to:

40 (a) The United States and its unincorporated agencies and instrumentalities;

41 (b) Any incorporated agency or instrumentality of the United States wholly owned by the
 42 United States or by a corporation wholly owned by the United States; or

43 (c) The American Red Cross and its chapters and branches.

44 (2) The exemption provided under this section does not extend to the rentals payable
 45 under a lease of tangible personal property.

1 **SECTION 109. United States contractors.** A sale of tangible personal property to a con-
2 tractor purchasing such property, either as the agent of the United States or for the con-
3 tractor's own account and subsequent resale to the United States for use in the performance
4 of a contract with the United States for the construction of improvements on or to real
5 property in this state, is a retail sale. The gross receipts from the sale or the sales price of
6 the property so sold shall be included in the measure of the taxes imposed under the Sales
7 and Use Tax Law.

8 **SECTION 110. Sales to common carriers.** (1) There are exempted from the computation
9 of the amount of the sales tax imposed under section 57 of this 2005 Act the gross receipts
10 from sales of tangible personal property to a common carrier, shipped by the seller via the
11 purchasing carrier under a bill of lading, whether the freight is paid in advance or the ship-
12 ment is made freight charges collect, to a point outside this state and the property is actu-
13 ally transported to the out-of-state destination for use by the carrier in the conduct of its
14 business as a common carrier.

15 (2) As used in this section with respect to water transportation, "common carrier"
16 means any person who engages in the business of transporting persons or property for hire
17 or compensation and who offers their services indiscriminately to the public or some portion
18 of the public and includes any vessel engaged for compensation in transporting persons or
19 property in interstate or foreign commerce.

20 (3)(a) There are exempted from the computation of the amount of the sales tax imposed
21 under section 57 of this 2005 Act the gross receipts from sales of tangible personal property,
22 other than aircraft fuel and petroleum products, purchased by a foreign air carrier and
23 transported by the foreign air carrier to a foreign destination for use by the air carrier in
24 the conduct of its business as a common carrier by air of persons or property.

25 (b) To qualify for this exemption, the foreign air carrier shall timely furnish to the seller
26 a certificate in writing that the property shall be transported and used in the manner de-
27 scribed in this subsection. Such certificate shall be substantially in the form prescribed by
28 the Department of Revenue. Acceptance in good faith of such a certificate shall relieve the
29 seller from liability for the sales tax. The foreign air carrier shall maintain records in this
30 state, such as a copy of a bill of lading, an air waybill or cargo manifest, documenting its
31 transportation of the tangible personal property to a foreign destination.

32 (4) Pursuant to subsection (3) of this section, any use of the property by the purchasing
33 foreign air carrier, other than that incident to delivery of the property to the foreign air
34 carrier and the transportation of the property by the carrier to a foreign destination and
35 subsequent use in the conduct of its business as a common carrier, or a failure of the foreign
36 air carrier to document its transporting the property to a foreign destination, shall subject
37 the carrier to liability for payment of sales tax as if it were a retailer making a retail sale
38 of the property at the time of such use or failure, and the cost of the property to it shall
39 be deemed to be the gross receipts from such retail sale.

40 (5) "Foreign air carrier," as used in this section, means a foreign air carrier as defined
41 in 49 U.S.C. 40102, as amended and in effect on December 31, 1996.

42 (6) Nothing in section 38 or 46 of this 2005 Act shall affect the exemption afforded under
43 this section to sales of tangible personal property to a common carrier under the circum-
44 stances set forth in this section.

45 **SECTION 111. Sales to water, air or rail carriers.** There are exempted from the taxes

1 imposed by section 57 of this 2005 Act the gross receipts from sales of tangible personal
2 property, other than tangible personal property described in sections 108 to 122 of this 2005
3 Act, for use by the purchaser in connection with the business of operating as a private or
4 common carrier by water, air or rail in interstate or foreign commerce. However:

5 (1) Any actual use of such property or services in this state shall be subject to the tax
6 imposed by section 66 of this 2005 Act at the time of such actual use; and

7 (2) Charges made by one railroad to another railroad for maintenance and repair of
8 jointly owned and used, or singly owned and jointly used, railroad facilities do not constitute
9 a sale.

10 **SECTION 112. Cargo containers for use in interstate or foreign commerce.** (1) If a cargo
11 container is purchased for use outside of this state and is delivered by an in-state manufac-
12 turer to the purchaser within this state, and the purchaser moves the cargo container to
13 any point outside this state within 30 days after the date of delivery, there are exempted
14 from the taxes imposed by the Sales and Use Tax Law the gross receipts from the sale of
15 and the storage, use or other consumption of the cargo container within this state provided
16 that the purchaser furnishes both of the following to the manufacturer:

17 (a) The purchaser's affidavit attesting that the purchaser purchased such cargo con-
18 tainer at a specified location for use exclusively outside of this state, or exclusively in
19 interstate commerce.

20 (b) The purchaser's affidavit that the cargo container has been moved to a point outside
21 this state within 30 days of the date of the delivery of the cargo container to the purchaser.

22 (2) As used in this section, "cargo container" means a receptacle that has all of the fol-
23 lowing characteristics:

24 (a) Is of a permanent character and accordingly strong enough to be suitable for repeated
25 use.

26 (b) Is specially designed to facilitate the carriage of goods, by one or more modes of
27 transport, one of which shall be by vessels, without intermediate reloading.

28 (c) Is fitted with devices permitting its ready handling, particularly its transfer from one
29 mode of transport to another.

30 (d) Is designed to be easy to fill and empty.

31 (e) Has a displacement of 1,000 cubic feet or more.

32 **SECTION 113. Occasional sales.** (1) There are exempted from the computation of the
33 amount of the sales tax imposed under section 57 of this 2005 Act the gross receipts from
34 occasional sales of tangible personal property as described under section 45 (1) of this 2005
35 Act. This exemption does not apply to the gross receipts from the sale of, or the storage,
36 use or other consumption in this state of, a vehicle, vessel or aircraft as defined in section
37 83 of this 2005 Act.

38 (2) This section does not preclude the exemptions granted under section 91 of this 2005
39 Act.

40 **SECTION 114. Export packers.** There are exempted from the computation of the amount
41 of the sales tax imposed under section 57 of this 2005 Act the gross receipts from sales of
42 tangible personal property purchased for use outside the continental limits of the United
43 States and delivered to a forwarding agent, export packer or other person engaged in the
44 business of preparing goods for export or arranging for their exportation, and actually de-
45 livered to a port outside the continental limits of the United States prior to making any use

1 thereof.

2 **SECTION 115. Out-of-state contractors.** There are exempted from the computation of the
3 amount of the sales tax imposed under section 57 of this 2005 Act the gross receipts from
4 the sale in this state of tangible personal property to a registered seller under section 64 of
5 this 2005 Act if the property is used by the purchaser outside of this state in the performance
6 of a contract to improve real property and, as a result of such use, is incorporated into and
7 becomes a part of real property located outside this state. This exemption applies only if the
8 purchaser certifies in writing to the seller, in such form as the Department of Revenue may
9 prescribe, that the property will be used in a manner and for a purpose specified in this
10 section.

11 **SECTION 116. Rentals included in use tax or outside this state.** There are exempted from
12 the computation of the amount of the sales tax imposed under section 57 of this 2005 Act the
13 rentals payable under a lease of tangible personal property when such rentals are required
14 to be included in the measure of the use tax imposed under section 66 of this 2005 Act or
15 when such property is situated outside this state.

16 **SECTION 117. Interstate shipments.** (1) There are exempted from the computation of the
17 amount of the sales tax imposed under section 57 of this 2005 Act the gross receipts from
18 the sale of tangible personal property that, pursuant to the contract of sale, is required to
19 be shipped and is shipped to a point outside this state by the retailer by means of:

20 (a) Facilities operated by the retailer; or

21 (b) Delivery by the retailer to a carrier, customs broker or forwarding agent, whether
22 hired by the purchaser or not, for shipment to such out-of-state point.

23 (2) For purposes of this section:

24 (a) "Carrier" means a person or firm engaged in the business of transporting for com-
25 pensation tangible personal property owned by other persons, and includes both common and
26 contract carriers.

27 (b) "Forwarding agent" means a person or firm engaged in the business of preparing
28 property for shipment or arranging for its shipment.

29
30 (Exemptions from Use Tax)

31
32 **SECTION 118. Items on which sales tax imposed.** (1) Subject to subsection (2) of this
33 section, the storage, use or other consumption in this state of tangible personal property,
34 the gross receipts from the sale of which are required to be included in the measure of the
35 sales tax imposed under section 57 of this 2005 Act, is exempted from the use tax imposed
36 under section 66 of this 2005 Act. However, this exemption does not extend to the possession
37 of, or the exercise of, any right or power over tangible personal property by a lessee under
38 a lease.

39 (2) No credit or refund of any amount of use tax paid may be allowed on the ground that
40 the storage, use or other consumption of the property was exempted under subsection (1)
41 of this section, unless the person who paid the amount reimburses the vendor for the
42 amount of the sales tax imposed upon the vendor with respect to the sale of the property
43 and paid by the vendor to this state.

