

TAXATION

RECONNECTION

**ORS CH. 238A, 305, 314, 315,
316, 317, 348, 458, 657**
2015 OREGON LAWS CH. 442 (SB 63)

Oregon's "rolling reconnect" provisions generally mean that Oregon income tax law automatically incorporates the Internal Revenue Code provisions relating to the definition of "taxable income" to the extent Congress makes changes. However, the Legislature (with input from the Oregon Society of CPAs (OSCPA)) typically passes a reconnection bill each session to update the numerous other references to the Internal Revenue Code that are not related to the definition of "taxable income."

Senate Bill 63 updates references to the Internal Revenue Code and to other provisions in federal tax law from December 31, 2013, to December 31, 2014. Examples include the definition of shareholders in S corporations who may represent their companies in proceedings before the tax court magistrate or the Department of Revenue; the definition of organizations that may qualify for consideration for a charitable tax checkoff; and statutes governing the Oregon College Savings Plan, IDAs, and unemployment insurance.

Effective date: October 5, 2015. The amendments apply to transactions or activities occurring on or after January 1, 2015, in tax years beginning on or after January 1, 2015.

"BUSINESS PERSONAL PROPERTY"
TAX LIEN DISCLOSURE

**ORS 311.605 TO 311.635,
311.806**

2015 OREGON LAWS CH. 444 (SB 161)

Existing law creates a lien for property tax attributable to personal property and also makes the tax a debt of the owner. See ORS 311.405 and 311.455. Senate Bill 161 requires the seller of personal property to provide the purchaser with a "disclosure notice" that includes (1) whether property taxes that were assessed against the property are outstanding; (2) whether there are any liens against the property; (3) if known, whether any counties other than the county where the property is located at the time of the transfer have assessed tax against the property; (4) if known, the name and address of any other person who has owned or possessed the property; and (5) that the bona fide purchaser provisions of the new law apply to the transaction.

SB 161 provides that a bona fide purchaser is not liable for assessed taxes if purchased in good faith, for value, at arm's length, and without notice of delinquent taxes. The criteria for meeting the "without notice" standard include checking a new state registry of delinquent tax liens that SB 161 establishes as part of the Uniform Commercial Code filing system.

SB 161 allows a county tax collector to accept a compromise payment on property from a bona fide purchaser in an amount to be determined based on the facts and circumstances. The

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amount not forgiven remains a personal debt of the prior owner and a lien against the prior owner's other property of the same class. If the total outstanding amount of the tax is paid after receipt of the compromise payment, the compromise payment will be refunded, without interest.

Practice Tip: Despite the defined term “business personal property” used throughout the law, the law applies to “tangible personal property” and to certain machinery and equipment treated as personal property. There is no requirement that the property be used in a trade or business.

Effective date: October 5, 2015. The bill becomes operative January 1, 2016.

RESIDENCE OF ACTIVE-DUTY MILITARY PERSONNEL

ORS 316.027

2015 OREGON LAWS CH. 701 (HB 2171)

Section 50 of House Bill 2171 amends the definition of an Oregon resident to exclude active-duty military personnel whose residence is outside Oregon, as reflected in the records of the Defense Finance and Accounting Service.

Effective date: October 5, 2015. This provision applies to tax years beginning on or after January 1, 2012.

HARDSHIP EXCEPTION FROM PAY-TO-PLAY RULE

ORS 305.419

2015 OREGON LAWS CH. 45 (HB 2334)

Prior to House Bill 2334, Oregon law (ORS 305.419(3)) allowed a taxpayer to seek hardship relief from the requirement to pay all assessed tax, interest, and penalty in order to pursue an appeal in the Oregon Tax Court Regular Division. This process required a taxpayer seeking relief to file an affidavit “with the complaint.” HB 2334, sponsored by the Oregon State Bar and developed in consultation with Judge Breithaupt, allows the taxpayer to file an affidavit alleging undue hardship within 30 days after receiving notice of a lack of this affidavit from the court.

The bill also allows payment of taxes, penalties, and interest found to be deficient to be made within 30 days after an order to specially designate a complaint to the Regular Division of the Tax Court from the Magistrate Division. If a dispute exists about whether a tax is imposed on or measured by net income (recent examples include the wage-withholding tax and the corporate minimum tax), the tax, penalties, and interest must be paid within 30 days

after a decision or order finding that the matter involves a deficiency of taxes imposed on or measured by net income.

Effective date: October 5, 2015. The amendments apply to complaints filed on or after the effective date.

DEADLINE FOR PERSONAL PROPERTY TAX RETURNS

ORS 308.250 TO 308.300

2015 OREGON LAWS CH. 38 (HB 2484)

House Bill 2484 extends the deadline for filing a personal property tax return from March 1 to March 15. The new law also eliminates the extension that previously was allowed until April 15. The Department of Revenue sponsored the bill and testified that the practice of granting extensions did not improve the quality of filed returns, and variations in standards among counties and between counties and the Department led to taxpayer confusion.

Effective date: October 5, 2015. The amendments apply to property tax years beginning on or after July 1, 2016.