

2013 - 15

TAX EXPENDITURE REPORT

State of Oregon



Income Tax
Oregon Subtractions

WHO BENEFITS: For tax year 2010, approximately 120 personal income taxpayers claimed an average subtraction of about \$1,200 using this provision.

EVALUATION: Not evaluated.

1.313 OUT-OF-STATE FINANCIAL INSTITUTIONS

Oregon Statute: 317.057

Sunset Date: None

Year Enacted: 1999

	Corporation	Personal	Total
2011–13 Revenue Impact:	Less than \$100,000	Not Applicable	Less than \$100,000
2013–15 Revenue Impact:	Less than \$100,000	Not Applicable	Less than \$100,000

DESCRIPTION: This exclusion specifies that certain out-of-state financial institutions may engage in limited mortgage activities in Oregon without being subject to certain tax and corporation laws. It provides a very limited exemption from Oregon corporation excise and income tax for, certain out-of-state banks, extra-national institutions and foreign associations that are not otherwise authorized to conduct banking business in Oregon. The exemption applies only to those entities described and engaging solely in the activity authorized under ORS 713.300. That statute allows an out-of-state bank, extra-national institution or foreign association the limited authority to take, acquire, hold, and enforce notes secured by mortgages or trust deeds, as long as the bank pays a fee and files a signed statement with the Department of Consumer and Business Services (DCBS). ORS 317.057 applies only to this type of entity whose activity in Oregon is limited to the activity described in ORS 713.300.

However, if the out-of-state bank, extra-national institution or foreign association acquires any property given as security for a mortgage or trust deed, all income accruing to the out-of-state bank, extra-national institution or foreign association solely from the ownership, sale or other disposition of such property is subject to taxation in the same manner and on the same basis as income of other financial institutions doing business in this state.

In other words, out-of-state entities can engage in activities that ordinarily would be considered "doing business" for tax purposes and, if the entities limit themselves to what is described, they won't be considered to be "doing business" in Oregon and are not subject to the excise or income tax. However, if the entities actually do take property in this state, such as through foreclosure, then any income derived from the property will be subject to tax.

These out-of-state financial institutions are required to designate the director of DCBS as attorney for purposes of service of process and pay a \$200 annual licensing fee.

PURPOSE: The statute that allows this expenditure does not explicitly state a purpose. Presumably, the purpose is to provide that out-of-state financial institutions that engage in limited activity in Oregon are not considered to be "doing business" in Oregon for purposes of imposing the excise tax.

WHO BENEFITS: Four out-of-state financial institutions were registered with DCBS as of May 2012.

IN LIEU: Out-of-state banks pay an initial filing fee of \$200 and an annual fee of \$200.

EVALUATION: Not evaluated.