44 **SECTION 119. Occasional sales.** (1) The storage, use or other consumption in this state
45 of tangible personal property, the transfer of which by the seller is an occasional sale under

1 section 45 of this 2005 Act, is exempted from the use tax imposed under section 66 of this
 2 2005 Act if:

3 (a) The sales price of the particular item of tangible personal property involved in the
 4 occasional sale does not exceed \$500 and the purchase is for personal use or consumption and
 5 not for use or consumption in carrying on a trade, occupation, business or profession; or

6 (b) The transfer is an occasional sale under section 45 of this 2005 Act.

7 (2) This exemption does not apply to the gross receipts from the sale of, or the storage,
 8 use or other consumption in this state of, a vehicle, vessel or aircraft as defined in section
 9 83 of this 2005 Act.

10 SECTION 120. Property of nonresident temporarily in state. (1) The storage, use or other
 11 consumption in this state of tangible personal property brought into this state by a nonres-
 12 ident thereof for the nonresident's use or enjoyment while temporarily within this state is
 13 exempted from the use tax imposed under section 66 of this 2005 Act unless such tangible
 14 personal property is used in conducting a nontransitory business activity within this state.

15 (2) The use in this state by a nonresident of this state of a motor vehicle that is regis-
 16 tered or licensed under the laws of the state of the nonresident's residence, and that is not
 17 required to be registered or titled under the laws of this state, is exempted from the use tax.

18 SECTION 121. New resident's purchases while nonresident. The storage, use or other
 19 consumption in this state of tangible personal property by a bona fide resident of this state
 20 is exempted from the use tax imposed under section 66 of this 2005 Act if such tangible
 21 personal property was acquired by such a person in another state while a bona fide resident
 22 thereof and primarily for use outside this state and if such use was actual and substantial.
 23 If such tangible personal property was acquired by such person less than three months prior
 24 to the time the person entered this state, it is presumed that the tangible personal property
 25 was acquired for use in this state and that its use outside this state was not actual and
 26 substantial.

27
 28 (Exemption Procedures)

29
 30 SECTION 122. Rules; Forms. (1) The Department of Revenue shall adopt rules establish-
 31 ing procedures for claiming exemption from sales or use taxes, and may prescribe forms,
 32 exemption certificates or other documentation requirements pertaining to exemptions.

33 (2) Procedures, forms, certificates and other requirements prescribed under subsection
 34 (1) of this section shall comply with the Streamlined Sales and Use Tax Agreement.

35
 36 (Returns and payments)

37
 38 SECTION 123. Due date. The taxes imposed by the Sales and Use Tax Law are due and
 39 payable to the Department of Revenue as follows:

40 (1) If the taxes may reasonably be expected to be \$500 or less for the entire calendar
 41 year, the taxes are due and payable to the department not later than the January 31 follow-
 42 ing the end of the calendar year.

43 (2) If the taxes may reasonably be expected to be more than \$500, but \$5,000 or less for
 44 the entire calendar year, the taxes are due and payable to the department semiannually not
 45 later than the last day of the calendar month next following June 30 and December 31.

1 (3) Except for estimated taxes that may be required to be paid under section 124 of this
2 2005 Act, if the taxes imposed by the Sales and Use Tax Law may reasonably be expected to
3 exceed \$5,000 for the entire calendar year, the taxes are due and payable quarterly not later
4 than the 15th day of the calendar month next following the calendar quarter.

5 SECTION 124. Remittance of funds and filing returns. (1) The Department of Revenue
6 shall prescribe methods for the remittance of sales and use taxes, including but not limited
7 to the remittance of estimated taxes. The department shall design sales or use tax return
8 forms and prescribe procedures for the filing of sales or use tax returns.

9 (2) Methods of remittance and return forms and procedures shall be in compliance with
10 the Streamlined Sales and Use Tax Agreement.

11 SECTION 125. Delinquencies; penalties. (1) If there is a failure to file a return required
12 under the Sales and Use Tax Law at the time prescribed therefor, or a failure to pay a tax
13 at the time the tax becomes due, there shall be added to the amount of tax required to be
14 shown on the return a delinquency penalty of five percent of the amount of the tax.

15 (2) If the failure to file a return continues for a period in excess of three months after
16 the due date:

17 (a) There shall be added to the amount of tax required to be shown on the return a fail-
18 ure to file penalty of 20 percent of the amount of such tax; and

19 (b) Thereafter, the Department of Revenue may send a notice and demand to the person
20 to file a return within 30 days of the mailing of the notice. If, after such notice and demand,
21 no return is filed within 30 days, the department may determine the tax according to the best
22 of its information and belief, assess the tax with appropriate penalty and interest, plus an
23 additional penalty of 25 percent of the tax deficiency determined by the department, and give
24 written notice of the determination and assessment to the person required to make the fil-
25 ing.

26 (3) A penalty equal to 100 percent of any deficiency determined by the department shall
27 be assessed and collected if:

28 (a) There is a failure to file a return with intent to evade the tax; or

29 (b) A return was falsely prepared and filed with intent to evade the tax.

30 (4) Interest shall be collected on the unpaid tax at the rate established under ORS
31 305.220, for each month or fraction of a month, computed from the time the tax became due,
32 during which the tax remains unpaid.

33 (5) Each penalty imposed under this section is in addition to any other penalty imposed
34 under this section. However, the total amount of penalty imposed under this section with
35 respect to any deficiency shall not exceed 100 percent of the deficiency.

36 SECTION 126. Proceeding to compel return. (1) If a person fails to file a report or return
37 within 60 days of the time prescribed by any tax law administered by the Department of
38 Revenue, the department may petition the Oregon Tax Court for an order requiring the
39 person to show cause why the person is not required to file the report or return.

40 (2) Within 10 days after the filing of the petition, the tax court shall enter an order di-
41 recting the person to appear and show cause why no report or return is required to be filed.
42 The petition and order shall be served upon the person in the manner provided by law. Not
43 later than 20 days after service, the person shall:

44 (a) File the requested report or return with the department;

45 (b) Request from the tax court an order granting reasonable time within which to file the

1 requested report or return with the department; or

2 (c) File with the tax court an answer to the petition showing cause why such report or
3 return is not required to be filed.

4 (3) If an answer is filed, the tax court shall set the matter for hearing within 20 days
5 from the filing of the answer, and shall determine the matter in an expeditious manner,
6 consistent with the rights of the parties.

7 (4) An appeal may be taken to the Supreme Court as provided in ORS 305.445 from an
8 order of the tax court made and entered after a hearing and determination under subsection
9 (3) of this section.

10 (5) Costs shall be awarded to the prevailing party.

11 **SECTION 127. Penalty; discount; temporary provisions.** Notwithstanding sections 59 (5)
12 and 125 of this 2005 Act, no penalty for late filing of a return or late payment of tax due shall
13 be assessed and the right of a retailer to retain a percentage of sales tax due shall not be
14 denied during the six-month period beginning on the operative date of this section.

15 **SECTION 128. Duty to file proper returns.** (1) A retailer or other person may not:

16 (a) Fail to furnish any return required to be made pursuant to the Sales and Use Tax
17 Law;

18 (b) Fail to furnish a supplemental return or other data required by the Department of
19 Revenue; or

20 (c) Render a false or fraudulent return, report or claim for refund.

21 (2) A person who is required to make, render, sign or verify any return under the Sales
22 and Use Tax Law may not make a false or fraudulent return or fail to furnish a return with
23 intent to defeat or evade the determination of an amount due required by law.

24
25 (Determinations)

26
27 **SECTION 129. Audits; deficiencies; assessments; refunds; appeals.** The provisions of ORS
28 chapters 305 and 314 as to the audits and examinations of returns, periods of limitations,
29 determinations of deficiencies, assessments, liens, delinquencies, claims for refund, confer-
30 ences and appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply
31 to the determinations of taxes, penalties and interest under the Sales and Use Tax Law, ex-
32 cept where the context requires otherwise.

33
34 (Deficiencies)

35
36 **SECTION 130. Deficiency determination.** If, under the Sales and Use Tax Law, the De-
37 partment of Revenue is not satisfied with the return of the tax or the amount of tax required
38 to be paid to this state by any person, it may compute and determine the amount required
39 to be paid upon the basis of the facts contained in the return or upon the basis of any in-
40 formation within its possession or that may come into its possession. One or more deficiency
41 determinations may be made of the amount due for one or more periods. Notices of defi-
42 ciency shall be given within the time for giving notices of deficiencies under the various
43 circumstances described under ORS 314.410. Notices of deficiency shall be given and interest
44 on deficiencies shall be computed as provided in ORS 305.265. Subject to ORS 314.421 and
45 314.423, liens for taxes or deficiencies shall arise at the time of assessment, shall continue

1 until the taxes, interest and penalties are fully satisfied and may be recorded and collected
2 in the manner provided for the collection of delinquent income taxes.

3
4 (Collection of tax)

5
6 **SECTION 131. Tax as debt.** All taxes, interest and penalties due and unpaid under the
7 Sales and Use Tax Law shall become, from the time liability is incurred, a personal debt, due
8 the State of Oregon, from the person or persons liable for the taxes, interest and penalties.

9 **SECTION 132. Jeopardy determination.** If the Department of Revenue believes that any
10 determination or collection of any sales or use tax or any amount of sales or use tax required
11 to be collected and paid to the state will be jeopardized by delay, it shall make a determi-
12 nation of the tax or amount of tax required to be collected, noting that fact upon the de-
13 termination. The amount determined is immediately due and payable, and the department
14 shall assess the tax, notify the person and proceed to collect the tax in the same manner and
15 using the same procedures as for the collection of income taxes under ORS 314.440.

