

# Chapter 318

## 1981 REPLACEMENT PART

### Corporation Income Tax

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**318.010 Short title; Department of Revenue to administer chapter.** This chapter shall be known and may be cited as the Corporation Income Tax Act of 1955, and it shall be administered by the Department of Revenue. [1955 c 334 §1]

**318.020 Imposition of tax.** (1) There hereby is imposed upon every corporation for each taxable year a tax at the rates provided in ORS 317.061 upon its net income derived from sources within this state, other than income for which the corporation is subject to the tax imposed by the Corporation Excise Tax Law of 1929 (ORS chapter 317) according to or measured by its net income.

(2) Income from sources within this state includes income from tangible or intangible property located or having a situs in this state and income from any activities carried on in this state, regardless of whether carried on in intrastate, interstate or foreign commerce. [1955 c.334 §2, 1957 c 607 §9; 1957 c 633 §1, 1961 c 55 §1, subsection (3) enacted as 1961 c.55 §2, 1975 c 368 §7]

**318.030 Incorporation of certain provisions of corporate excise tax into corporation income tax law.** It being the intention of the Legislative Assembly that this chapter and the Corporation Excise Tax Law of 1929 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes and the operative date of this chapter), the provisions of ORS 305.140, 305.150, ORS chapter 314 and of the following sections of ORS chapter 317, as amended on or before August 3, 1955, and as they may thereafter be amended, are incorporated into this chapter by this reference and made a part hereof: ORS 317.010, 317.030, 317.035, 317.072, 317.080, 317.096, 317.102, 317.105, 317.110, 317.120, 317.155, 317.160, 317.165, 317.170, 317.175, 317.206, 317.210, 317.216 (except that wherever the words "December 31, 1928" or "January 1, 1929" appear, there shall be substituted "August 3, 1955"), 317.220, 317.225, 317.228, 317.231, 317.236 to 317.241, 317.245, 317.247, 317.248, 317.249, 317.251, 317.252, 317.255, 317.256, 317.260, 317.262, 317.265 (except that paragraph (d) of subsection (1) shall read: "Taxes which became due and payable before January 1, 1956"), 317.270, 317.275, 317.280, 317.290, 317.295, 317.300, 317.305, 317.320, 317.325, 317.328, 317.395, 317.510 and 317.515. [1955 c 334 §3; 1957 c 74 §3; 1965 c.154 §5; 1965 c 460 §5; 1967 c.592 §10, 1969 c.166 §7; 1969 c.493 §96a; 1969 c 681 §7, 1971 c 283 §5; 1973 c 115 §6; 1973 c 753 §7, 1977 c 866 §6;

1979 c 414 §6, 1979 c 561 §7, 1979 c 578 §10]

**Note:** Sections 7 and 10, chapter 561, Oregon Laws 1979, provide

**Sec. 7.** ORS 318 030 is amended to read

**318.030.** It being the intention of the Legislative Assembly that this chapter and the Corporation Excise Tax Law of 1929 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes and the operative date of this chapter), the provisions of ORS 305 140, 305 150, ORS chapter 314 and of the following sections of ORS chapter 317, as amended on or before August 3, 1955, and as they may thereafter be amended, are incorporated into this chapter by this reference and made a part hereof. ORS 317 010, 317 030, 317 035, 317 072, 317 080, 317 096, 317 102, 317.105, 317 110, 317 120, 317.155, 317 160, 317 165, 317 170, 317 175, 317 206, 317 210, 317 216 (except that wherever the words "December 31, 1928" or "January 1, 1929" appear, there shall be substituted "August 3, 1955"), 317 220, 317 225, 317.228, 317 231, 317 236 to 317 241, 317 245, 317 247, 317 248, 317 249, 317 251, 317.252, 317 255, 317 256, 317 260, 317 262, 317 265 (except that paragraph (d) of subsection (1) shall read "Taxes which became due and payable before January 1, 1956"), 317 270, 317 275, 317 280, 317 290, 317 295, 317 300, 317 305, 317 320, 317 325, 317 328, 317 395, 317 510, 317 515 and section 6 of this 1979 Act

**Sec. 10.** The exemption from ad valorem taxation authorized by section 2 of this Act shall apply to the assessment and tax rolls prepared for assessment years beginning on or after January 1, 1980, but prior to January 1, 1986 The exemption from taxes on or measured by net income provided in sections 4 and 6 of this Act and by the amendments to ORS 318 030 by section 7 of this Act shall apply to tax years beginning on or after January 1, 1980, but prior to January 1, 1985

**318.040 Exempt corporations.** In addition to the corporations exempt from the provisions of this chapter by the incorporation in this chapter of ORS 317.080, there shall also be exempt those foreign corporations whose activities in this state are confined to purchases of personal property, and the storage thereof incident to shipment outside the state, unless such foreign corporation is an affiliate of another foreign or domestic corporation which is doing business in Oregon or is subject to this chapter. Whether or not corporations are affiliated shall be determined as provided in ORS 314.363. [1955 c 334 §4; 1977 c 866 §7]

**318.044 Depreciation allowance in computing net income.** (1) In computing net income there shall be allowed as a deduction a reasonable allowance for the depreciation, exhaustion, wear and tear and obsolescence of property used in the business. In no case shall the total amount recoverable through the depreciation allowance over the life of the property be in excess of the basis of the prop-

erty as computed under subsection (5) of this section.