16 **SECTION 133. Warrant for collection.** (1) If any tax imposed under the Sales and Use Tax
17 Law or any portion of the tax is not paid within the time provided by law and no provision
18 is made to secure the payment of the tax by bond, deposit or otherwise, pursuant to rules
19 adopted by the Department of Revenue, the department may issue a warrant under its offi-
20 cial seal directed to the sheriff of any county of this state commanding the sheriff to levy
21 upon and sell the real and personal property of the taxpayer found within the county, for the
22 payment of the amount of the tax, with the added penalties, interest and the sheriff's cost
23 of executing the warrant, and to return the warrant to the department and pay to it the
24 money collected from the sale, within 60 days after the date of receipt of the warrant.

25 (2) The sheriff shall, within five days after the receipt of the warrant, record with the
26 clerk of the county a copy of the warrant, and the clerk shall immediately enter in the
27 County Clerk Lien Record the name of the taxpayer mentioned in the warrant, the amount
28 of the tax or portion of the tax and penalties for which the warrant is issued and the date
29 the copy is recorded. The amount of the warrant so recorded shall become a lien upon the
30 title to and interest in real property of the taxpayer against whom it is issued in the same
31 manner as a judgment duly docketed. The sheriff immediately shall proceed upon the war-
32 rant in all respects, with like effect and in the same manner prescribed by law in respect to
33 executions issued against property upon judgment of a court of record, and shall be entitled
34 to the same fees for services in executing the warrant, to be added to and collected as a part
35 of the warrant liability.

36 (3) In the discretion of the department, a warrant of like terms, force and effect may be
37 issued and directed to any agent authorized to collect the taxes imposed by the Sales and
38 Use Tax Law. In the execution of the warrant, the agent shall have all the powers conferred
39 by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses
40 paid in the performance of such duty.

41 (4) If a warrant is returned not satisfied in full, the department shall have the same
42 remedies to enforce the claim for taxes against the taxpayer as if the people of this state
43 had recovered judgment against the taxpayer for the amount of the tax.

44 **SECTION 134. Indian reservations; refund agreements.** (1) The Director of the Depart-
45 ment of Revenue is authorized to enter into a sales and use tax refund agreement with the

1 governing body of any Indian reservation in Oregon. The agreement may provide for a mu-
2 tually agreed upon amount as a refund to the governing body of any sales or use tax collected
3 under the Sales and Use Tax Law in connection with the sale, use, storage or consumption
4 of tangible personal property on the Indian reservation. This provision is in addition to other
5 laws allowing tax refunds.

6 (2) There is annually appropriated to the director, from the suspense account established
7 under section 144 of this 2005 Act, the amounts necessary to make the refunds provided by
8 subsection (1) of this section.

9 **SECTION 135. Security.** (1) If the Department of Revenue considers such action neces-
10 sary to ensure compliance with the Sales and Use Tax Law, it may require any person sub-
11 ject to the Sales and Use Tax Law to place with the department such security as the
12 department may determine.

13 (2) The amount of the security shall be fixed by the department but may not be greater
14 than twice the estimated tax liability of a person for the reporting period under the Sales
15 and Use Tax Law, determined in such manner as the department considers proper.

16 (3) The limitations provided in this section apply regardless of the type of security placed
17 with the department. The required amount of the security may be increased or decreased
18 by the department subject to the limitations provided in this section.

19
20 (Administration)

21
22 **SECTION 136. Department to administer and enforce Sales and Use Tax Law; rules.** The
23 Department of Revenue shall administer and enforce the provisions of the Sales and Use Tax
24 Law. The department shall adopt and enforce rules relating to the administration and
25 enforcement of the Sales and Use Tax Law. Notwithstanding any provision of law to the
26 contrary, the Sales and Use Tax Law shall be administered in a way that is consistent with
27 the Streamlined Sales and Use Tax Agreement.

28 **SECTION 137. Records required.** Every seller, every retailer, every person described un-
29 der section 64 of this 2005 Act and every person storing, using or otherwise consuming in this
30 state tangible personal property purchased from a retailer shall keep records, receipts, in-
31 voices and other pertinent papers in a form as the Department of Revenue may require,
32 consistent with the Streamlined Sales and Use Tax Agreement.

33 **SECTION 138. Examination of records.** (1) The Department of Revenue or any person
34 authorized in writing by it may examine, during reasonable business hours, the books, pa-
35 pers, records and equipment of any person selling tangible personal property and any person
36 liable for the use tax and may investigate the character of the business of the person in or-
37 der to verify the accuracy of any return made, or, if no return is made by the person, to
38 ascertain and determine the amount required to be paid. The department may require the
39 attendance of any such person and any other person having knowledge of the premises, and
40 may take testimony and require proof material for the information, with power to administer
41 oaths to such persons. The department may, by order or subpoena, to be served with the
42 same force and effect and in the same manner that a subpoena is served in a civil action in
43 the circuit court, require the production, at any time and place it may designate, of any
44 books, papers, accounts or other information necessary to carry out the Sales and Use Tax
45 Law.

1 (2) If any person fails to comply with any subpoena or order of the department or to
2 produce or permit the examination or inspection of any books, papers, records or equipment
3 pertinent to any investigation or inquiry under this section, or to testify to any matter re-
4 garding which the person may be lawfully interrogated, the department may apply to the
5 Oregon Tax Court, or to the circuit court for the county in which the person resides, for an
6 order to the person to attend and testify or otherwise comply with the demand or request
7 of the department. The application to the court shall be by ex parte motion, upon which the
8 court shall make an order requiring the person against whom it is directed to comply with
9 the request or demand of the department within 10 days after service of the order (or such
10 further time as the court may grant) or to justify the failure within that time. The order
11 shall be served upon the person to whom it is directed in the manner required by this state
12 for service of process, the service of which shall be required to confer jurisdiction upon the
13 court. Failure to obey any order issued by the court under this section is contempt of court.
14 The remedy provided by this section is in addition to other remedies, civil or criminal, ex-
15 isting under the tax laws or other laws of this state.

16 SECTION 139. Reports required. (1) In the administration of the use tax, the Department
17 of Revenue may require the filing of reports by any person or class of persons having in their
18 possession or custody information relating to sales of tangible personal property, the stor-
19 age, use or other consumption of which may be subject to the tax imposed under section 66
20 of this 2005 Act.

21 (2) The reports shall be filed when the department requires and must set forth:

22 (a) The names and addresses of purchasers of the tangible personal property;

23 (b) The sales price of the property;

24 (c) The date of sale; and

25 (d) Such other information as the department requires.

26 (3) The department may require reports under this section only if the reports are per-
27 mitted to be required under the Streamlined Sales and Use Tax Agreement.

28 SECTION 140. Divulging particulars of returns prohibited. Except as otherwise specif-
29 ically provided by law, it shall be unlawful for the Department of Revenue or any officer or
30 employee of the department or other person having administrative duty under the Sales and
31 Use Tax Law to divulge or make known in any manner the amount of gross receipts or
32 purchase price or any particulars set forth or disclosed in any report, return, claim or other
33 document required in the administration of the Sales and Use Tax Law. It shall be unlawful
34 for any person or entity to whom information is disclosed or given by the department pur-
35 suant to section 141 (2) of this 2005 Act or any other provision of state law to divulge or use
36 such information for any purpose other than that specified in the provisions of law author-
37 izing the use or disclosure. No subpoena or judicial order shall be issued compelling the De-
38 partment of Revenue, the Department of Transportation, the State Marine Board, the
39 Oregon Department of Aviation or any of their officers or employees, or any person who has
40 acquired information pursuant to section 141 (2) of this 2005 Act or any other provision of
41 state law to divulge or make known the amount of gross receipts or purchase price or any
42 particulars set forth or disclosed in any report, return, claim or other document required in
43 the administration of the Sales and Use Tax Law except where the taxpayer's liability for
44 sales or use tax is to be adjudicated by the court from which such process issues. As used
45 in this section, "officer," "employee" or "person" includes an authorized representative of

1 the officer, employee or person, or any former officer, employee or person, or an authorized
2 representative of such former officer, employee or person.

3 **SECTION 141. Persons to whom information may be furnished.** (1) The Department of
4 Revenue, the Department of Transportation, the State Marine Board and the Oregon De-
5 partment of Aviation may:

6 (a) Furnish any taxpayer or authorized representative of the taxpayer, upon request of
7 the taxpayer or representative, with a copy of the taxpayer's sales or use tax return filed for
8 any reporting period, with a copy of any report filed by the taxpayer in connection with the
9 return or with a copy of a sales tax refund claim filed under ORS 305.270.

10 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

11 (c) Publish statistics so classified as to prevent the identification of gross receipts or
12 purchase price or any particulars contained in any report or return.

13 (d) Publish lists of retailers or sellers to whom permits have been issued or whose per-
14 mits have been suspended or revoked under the Sales and Use Tax Law.

15 (2) The Department of Revenue, the Department of Transportation, the State Marine
16 Board and the Oregon Department of Aviation also may disclose and give access to infor-
17 mation described in section 140 of this 2005 Act to:

18 (a) The Governor or the authorized representative of the Governor:

19 (A) With respect to an individual who is designated as being under consideration for ap-
20 pointment or reappointment to an office or for employment in the office of the Governor.
21 The information disclosed shall be used only for the purpose of making the appointment,
22 reappointment or decision to employ or not to employ the individual in the office of the
23 Governor and shall be confined to whether the individual:

24 (i) Has filed returns with respect to the taxes imposed by the Sales and Use Tax Law for
25 those of the not more than three immediately preceding years for which the individual was
26 required to file an Oregon sales or use tax return.

27 (ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice
28 or otherwise respond to a deficiency notice within 30 days of its mailing.

29 (iii) Has been assessed any penalty under the Sales and Use Tax Law and the nature of
30 the penalty.

31 (iv) Has been or is under investigation for possible criminal offenses under the Sales and
32 Use Tax Law.

33 (B) For use by an officer or employee of the Oregon Department of Administrative Ser-
34 vices duly authorized or employed to prepare revenue estimates, or a person contracting
35 with the Oregon Department of Administrative Services to prepare revenue estimates, in the
36 preparation of revenue estimates required for the Governor's budget under ORS 291.201 to
37 291.226, or required for submission to the Emergency Board or, if the Legislative Assembly
38 is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue
39 Officer under ORS 291.342. Any officer, employee or person furnished or granted access to
40 information under this subparagraph shall not remove the information from the premises
41 of the Department of Revenue, the Department of Transportation, the State Marine Board
42 or the Oregon Department of Aviation.

43 (b) The United States Commissioner of Internal Revenue or authorized representative,
44 for tax purposes only.

45 (c) The proper officer of any state or the District of Columbia, or their authorized rep-

1 representatives, for tax purposes only, if such state or district has a provision of law that meets
2 the requirements of section 140 of this 2005 Act and this section as to confidentiality.

3 (d) The Multistate Tax Commission or its authorized representatives, for tax purposes
4 only. However, the Multistate Tax Commission may make such information available to the
5 United States Commissioner of Internal Revenue or the proper officer of any state or the
6 District of Columbia, or their authorized representatives, for tax purposes only, if the state
7 or district has a provision of law that meets the requirements of section 140 of this 2005 Act
8 and this section as to confidentiality.

9 (e) The Attorney General, assistants and employees in the Department of Justice or
10 other legal representative of the State of Oregon, to the extent the Department of Revenue,
11 the Department of Transportation, the State Marine Board or the Oregon Department of
12 Aviation deems disclosure or access necessary for the performance of the duties of advising
13 or representing the Department of Revenue, the Department of Transportation, the State
14 Marine Board or the Oregon Department of Aviation pursuant to ORS 180.010 to 180.240 and
15 the tax laws of this state.

16 (f) Employees of the State of Oregon, to the extent the Department of Revenue, the De-
17 partment of Transportation, the State Marine Board or the Oregon Department of Aviation
18 deems disclosure or access necessary for such employees to perform their duties under
19 contracts or agreements between the Department of Revenue, the Department of Transpor-
20 tation, the State Marine Board or the Oregon Department of Aviation and any other de-
21 partment, division, agency or subdivision of the State of Oregon, in the administration of the
22 tax laws.

23 (g) Other persons, partnerships, corporations and other legal entities, and their employ-
24 ees, to the extent the Department of Revenue, the Department of Transportation, the State
25 Marine Board or the Oregon Department of Aviation deems disclosure or access necessary
26 for the performance of such others' duties under contracts or agreements between the De-
27 partment of Revenue, the Department of Transportation, the State Marine Board or the
28 Oregon Department of Aviation and such legal entities, in the administration of the tax laws.

29 (h) The Legislative Revenue Officer or authorized representatives upon compliance with
30 ORS 173.850. Such officer or representative shall not remove from the premises of the De-
31 partment of Revenue, the Department of Transportation, the State Marine Board or the
32 Oregon Department of Aviation any materials that would reveal the identity of any taxpayer
33 or any other person.

34 (i) The Secretary of State as Auditor of Public Accounts under section 2, Article VI of
35 the Oregon Constitution.

36 (3) Each officer or employee of the Department of Revenue, the Department of Trans-
37 portation, the State Marine Board or the Oregon Department of Aviation and each person
38 described or referred to in subsection (2)(a) or (e) to (i) of this section to whom disclosure
39 or access to the tax information is given under subsection (2) of this section or any other
40 provision of state law, prior to beginning employment or the performance of duties involving
41 such disclosure or access, shall be advised in writing of the provisions of sections 140 and
42 146 of this 2005 Act, relating to penalties for the violation of section 140 of this 2005 Act, and
43 shall as a condition of employment or performance of duties execute a certificate, in a form
44 prescribed by the Department of Revenue, stating in substance that the person has read
45 these provisions of law, that the person has had them explained and that the person is aware

1 of the penalties for the violation of section 140 of this 2005 Act.

2 **SECTION 142. Publication of statistics.** The Department of Revenue shall prepare and
3 publish statistics, reasonably available, with respect to the operation of the Sales and Use
4 Tax Law, including amounts collected, classification of taxpayers and other facts considered
5 by the department to be pertinent and valuable.

6
7 (Disposition of proceeds)

8
9 **SECTION 143. Payments to Department of Revenue.** All fees, taxes, interest and penal-
10 ties imposed and all amounts of tax required to be paid to this state under the Sales and Use
11 Tax Law, except those collected by the Department of Transportation, shall be paid to the
12 Department of Revenue, and upon receipt by the Department of Revenue shall be turned over
13 to the State Treasurer, to be disposed of as provided in sections 144 and 145 of this 2005 Act.

14 **SECTION 144. Suspense account.** All moneys received by the Department of Revenue
15 under the Sales and Use Tax Law shall be deposited in the State Treasury and credited to a
16 suspense account established under ORS 293.445. Refunds, including refunds of erroneous
17 overpayments or refunds of other moneys received under the Sales and Use Tax Law in
18 which the department has no legal interest, shall be paid out of the suspense account. After
19 payments of refunds, the balance shall be deposited in the Sales Tax Fund established under
20 section 145 of this 2005 Act.

21 **SECTION 145. Sales Tax Fund.** (1) The Sales Tax Fund is established in the State Treas-
22 ury, separate and distinct from the General Fund. Interest earned by the Sales Tax Fund
23 shall be credited to the fund.

24 (2) Moneys in the Sales Tax Fund are dedicated to funding:

25 (a) Kindergarten through grade 12 public education in this state; and

26 (b) The Oregon Health Plan and other health care needs in this state. Moneys may be
27 appropriated under the dedication made in this paragraph only for purposes for which federal
28 financial participation is available.

29 (3) Notwithstanding subsection (2) of this section, moneys described in section 3a, Article
30 IX of the Oregon Constitution, shall be transferred to the Highway Fund.

31
32 (Penalties)

33
34 **SECTION 146. Penalties; failure to file proper returns.** (1) If a person or an officer or
35 employee of a corporation or a member or employee of a partnership violates section 128
36 (1)(a) or (b) of this 2005 Act, the Department of Revenue shall assess against the person a
37 civil penalty of not more than \$1,000. The penalty shall be recovered as provided in subsection
38 (5) of this section.

39 (2) A person or an officer or employee of a corporation or a member or employee of a
40 partnership who violates section 128 (1)(c) or (2) of this 2005 Act is liable to a penalty of not
41 more than \$1,000, to be recovered in the manner provided in subsection (5) of this section,
42 and is also guilty of a Class C felony.

43 (3) Violation of section 140 of this 2005 Act is a Class C felony. If the offender is an officer
44 or employee of this state, the offender shall be dismissed from office and shall be incapable
45 of holding any public office in this state for a period of five years thereafter.

1 (4) If any person violates any provision of the Sales and Use Tax Law other than sections
 2 128 and 140 of this 2005 Act, the department shall assess against the person a civil penalty
 3 of not more than \$1,000, to be recovered as provided in subsection (5) of this section.

4 (5) Any person against whom a penalty is assessed under this section may appeal to the
 5 Oregon Tax Court as provided in ORS 305.275. If the penalty is not paid within 10 days after
 6 the order of the department becomes final, the department may record the order and collect
 7 the amount assessed in the same manner as income tax deficiencies are recorded and col-
 8 lected under ORS 314.430.

9 **SECTION 147. Penalties additional to all other penalties.** The penalties provided in section
 10 146 of this 2005 Act are in addition to all other penalties provided under the Sales and Use
 11 Tax Law.

12
 13 **MISCELLANEOUS PROVISIONS**
 14

15 **SECTION 148. Sales and use tax in addition to other taxes; local sales tax prohibited.** (1)
 16 Unless otherwise specifically provided by law, the taxes imposed under the Sales and Use Tax
 17 Law are in addition to and not in lieu of any other taxes or excises imposed by the State of
 18 Oregon or any county, city, district or other municipal corporation or political subdivision
 19 of this state.

20 (2) No general retail sales and use tax upon the sale of or the storage, use or consump-
 21 tion of tangible personal property shall be imposed by any county, city, district or other
 22 municipal corporation or political subdivision of this state.

23
 24 **(Conforming changes)**
 25

26 **SECTION 149.** ORS 305.130 is amended to read:

27 305.130. (1) The Department of Revenue may be made a party in any action in any court of this
 28 state or of the United States having jurisdiction of the subject matter to quiet title to, to remove
 29 a cloud from the title to, or for the foreclosure of a mortgage or other lien upon, any real property
 30 or personal property, or both, upon which the State of Oregon has or claims to have a lien under
 31 ORS 311.673, 311.679, 311.771, 314.430 or 321.570 or ORS chapter 323 **or the Sales and Use Tax**
 32 **Law**, and the judgment in such action shall be conclusive and binding upon the State of Oregon and
 33 such department.