(2) "Reasonable allowance," as used in subsection (1) of this section, includes an allowance computed in accordance with subsection (6) of this section and with regulations prescribed by the department under any of the following methods:

(a) The straight-line method;

(b) The declining balance method, using a rate not exceeding twice the rate which would have applied had the annual allowance been computed under paragraph (a) of this subsection;

(c) The sum-of-the-years digits method; and

(d) Any other consistent method approved by the department.

(3) The regulations prescribed by the department pursuant to this section shall be designed to permit the adoption and use by the taxpayer of a uniform method of computing its allowance for depreciation for the purposes of this chapter and for federal income tax purposes.

(4) Paragraphs (b), (c) and (d) of subsection (2) of this section shall apply only in the case of property (other than intangible property) described in subsection (1) of this section with a useful life of three years or more:

(a) The construction, reconstruction or erection of which is completed after December 31, 1956, and then only to that portion of the basis which is properly attributable to such construction, reconstruction or erection after December 31, 1956; or

(b) Acquired after December 31, 1956, if the original use of such property commences with the taxpayer and commences after such date.

(5) The basis recoverable through depreciation allowance in respect of any property shall be:

(a) In the case of property acquired before August 3, 1955, the cost of the property (or, in the case of property acquired other than by purchase, the fair market value of the property at the date of acquisition) less depreciation properly chargeable against the property prior to August 3, 1955.

(b) In the case of property acquired after August 2, 1955, the same basis as for gain or loss upon the disposition of such property as provided in ORS 317.210 to 317.220.

(6) For tax years beginning on and after January 1, 1977, the first year depreciation allowance provided by section 179 of the Internal Revenue Code, as amended, shall be allowed for that property described in subsection (d) of section 179, under the restrictions and limitations described in section 179, including the initial deduction of such first year allowance from basis before the computation of any other depreciation deduction. [1957 s s c 15 §§14, 15, 1971 c 724 §2, 1977 c 89 §2]

**318.046 Net losses of prior years allowed as deduction in computing net income.** (1) In computing net income there shall be allowed as a deduction an amount equal to the aggregate of the net losses of prior years to the extent provided in this section.

(2) As used in this section, "net loss" means the total of the deductions allowed by this chapter in arriving at net income, reduced by the gross income, if any, with a limitation provided in subsection (3) of this section.

(3) In computing the net loss for any taxable year the net loss for a prior year shall not be allowed as a deduction.

(4) (a) The net loss in any taxable year shall be allowed as a deduction in any of the five succeeding taxable years.

(b) The amount of the net loss deductible in any taxable year shall be the net loss of a prior year reduced by the net income (computed without the net loss deduction) of any intervening taxable year or years between the year of loss and the succeeding taxable year in which the net loss deduction is claimed.

(c) The net loss of the earliest taxable year shall be exhausted before a net loss from a later year may be deducted.

(5) For the purpose of establishing a net loss under this section, an original or amended return for any taxable year may be filed, at the option of the taxpayer, with the department within the period during which a claim for refund might be filed for the same taxable year under ORS 314.415. The filing of any such original or amended return shall not operate to extend the period during which the department might otherwise assess any tax for such taxable year or during which the taxpayer might otherwise file a claim for refund of taxes paid with respect to such year.

(6) This section, including the 1959 amendments, applies only to net losses occur-

ring after December 31, 1956. [1957 s s c 15 §§16, 17, 1959 c 92 §3]

**318.048 Reacquisition of real property used to secure indebtedness; treatment of debt.** If a sale of real property gives rise to indebtedness to the seller which is secured by the real property sold, and the seller of such property reacquires such property in partial or full satisfaction of such indebtedness, then, except as provided in ORS 314.155 and 314.165, no gain or loss shall result to the seller from such reacquisition, and no debt shall become worthless or partially worthless as a result of such reacquisition. [1965 c 178 §6]

**318.050** [1955 c 334 §6, repealed by 1977 c 866 §9]

**318.060 Rules and regulations; personnel.** The Department of Revenue is authorized to employ such personnel, and prescribe and prepare such rules, regulations, forms and tables as are necessary to place this chapter in operation. [1955 c 334 §7; 1957 c 528 §5]

**318.070 Disposition of revenue.** The net revenue from the tax imposed by this chapter shall be paid over to the State Treasurer and held by him in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of

Oregon lawfully incurred. A working balance of unreceipted revenue from the tax imposed by this chapter may be retained by the Department of Revenue for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$50,000. [1955 c 334 §5]

**318.080 ORS 317.087 as part of chapter.** ORS 317.087, during its existence and as it may be amended, is incorporated into this chapter by reference and made a part hereof. [1981 c 720 §20]

**Note:** Section 24, chapter 720, Oregon Laws 1981, provides

Sec 24 Sections 16, 18 and 20 of this Act apply to tax years beginning on or after January 1, 1983

**318.090 ORS 317.083 as part of chapter.** ORS 317.083, during its existence and as it may be amended, is incorporated into this chapter by reference and made a part of this chapter. [1981 c 778 §38]