34 (2) The complaint in such action shall set forth with particularity the nature of any such lien
 35 had or claimed by the State of Oregon. The summons in such action, together with a copy of the
 36 complaint therein, shall be served on such department in the manner prescribed by ORCP 7 D(3)(d),
 37 and such summons shall require such department to appear and answer the complaint within 60 days
 38 from the date of such service.

39 **SECTION 150.** ORS 305.140 is amended to read:

40 305.140. (1) Any person having an interest in or lien upon any real property may request the
 41 Department of Revenue in writing to release such real property from a cloud on the title of or lien
 42 on such property existing, created or continued under any one or more of the following:

- 43 (a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section 133 of this 2005 Act**;
 44 or
 45 (b) The provisions of ORS 311.673, 311.679, 311.689, 311.711 or 311.771.

1 (2) If, upon a request under subsection (1) of this section, the department finds that a sale of
 2 such real property would not result in satisfaction in whole or in part of the taxes due, it shall ex-
 3 ecute a release of such cloud or lien upon such property, and such release shall be conclusive evi-
 4 dence of the removal and extinguishment of such cloud or lien in respect of such real property.

5 (3) In addition to the release of cloud or lien provided for in subsection (1) of this section, the
 6 department may execute releases on part or all of any real property in the following cases, which
 7 releases shall be conclusive evidence of the removal and extinguishment of such cloud or lien:

8 (a) If the department finds that liability for the amount assessed, together with all interest
 9 thereon and penalties and costs in respect thereof, has been satisfied;

10 (b) If the department finds that the fair market value of that part of the property remaining
 11 subject to the cloud or lien is at least double the amount of the liability remaining unsatisfied in
 12 respect of such tax and the amount of all prior liens upon the property;

13 (c) If there is supplied to the department either an irrevocable letter of credit issued by an in-
 14 sured institution as defined in ORS 706.008 or a bond, in such form and with such surety as the
 15 department considers sufficient, conditioned upon the payment of the amount of the warrant, to-
 16 gether with all interest in respect thereof, within 60 days after the issuance of the release; or

17 (d) If there is paid to the department in partial satisfaction of the amount of the warrant pro-
 18 vided for in ORS 314.430, 321.570 or 323.610 **or section 133 of this 2005 Act** or the amount of any
 19 lien under ORS 311.673, 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as
 20 determined by the department, of the lien of the State of Oregon upon the part of the property so
 21 to be released. In determining such value the department shall give consideration to the fair market
 22 value of the part of the property so to be released and to such liens thereon as have priority to the
 23 lien of the State of Oregon.

24 **SECTION 151.** ORS 305.265 is amended to read:

25 305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports
 26 or returns of tax or tax liability including claims under ORS 310.630 to 310.706 **and the Sales and**
 27 **Use Tax Law**, filed with the Department of Revenue under the revenue and tax laws administered
 28 by it, except those filed under ORS chapter 320.

29 (2) As soon as practicable after a report or return is filed, the department shall examine or audit
 30 it, if required by law or the department deems such examination or audit practicable. If the de-
 31 partment discovers from an examination or an audit of a report or return or otherwise that a defi-
 32 ciency exists, it shall compute the tax and give notice to the person filing the return of the
 33 deficiency and of the department's intention to assess the deficiency, plus interest and any appro-
 34 priate penalty. Except as provided in subsection (3) of this section, the notice shall:

35 (a) State the reason for each adjustment;

36 (b) Give a reference to the statute, regulation or department ruling upon which the adjustment
 37 is based; and

38 (c) Be certified by the department that the adjustments are made in good faith and not for the
 39 purpose of extending the period of assessment.

40 (3) When the notice of deficiency described in subsection (2) of this section results from the
 41 correction of a mathematical or clerical error and states what would have been the correct tax but
 42 for the mathematical or clerical error, such notice need state only the reason for each adjustment
 43 to the report or return.

44 (4) With respect to any tax return filed under ORS chapter 314, 316, 317 or 318, deficiencies
 45 shall include but not be limited to the assertion of additional tax arising from:

1 (a) The failure to report properly items or amounts of income subject to or which are the
2 measure of the tax;

3 (b) The deduction of items or amounts not permitted by law;

4 (c) Mathematical errors in the return or the amount of tax shown due in the records of the de-
5 partment; or

6 (d) Improper credits or offsets against the tax claimed in the return.

7 (5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right
8 to make written objections, the person's right to request a conference and the procedure for re-
9 questing a conference. The statement, and an accompanying form, shall also explain that conference
10 determinations are routinely transmitted via regular mail and that a person desiring to have con-
11 ference determinations transmitted by certified mail may do so by indicating on the form the per-
12 son's preference for certified mail and by returning the form with the person's written objections
13 as described in paragraph (b) of this subsection.

14 (b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay
15 the deficiency with interest computed to the date of payment and any penalty proposed. Or within
16 that time the person shall advise the department in writing of objections to the deficiency, and may
17 request a conference with the department, which shall be held prior to the expiration of the one-year
18 period set forth in subsection (7) of this section.

19 (6) If a request for a conference is made, the department shall notify the person of a time and
20 place for conference and appoint a conference officer to meet with the person for an informal dis-
21 cussion of the matter. After the conference, the conference officer shall send the determination of
22 the issues to the person. The determination letter shall be sent by regular mail, or by certified mail
23 if the person given notice has indicated a preference for transmission of the determination by cer-
24 tified mail. The department shall assess any deficiency in the manner set forth in subsection (7) of
25 this section. If no conference is requested and written objections are received, the department shall
26 make a determination of the issues considering such objections, and shall assess any deficiency in
27 the manner provided in subsection (7) of this section. The failure to request or have a conference
28 shall not affect the rights of appeal otherwise provided by law.

29 (7) If neither payment nor written objection to the deficiency is received by the department
30 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-
31 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating
32 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within
33 one year from the date of the notice of deficiency unless an extension of time is agreed upon as
34 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

35 (8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section
36 for giving of notice of assessment, the department and the person consent in writing to the defi-
37 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed
38 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be
39 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

40 (9) The failure to hold a requested conference within the one-year period prescribed in sub-
41 section (5) of this section shall not invalidate any assessment of deficiency made within the one-year
42 period pursuant to subsection (7) of this section or within any extension of time made pursuant to
43 subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable
44 to the deficiency. After an assessment has been made, the department and the person assessed may
45 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day

1 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-
2 nation of the issues.

3 (10)(a) In the case of a failure to file a report or return on the date prescribed therefor (deter-
4 mined with regard to any extension for filing), the department shall determine the tax according to
5 the best of its information and belief, assess the tax plus appropriate penalty and interest, and give
6 written notice of the failure to file the report or return and of the determination and assessment to
7 the person required to make the filing. The amount of tax shall be reduced by the amount of any
8 part of the tax which is paid on or before the date prescribed for payment of the tax and by the
9 amount of any credit against the tax which may be lawfully claimed upon the return.

10 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent al-
11 lowed by rules adopted by the department, the department may accept the filing of a report or re-
12 turn submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

13 (c) The department may reject a report or return:

14 (A) That is not verified as required by ORS 305.810;

15 (B) That the department determines is not true and correct as to every material matter as re-
16 quired by ORS 305.815; or

17 (C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report
18 or return.

19 (d) If the department rejects a report or return of a person assessed a tax under paragraph (a)
20 of this subsection, the department shall issue a notice of rejection to the person. The person may
21 appeal the rejection to the magistrate division of the Oregon Tax Court only if:

22 (A) The report or return was filed within 90 days of the date the department's assessment under
23 paragraph (a) of this subsection was issued; and

24 (B) The appeal is filed within 90 days of the date shown on the notice of rejection.

25 (e) If the person assessed under paragraph (a) of this subsection submits a report or return to
26 the department and appeals the assessment to the tax court, the department may request a stay of
27 action from the court pending review of the report or return. If the department:

28 (A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

29 (B) Rejects the report or return, the stay of action on the appeal shall be lifted.

30 (f) If the department accepts the filing of a report or return, the department may reduce the
31 assessment issued under paragraph (a) of this subsection. A report or return filed under this sub-
32 section that is accepted by the department, whether or not the assessment has been reduced, shall
33 be considered a report or return described in subsection (1) of this section and shall be subject to
34 the provisions of this section, including but not limited to examination and adjustment pursuant to
35 subsection (2) of this section.

36 (g) The department may refund payments made with respect to a report or return filed and ac-
37 cepted pursuant to this subsection. If the report or return is filed within three years of the due date
38 for filing the report or return, excluding extensions, the refund shall be made as provided by ORS
39 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing
40 the report or return, excluding extensions, the refund shall be limited to payments received within
41 the two-year period ending on the date the report or return is received by the department and
42 payments received after the date the report or return is received by the department. Interest shall
43 be paid at the rate established under ORS 305.220 for each month or fraction of a month from the
44 date the report or return is received by the department to the time the refund is made.

45 (11) Mailing of notice to the person at the person's last-known address shall constitute the giv-

1 ing of notice as prescribed in this section.

2 (12) If a return is filed with the department accompanied by payment of less than the amount
3 of tax shown on or from the information on the return as due, the difference between the tax and
4 the amount submitted is considered as assessed on the due date of the report or return (determined
5 with regard to any extension of time granted for the filing of the return) or the date the report or
6 return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or
7 from the information on the return as due shall be reduced by the amount of any part of the tax that
8 is paid on or before the due date prescribed for payment of the tax, and by any credits against the
9 tax that are claimed on the return. If the amount required to be shown as tax on a return is less
10 than the amount shown as tax on the return, this subsection shall be applied by substituting the
11 lesser amount.

12 (13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each
13 month or fraction of a month computed from the due date of the return to date of payment. If the
14 return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent
15 of the deficiency shall be assessed and collected. All payments received shall be credited first to
16 penalty, then to interest accrued, and then to tax due.

17 (14) If the deficiency is paid in full before a notice of assessment is issued, the department is
18 not required to send a notice of assessment, and the tax shall be considered as assessed as of the
19 date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid,
20 whichever is the later. A partial payment of the deficiency shall constitute only a credit to the ac-
21 count of the person assessed. Assessments and billings of taxes shall be final after the expiration
22 of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under
23 ORS 305.280 (3) following payment of the tax.

24 (15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this
25 chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest as-
26 sessed.

27 **SECTION 152.** ORS 305.270 is amended to read:

28 305.270. (1) If the amount of the tax shown as due on a report or return originally filed with the
29 Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314,
30 316, 317, 318 or 321 **or the Sales and Use Tax Law**, or collected pursuant to ORS 305.620, or as
31 corrected by the department, is less than the amount theretofore paid, or if a person files a claim
32 for refund of any tax paid to the department under such laws within the period specified in sub-
33 section (2) of this section, any excess tax paid shall be refunded by the department with interest as
34 provided in this section and ORS 314.415.

35 (2) The claim shall be made on a form prescribed by the department, except that an amended
36 report or return showing a refund due and filed within the time allowed by this subsection for the
37 filing of a claim for refund, shall constitute a claim for refund. The claim shall be filed within the
38 period specified in ORS 314.415 (1)(b) for taxes imposed under ORS chapters 310, 314, 316, 317 and
39 318 **and the Sales and Use Tax Law**, or collected pursuant to ORS 305.620 (except where any ap-
40 plicable ordinance specifies another period), within the period specified in ORS 118.100 (2) for taxes
41 imposed under ORS chapter 118 and within two years of the payment of any tax under ORS chapter
42 308, 308A or 321.

43 (3) Upon receipt of a claim for refund, or original report or return claiming a refund, the de-
44 partment shall either refund the amount requested or send to the claimant a notice of any proposed
45 adjustment to the refund claim, stating the basis upon which the adjustment is made. A proposed

1 adjustment may either increase or decrease the amount of the refund claim or result in the finding
2 of a deficiency. If the proposed adjustment results in a determination by the department that some
3 amount is refundable, the department may send the claimant the adjusted amount with the notice.

4 (4)(a) The notice of proposed adjustment shall be accompanied by a statement explaining the
5 claimant's right to make written objections to the refund adjustment, the claimant's right to request
6 a conference and the procedure for requesting a conference. The statement, and an accompanying
7 form, shall also explain that conference determinations are routinely transmitted via regular mail
8 and that a claimant desiring to have conference determinations transmitted by certified mail may
9 do so by indicating on the form the claimant's preference for certified mail and by returning the
10 form with the claimant's written objections as described in paragraph (b) of this subsection.

11 (b) The claimant may, within 30 days of the date of the notice of proposed adjustment, advise
12 the department in writing of objections to the refund adjustment and may request a conference with
13 the department, which shall be held within one year of the date of the notice. The department shall
14 notify the claimant of a time and place for the conference, and appoint a conference officer to meet
15 with the claimant for an informal discussion of the claim. After the conference, the conference offi-
16 cer shall send a determination of the matter to the claimant. The determination letter shall be sent
17 by regular mail, or by certified mail if the claimant has indicated a preference for transmission of
18 the determination by certified mail. The department shall issue either a notice of refund denial or
19 payment of any amount found to be refundable, together with any applicable interest provided by
20 this section. If the conference officer determines that a deficiency exists, the department shall issue
21 a notice of assessment.

22 (5) If no conference is requested, and the adjustments have not resulted in the finding of a de-
23 ficiency, the following shall apply:

24 (a) If written objections have been made by the claimant, the department shall consider the ob-
25 jections, determine any issues raised and send the claimant a notice of refund denial or payment of
26 any amount found to be refundable, together with any interest provided by this section.

27 (b) If no written objections are made, the notice of any proposed adjustment shall be final after
28 the period for requesting a conference or filing written objections has expired.

29 (6) If no conference is requested, and the notice of proposed adjustment has asserted a defi-
30 ciency, the department shall consider any objections made by the person denied the refund, make
31 a determination of any issues raised, pay any refunds found due, with applicable interest, or assess
32 any deficiency and mail a notice thereof within one year from the date of the notice of deficiency,
33 unless an extension of time is agreed upon as described in subsection (7) of this section.

34 (7) If, prior to the expiration of any period of time prescribed in subsection (6) of this section
35 for giving of notice of assessment, the department and the person consent in writing to the defi-
36 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed
37 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be
38 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

39 (8) If the department refunds the amount requested as provided in subsection (3) of this section,
40 without examination or audit of the refund claim, the department shall give notice of this to the
41 claimant at the time of making the refund. Thereafter, the department shall have one year in which
42 to examine or audit the refund claim, and send the notice of proposed adjustment provided for in
43 subsection (3) of this section, in addition to any time permitted in ORS 314.410 or 314.415.

44 (9) The failure to hold a requested conference within the one-year period prescribed in sub-
45 section (4) of this section shall not invalidate any assessment of deficiency made within the one-year

1 period pursuant to subsection (8) of this section or within any extension of time made pursuant to
2 subsection (7) of this section, but shall invalidate any assessment of interest or penalties attributable
3 to the deficiency. After an assessment has been made, the department and the person assessed may
4 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day
5 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-
6 nation of the issues.

7 (10) The claimant may appeal any notice of proposed adjustment, refund denial or notice of as-
8 sessment in the manner provided in ORS 305.404 to 305.560. The failure to file written objections
9 or to request or have a conference shall not affect the rights of appeal so provided. All notices and
10 determinations shall set forth rights of appeal.

11 **SECTION 153.** ORS 305.280 is amended to read:

12 305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2)
13 shall be filed within 90 days after the act, omission, order or determination becomes actually known
14 to the person, but in no event later than one year after the act or omission has occurred, or the
15 order or determination has been made. An appeal under ORS 308.505 to 308.665 shall be filed within
16 the time prescribed under ORS 308.595. An appeal from a supervisory order or other order or de-
17 termination of the Department of Revenue shall be filed within 90 days after the date a copy of the
18 order or determination or notice of the order or determination has been served upon the appealing
19 party by mail as provided in ORS 306.805.

20 (2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial
21 issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308,
22 308A, 310, 314, 316, 317, 318, 321 or this chapter **or the Sales and Use Tax Law**, or collected pur-
23 suant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a
24 proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of
25 adjustment is final.

26 (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes
27 imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the
28 amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

29 (4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter
30 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of
31 property tax appeals shall be filed within 30 days after the date of the notice of the determination
32 made by the department or date of mailing of the order, date of publication of notice of the order
33 or date of mailing of the notice of the order to the taxpayer, whichever is applicable.

34 (5) If the tax court denies an appeal made pursuant to this section on the grounds that it does
35 not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a
36 written decision rejecting the petition and shall set forth in the decision the reasons the tax court
37 considered the appeal to be defective.

38 **SECTION 154.** ORS 305.565 is amended to read:

39 305.565. (1) Except as provided in subsection (2) of this section, proceedings for the collection
40 of any taxes, interest or penalties resulting from an assessment of additional taxes imposed by ORS
41 chapter 118, 310, 314, 316, 317, 318, 321 or this chapter **or the Sales and Use Tax Law** shall be
42 stayed by the taking or pendency of any appeal to the tax court.

43 (2) Notwithstanding subsection (1) of this section, the Department of Revenue may proceed to
44 collect any taxes, interest or penalties described in subsection (1) of this section if the department
45 determines that collection will be jeopardized if collection is delayed or that the taxpayer has taken

1 a frivolous position in the appeal. For purposes of this subsection:

2 (a) Collection of taxes, interest or penalties will be jeopardized if the taxpayer designs quickly
3 to depart from the state or to remove the taxpayer's property from the state, or to do any other act
4 tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax.

5 (b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS
6 316.992 (5).

7 (3) No proceeding for the apportionment, levy or collection of taxes on any property shall be
8 stayed by the taking or pendency of any appeal to the tax court, or from an order of the county
9 board of property tax appeals or the Oregon Tax Court, unless the assessor or tax collector either
10 as a party to the suit or an intervenor, requests a stay and it appears to the satisfaction of the court
11 that a substantial public interest requires the issuance of a stay.

12 (4) The tax court may, as a condition of a stay, require the posting of a bond sufficient to
13 guarantee payment of the tax. Payment of taxes while appeal is pending shall not operate as a
14 waiver of the appeal or of a right to refund of taxes found to be excessively charged or assessed.

15 **SECTION 155.** ORS 305.850 is amended to read:

16 305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 and 305.610, the Direc-
17 tor of the Department of Revenue may engage the services of a collection agency to collect any
18 taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by
19 ORS chapter 118, 310, 314, 316, 317, 318, 320, 321 or 323 **or the Sales and Use Tax Law** and any
20 other tax laws administered by the Department of Revenue. The director may engage the services
21 of a collection agency by entering into an agreement to pay reasonable charges on a contingent fee
22 or other basis.

23 (2) The director shall cause to be collected, in the same manner as provided in subsection (1)
24 of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected
25 pursuant to this subsection shall be credited as provided in ORS 293.250.

26 (3) The director may assign to the collection agency, for collection purposes only, any of the
27 taxes, penalties, interest and moneys due the state.

28 (4) The collection agency may bring such action or take such proceedings, including but not
29 limited to attachment and garnishment proceedings, as may be necessary.

30 **SECTION 156.** ORS 305.895 is amended to read:

31 305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the
32 Department of Revenue shall take no action against a taxpayer's real or personal property before
33 issuing a warrant for the collection of the tax as provided in ORS 314.430, 320.080, 321.570 and
34 324.190 **and section 133 of this 2005 Act.**

35 (2) Prior to issuing a warrant for collection of any tax collected by the department, the depart-
36 ment shall send the taxpayer a written notice and demand for payment. The notice shall:

37 (a) Be sent by mail, addressed to the taxpayer at the taxpayer's last-known address.

38 (b) Inform the taxpayer that if the tax or any portion of the tax is not paid within 30 days after
39 the date of the notice and demand for payment, a warrant may be issued and recorded as provided
40 in ORS 314.430, 320.080, 321.570 and 324.190 **and section 133 of this 2005 Act.**

41 (c) Describe in clear nontechnical terms the legal authority for the warrant.

42 (d) Contain the name, office mailing address and office telephone number of the person issuing
43 the warrant and advise the taxpayer that questions or complaints concerning the warrant, other
44 than liability for the underlying tax, may be directed to that person.

45 (e) Include alternatives available to the taxpayer which would prevent issuance of the warrant.

1 **SECTION 157.** ORS 731.840 is amended to read:

2 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and
 3 731.859, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter 317,
 4 is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes
 5 measured by income that might otherwise be imposed upon the foreign or alien insurer except the
 6 fire insurance premiums tax imposed under ORS 731.820 and the tax imposed upon wet marine and
 7 transportation insurers under ORS 731.824 and 731.828. However, all real and personal property, if
 8 any, of the insurer shall be listed, assessed and taxed the same as real and personal property of like
 9 character of noninsurers. Nothing in this subsection shall be construed to preclude the imposition
 10 of the assessments imposed under ORS 656.612 upon a foreign or alien insurer.

11 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity
 12 as such.

13 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien
 14 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS
 15 731.824 and 731.828.

16 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,
 17 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers
 18 and their insurance producers and other representatives as such, and:

19 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-
 20 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any
 21 such tax, license or fee; except that whenever a county, city, district or other political subdivision
 22 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing
 23 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or
 24 imposed upon domestic insurers; and

25 (b) No county, city, district, political subdivision or agency in this state shall require of any
 26 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-
 27 ance Code, any additional authorization, license, or permit of any kind for conducting therein
 28 transactions otherwise lawful under the authority or license granted under this code.

29 **(5) Every foreign, alien or domestic insurer or health or legal care service contractor not**
 30 **subject to the tax upon its premiums as required by ORS 731.808 to 731.828 or who issues**
 31 **policies the premiums from which are not subject to the gross premiums tax and every for-**
 32 **ign, alien or domestic insurer or health or legal care service contractor subject to the gross**
 33 **premiums tax shall not be subject to the taxes imposed by sections 57 and 66 of this 2005**
 34 **Act with respect to its sales or purchases of insurance. However, this subsection shall not**
 35 **exempt an insurer or health or legal care service contractor from the taxes imposed by**
 36 **section 57 or 66 of this 2005 Act upon its retail sales or purchases of tangible personal**
 37 **property.**

38 **SECTION 158.** ORS 801.040 is amended to read:

39 801.040. This section describes circumstances where special provisions are made concerning the
 40 authority of cities, counties or other political subdivisions in relation to some portion of the vehicle
 41 code. This section is not the only section of the vehicle code that applies to such authority and shall
 42 not be interpreted to affect the vehicle code except as specifically provided in this section. The
 43 following limits are partial or complete as described:

44 (1) No county, municipal or other local body with authority to adopt and administer local police
 45 regulations under the Constitution and laws of this state shall enact or enforce any rule or regu-

1 lation in conflict with the provisions of the vehicle code described in this subsection except as spe-
2 cifically authorized in the vehicle code. This subsection applies to the provisions of the vehicle code
3 relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the
4 manner of operation of vehicles and use of roads by persons, animals and vehicles.

5 (2) Except as provided in ORS 822.230 and this subsection, no city, county or other political
6 subdivisions shall regulate or require or issue any registration, licenses, permits or surety bonds or
7 charge any fee for the regulatory or surety registration of any person required to obtain a certifi-
8 cate from the Department of Transportation under ORS 822.205. This subsection does not:

9 (a) Limit any authority of a city or county to license and collect a general and
10 nondiscriminatory license fee levied upon all businesses or to levy a tax based upon business con-
11 ducted by any person within the city or county.

12 (b) Limit the authority of any city or county to impose any requirements or conditions as part
13 of any contract to perform towing or recovering services for the city or county.

14 (c) Limit the authority of any city or county to impose requirements and conditions that govern
15 the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and
16 conditions are consistent with the provisions of ORS 822.230.

17 (3) No city, county or other political subdivision of this state, nor any state agency, may adopt
18 a regulation or ordinance that imposes a special fee for the use of public lands or waters by
19 snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by
20 or under the jurisdiction of either the United States, this state or any such city, county or other
21 political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal
22 property [*or excise*] tax imposed on snowmobiles by this state or any political subdivision. No city,
23 county or other municipality, and no state agency shall impose any other registration or license fee
24 on any snowmobile in this state. This subsection does not prohibit any city, county or other political
25 subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain
26 vehicles on public lands, waters and other properties under its jurisdiction and on streets or high-
27 ways within its boundaries by adopting regulations or ordinances of its governing body if such reg-
28 ulations are not inconsistent with ORS 821.150 to 821.292.

29 (4) The provisions of ORS 819.100, 819.120, 819.150, 819.160 and 819.210 to 819.260 relating to
30 removal of vehicles that are abandoned establish minimum requirements subject to the following:

31 (a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may super-
32 sede such provisions by ordinance or charter provision.

33 (b) Any road authority described under ORS 810.010 may adopt rules or procedures that do not
34 conflict with such provisions to provide for additional protection for the owner or person with an
35 interest in a vehicle subject to such provisions or that more quickly accomplish the procedures es-
36 tablished under such provisions.

37 (5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an
38 accident file with a designated city department a copy of any report required to be filed under ORS
39 811.725. All such reports shall be for the confidential use of the city department but subject to the
40 same requirements for release of such reports as provided for the release of such reports by the
41 department under ORS 802.220 and 802.240.

42 (6) Except as otherwise specifically provided in this section, in accordance with the provisions
43 of ORS 801.041, the governing body of a county may establish by ordinance registration fees for
44 vehicles registered at a residence or business address within the county.

45 (7) Except as otherwise specifically provided in this section, in accordance with the provisions

1 of ORS 801.042, the governing body of a district may establish by ordinance registration fees for
2 vehicles registered at a residence or business address within the district.

3 **SECTION 159.** ORS 802.110, as amended by section 95, chapter 655, Oregon Laws 2003, is
4 amended to read:

5 802.110. Any procedures the Department of Transportation establishes for financial adminis-
6 tration of those functions of the department dealing with driver and motor vehicle services and for
7 the disposition and payment of moneys it receives from the provision of driver and motor vehicle
8 services shall comply with all of the following:

9 (1) The department shall deposit all moneys it receives related to driver and motor vehicle ser-
10 vices in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved
11 expenses and disbursements before payment of general administrative expenses of the department related
12 to the provision of driver and motor vehicle services. Notwithstanding this subsection, the depart-
13 ment may return a bank check or money order when received in incorrect or incomplete form or
14 when not accompanied by the proper application, **unless the check or money order is presented**
15 **in partial or complete payment of the use tax, as defined in section 54 of this 2005 Act. Any**
16 **bank check or money order received by the department that is in any part presented for**
17 **payment of sales or use tax liability pursuant to section 92, 94 or 105 of this 2005 Act shall**
18 **be retained by the department. A receipt shall be given for the retained check or money or-**
19 **der.**

20 (2) The department shall pay the following approved expenses and disbursements from the Depart-
21 ment of Transportation Driver and Motor Vehicle Suspense Account before payment of the general
22 administrative expenses of the department related to driver and motor vehicle services:

23 (a) Refunds authorized by any statute administered by the department when such refunds are
24 approved by the department.

25 (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carry-
26 ing out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and
27 Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417
28 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

29 (c) After deduction of expenses of collection, transfer and administration, the department shall
30 pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040,
31 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The
32 moneys deposited in the Student Driver Training Fund under this paragraph are continuously ap-
33 propriated to the department for the following purposes:

34 (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver
35 Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805,
36 336.810 (2) and 336.815.

37 (B) The remaining moneys, for reimbursing school districts as provided under ORS 336.805.

38 (d) After deduction of expenses of collection, transfer and administration, the department shall
39 pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treas-
40 urer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys
41 paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

42 (e) After deduction of expenses for the administration of the issuance of customized registration
43 plates under ORS 805.240, the department shall place moneys received from the sale of customized
44 registration plates in the Environmental Quality Information Account. The moneys placed in the
45 account are continuously appropriated to the department and shall be used for the payment of ex-

1 penses heretofore and hereafter incurred in administering programs established under ORS 366.157.

2 (f) After deduction of expenses of collection, transfer and administration, the department shall
3 pay moneys from any registration fees established by the governing bodies of counties or a district,
4 as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts.
5 The department shall make the payments on at least a monthly basis unless another basis is estab-
6 lished by the intergovernmental agreements required by ORS 801.041 and 801.042 between the de-
7 partment and the governing bodies of a county or a district.

8 (g) After deducting the expenses of the department in collecting and transferring the moneys,
9 the department shall make disbursements and payments of moneys collected for or dedicated to any
10 other purpose or fund except the State Highway Fund, including but not limited to, payments to the
11 Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

12 **(h) After deducting the expenses of the department in collecting the use tax, as defined**
13 **in section 54 of this 2005 Act, the department shall transfer the use tax moneys collected**
14 **under section 94 of this 2005 Act to the State Highway Fund.**

15 (3) The department shall refund from the Department of Transportation Driver and Motor Ve-
16 hicle Suspense Account any excess or erroneous payment to a person who made the payment or to
17 the person's legal representative when the department determines that money has been received by
18 it in excess of the amount legally due and payable or that it has received money in which it has
19 no legal interest. Refunds payable under this subsection are continuously appropriated for such
20 purposes in the manner for payment of refunds under this section. If the department determines that
21 a refund is due, the department may refund the amount of excess or erroneous payment without a
22 claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a
23 refund from the department must be filed within 12 months after the date payment is received by
24 the department.

25 (4) After payment of those expenses and disbursements approved for payment before general admin-
26 istrative expenses related to the provision of driver and motor vehicle services, the department shall
27 pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Ac-
28 count its general administrative expenses incurred in the administration of any law related to driver
29 and motor vehicle services that the department is charged with administering and any other ex-
30 penses the department is permitted by law to pay from moneys held by the department before
31 transfer of the moneys to the State Highway Fund. The following limitations apply to payments of
32 administrative expenses under this subsection:

33 (a) The department shall make payment of the expenses of administering the issuance of winter
34 recreation parking permits under ORS 811.595 from those moneys received from issuing the permits
35 or from moneys received under ORS 153.630 from violation of the requirement to have the permit.

36 (b) The department shall pay its expenses for administering the registration and titling of
37 snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those
38 sections. The department shall also pay its expenses for the administration of the snowmobile driver
39 permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

40 (c) The department shall pay its expenses for determining the amount of money to be withheld
41 under ORS 802.120 from the fees collected for administering the registration and titling of
42 snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary
43 but shall not exceed \$10,000 during each biennium.

44 (d) The department shall retain not more than \$15,000 in any biennium for the expenses of col-
45 lecting and transferring moneys to the Student Driver Training Fund under this section and for the

1 administration of ORS 336.810 (3).

2 (5) Except as otherwise provided in this subsection, the department shall transfer to the State
3 Highway Fund the moneys not used for payment of the general administrative expenses or for ap-
4 proved expenses and disbursements before payment of general administrative expenses. The following
5 apply to this subsection:

6 (a) If the Director of Transportation certifies the amount of principal or interest of highway
7 bonds due on any particular date, the department may make available for the payment of such in-
8 terest or principal any sums that may be necessary to the extent of moneys on hand available for
9 the State Highway Fund regardless of the dates otherwise specified under this section.

10 (b) Notwithstanding paragraph (a) of this subsection the department shall not make available for
11 purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when
12 there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds
13 issued under ORS 367.615.

14 (6) Notwithstanding any other provision of this section, the following moneys shall be trans-
15 ferred to the State Highway Fund at the times described:

16 (a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses
17 of the department shall be transferred before July 31 of each year.

18 (b) Moneys received from the registration of snowmobiles that is not to be used for payment of
19 administrative expenses of the department shall be transferred within 30 days after the end of the
20 quarter.

21 (c) Moneys received from the issuance of winter recreation parking permits or under ORS
22 153.630 from violation of the requirement to have a winter recreation parking permit and that is not
23 used for payment of administrative expenses of the department shall be transferred within 30 days
24 after the end of the quarter.

25 (7) The following moneys transferred to the State Highway Fund under this section may be used
26 only for the purposes described as follows:

27 (a) Moneys collected from the issuance of winter recreation parking permits or under ORS
28 153.630 for violation of the requirement to have a winter recreation parking permit, and the interest
29 on such moneys, shall be used to enforce the requirement for winter recreation parking permits and
30 to remove snow from winter recreation parking locations designated under ORS 810.170. Any re-
31 maining moneys shall, upon approval by the Winter Recreation Advisory Committee:

32 (A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170
33 and snowmobile facilities that are parking lots developed with moneys as provided under this sec-
34 tion;

35 (B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

36 (C) Be carried over to be used in subsequent years for the purposes and in the manner described
37 in this paragraph.

38 (b) Moneys received from the registration of snowmobiles or under ORS 802.120 shall be used
39 for the development and maintenance of snowmobile facilities, including the acquisition of land
40 therefor by any means other than the exercise of eminent domain. Moneys received under ORS
41 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150,
42 821.190, 821.210 and 821.240 to 821.290.

43 (8) The department shall maintain the Revolving Account for Emergency Cash Advances sepa-
44 rate from other moneys described in this section. From the account, the department may pay for the
45 taking up of dishonored remittances returned by banks or the State Treasurer and for emergency

1 cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund.
 2 The department shall at all times be accountable for the amount of the account, either in cash or
 3 unreimbursed items and advances. The moneys in the account are continuously appropriated for the
 4 purposes of this subsection. The amount of the account under this subsection shall not exceed
 5 \$40,000 from moneys received by the department in the performance of its driver and motor vehicle
 6 services functions and moneys otherwise appropriated for purposes of this subsection. The account
 7 under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is au-
 8 thorized to honor and pay all properly signed and indorsed checks or warrants drawn against the
 9 account.

10 **SECTION 160.** ORS 803.585, as amended by section 115, chapter 655, Oregon Laws 2003, is
 11 amended to read:

12 803.585. (1) Except as otherwise provided in this section or ORS 801.041 or 801.042, the regis-
 13 tration fees under the vehicle code are in lieu of all other taxes and licenses, except **taxes imposed**
 14 **under the Sales and Use Tax Law** or municipal license fees under regulatory ordinances, to which
 15 such vehicles or the owners thereof may be subject. Fixed load vehicles are not exempt from ad
 16 valorem taxation by this section.

17 (2) Travel trailers subject to registration and titling under the vehicle code are not subject to
 18 ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxa-
 19 tion as provided in ORS 308.880.

20
 21 (Short title)

22
 23 **SECTION 161. Short title.** Sections 33 to 148 of this 2005 Act shall be known and may be
 24 cited as the Sales and Use Tax Law.

25
 26 **APPLICATION; OPERATIVE DATE;**
 27 **CAPTIONS; EFFECTIVE DATE**
 28

29 **SECTION 162. Application.** (1) The sales tax imposed by section 57 of this 2005 Act applies
 30 only to sales on or after the operative date of this section.

31 (2) The sales tax does not apply to sales on or after the operative date of this section
 32 under contracts, leases or rental agreements that were made before the operative date of
 33 this section. However, under a contract, lease or rental agreement that was made before the
 34 operative date of this section, the sales tax does apply to sales made after the date of any
 35 extension or renewal of the contract, lease or rental agreement occurring after the operative
 36 date of this section.

37 (3) The use tax imposed by section 66 of this 2005 Act applies only to tangible personal
 38 property purchased on or after the operative date of this section.

39 (4) The use tax does not apply to storage, consumption or use on or after the operative
 40 date of this section under contracts, leases or rental agreements that were made before the
 41 operative date of this section. However, under a contract, lease or rental agreement entered
 42 into before the operative date of this section, the use tax does apply to storage, consumption
 43 and use made after the date of any extension or renewal of the contract, lease or rental
 44 agreement occurring after the operative date of this section. A lessee, upon extension or
 45 renewal, shall have the right to make the election under section 78 of this 2005 Act.

1 **SECTION 163. Captions.** The unit and section captions used in this 2005 Act are provided
2 only for the convenience of the reader in locating provisions of this 2005 Act and do not be-
3 come part of the statutory law of this state or express any legislative intent in the
4 enactment of this 2005 Act.

5 **SECTION 164. Operative date.** (1) Sections 33 to 148 and 162 of this 2005 Act and the
6 amendments to statutes by sections 149 to 160 of this 2005 Act become operative on January
7 1, 2006.

8 (2) Notwithstanding subsection (1) of this section, sections 33 to 148 and 162 of this 2005
9 Act and the amendments to statutes by sections 149 to 160 of this 2005 Act do not become
10 operative if this state has not entered into the Streamlined Sales and Use Tax Agreement,
11 as defined in section 25 of this 2005 Act, by January 1, 2006.

12 **SECTION 165.** This 2005 Act takes effect on the 91st day after the date on which the
13 regular session of the Seventy-third Legislative Assembly adjourns sine die.

14